Questions and Answers for Leveraging Section 108 with NMTC Webinar

1. For a 108 loan, how do you document that other sources, like tax credits, were not available?

Applicants are required to submit a certification with a Section 108 application that states that the applicant

"… has made efforts to obtain financing for activities described in the application without the use of the loan guarantee, it will maintain documentation of such efforts for the term of the loan guarantee, and it cannot complete such financing consistent with the timely execution of the program plans without such guarantee…"

Documentation could include evidence of high interest rates, project financing gaps after all sources are pledged, non-selection letters for competitive financing, etc.

2. The $300M of fees are upfront and inclusive of the 7-year term holding period?

$300,000 to $600,000 is an estimate of upfront closing fees, such as legal and financial modeling costs. This does not include CDE closing fees (which may be paid at the investment fund or sub-CDE level) or ongoing fees such as annual audit and tax fees or quarterly asset management fees charged by CDEs.

There is also a one-time financing fee associated with the Section 108 loan guarantee. The fee is updated every year, for FY21 it is 2.15%

3. How many Section 108 and NMTC project have been funded in the last 5 years?

There have been at least 7 Section 108 projects in the past 5 years that have leveraged NMTCs, you can find out more by visiting the website and viewing the project profiles.

4. Is a Collateral Agency Agreement executed as part of the NMTC structure or outside of the structure, between the entitlement community and leverage lender?

The Collateral Agency Agreement is between the Entitlement Community and HUD and is used by the Entitlement Community to assign its interest in the Investment Fund to HUD.

5. The better tier for the entitlement community to place Section 108 loan funds is at the top tier of NMTC structure to Leverage Lender? This would allow for additional collateral to be provided to entitlement community for Section 108 loan?

Section 108 loans structured as source loans to the project sponsor/leverage lender do allow the entitlement community to take additional collateral, if available. However, the exact structure is dependent on many factors, including the availability of additional collateral, other sources of leverage being used in the transaction, the underlying asset of the NMTC transaction, etc. Ultimately the structure is dependent on the needs and goals of the project sponsor and entitlement community.

6. Could you discuss how the community benefit agreements / community impact agreements were managed?

The Community Benefits Agreement typically documents the projected community outcomes from a transaction and the ongoing reporting requirements for the borrower. In many cases, CDEs and other parties, including the entitlement community, will work together to combine all required information into one annual survey or package, but in some cases, there might be separate surveys for different parties. The borrower is typically responsible for making sure the requirements are delivered to all the necessary parties.

7. How long does it take to approve a Section 108 loan? Are there any prohibitions if a project needs bridge financing to proceed?

HUD works to approve applications within 45 days of official submission. A community can reimburse itself for costs incurred prior to the application approval if the activity for which the costs are being incurred is included in the Section 108 application.

8. How can an entitlement community take additional collateral other than an assignment of the Investment Fund's interest in the sub-CDE?

If an entitlement community makes a source loan (also known as a "sub-leverage loan") to the project sponsor or other entity rather than directly to the NMTC investment fund, it could take additional collateral based on said entity's other assets. When an entitlement community makes a direct loan to the investment fund, it cannot take additional collateral.

9. Can you speak a little further on "Collateral Gap" issues, where the value of the NMTC project doesn't meet the full Loan-To-Value thresholds of the Conventional Lender. How can I implement Section 108 to cover that collateral gap?

Depending on the requirements of the entitlement community and conventional lender, combining Section 108 loan proceeds, NMTCs and a conventional loan can help projects meet the LTV thresholds of a conventional lender. Both the NMTC equity and the Section 108 loan, if subordinate, can close financing gaps while keeping the LTV for a conventional loan (used as additional leverage) below a conventional lenders' requirements.

10. What are the differences between using Section 108 in an urban area vs. a rural community?

The difference can be described between HUD CDBG entitlement communities (urban) and non-entitlement communities (rural). Entitlement communities can access the program directly, non-entitlement communities can access the program through the state.

11. Who would a small entitlement community hire to assist in underwriting a Section 108 loan?

A community is not required to hire outside staff to manage its Section 108 loan. If a community chooses to hire outside staff, it could look to a CDFI, and Economic Development Corporation, philanthropy, or nonprofit with financial expertise.

12. I have seen NMTC projects carry fees in excess of $1,000,000. Do these reduce access to smaller projects lead by People of Color?

NMTC transaction fees can run that high depending on a number of factors. Cost control is an important factor for many CDEs. The CDFI Fund has incentivized smaller projects (known as “Small QLICIs”) through the application process. Some CDEs have also created loan funds that standardized NMTC projects and lower transactions fees for each individual loan. These are often a good choice for smaller projects (less than $4 MM).