

will contain sanctions for noncompliance. As required by the Act, any proposed sanctions to be imposed on an insured CDFI must be discussed with the appropriate Federal banking agency under specific procedures. Pursuant to § 1805.902, disbursement of assistance from the Fund will be in a lump sum or over a period of time, as determined by the Fund. However, the Fund may provide no financial assistance until the awardee has secured a firm commitment for its corresponding matching funds. This provision is intended to ensure that no Federal funds are released until other resources are leveraged.

Section 1805.903 describes the recordkeeping and reporting requirements applicable to awardees. These requirements are consistent with the Fund's fiduciary and monitoring responsibilities. Awardees are required to submit quarterly data on financial performance and annual reports and audits on its financial and programmatic performance. The Fund will seek to utilize information available through the appropriate Federal banking agencies on insured CDFIs as required by the CDFI Act.

In developing its regulations, the Fund has sought to minimize its recordkeeping and reporting requirements. The Fund requests input on how to further reduce such burden while still meeting its monitoring and enforcement needs. The Fund further seeks suggestions how to best measure and monitor the performance of awardees without imposing onerous reporting requirements.

All awardees shall be subject to legal requirements pertaining to the Fund's assistance, including conflict of interest standards. Section 1805.905 requires each awardee to comply with all other governmental requirements. Section 1805.906 requires awardees to maintain standards of conduct acceptable to the Fund. Section 1805.907 describes lobbying restrictions applicable to awardees.

IV. Bank Enterprise Award Program

Section 114 of the CDFI Act is based on the Bank Enterprise Act and gives the Fund authority to implement, with some modifications, its provisions. The Bank Enterprise Act was enacted in 1991, but had not previously received appropriated funds for implementation.

The purpose of the BEA Program (12 CFR part 1806) is to encourage insured depository institutions to increase loans, services and technical assistance within distressed communities and to make equity investments in CDFIs. The BEA Program rewards participating insured

depository institutions for increasing their activities in economically distressed communities and investing in CDFIs. Applicants are selected to participate in the program through a competitive process which evaluates applications based on the value of proposed increases in their specified activities. Program participants receive monies only after successful completion of the specified activities.

Subpart A—General Provisions

Section 1806.102 describes the program's relationship to the CDFI Program (part 1805). To prevent applicants from receiving more than one Federal award for a single activity, no CDFI may receive an award under the BEA Program if it: (1) Has an application pending under the CDFI Program; (2) has received assistance from that program within the preceding 12 months; or (3) has ever received assistance under that program for the same activities proposed in a BEA Program application. Assistance provided to a CDFI by a BEA Program participant may be used by the CDFI as matching funds for the CDFI Program. BEA applicants that propose to make an equity investment in a CDFI must request that the entity be certified as a CDFI under § 1805.201 of the CDFI Program regulations.

Subpart B—Awards

Distressed Community

Section 1806.200 describes the community eligibility and designation process. An insured depository institution applying for an award is required to designate a distressed community or communities if it proposes to carry out certain specified activities (Eligible Development Activities) or make equity investments that support the efforts of a CDFI in a distressed community.

The statute mandates that each designated distressed community meet certain geographic requirements and distress criteria. Under the geographic requirements, the community must be located within certain boundaries, its boundaries must be contiguous and its population must meet certain requirements or it must be located entirely within an Indian Reservation (as defined in the regulations). The distress criteria require that at least 30 percent of the residents have incomes which are less than the national poverty level and the unemployment rate for the area must be at least 1.5 times the national average (as determined by the Bureau of the Statistics' most recent figures). Such criteria will target BEA

Program resources to some of the most distressed communities in the nation. The Fund seeks comments from applicants and other interested parties on how, working within the framework of the geographic requirements and distress criteria, it can maximize participation in the program.

Qualified Activities

In § 1806.201 the activities that program participants may engage in are categorized as equity investments in CDFIs or Eligible Development Activities. Eligible Development Activities include certain consumer, commercial real estate, single family, multi-family, business and agricultural loans. Each of these loans is defined and must serve the distressed community. Additional Eligible Development Activities specified are deposit taking activities and providing certain services and technical assistance to specified persons. Certain grants, loans and technical assistance to CDFIs also qualify as Eligible Development Activities. Each Eligible Development Activity is assigned a priority factor based on the Fund's assessment of its degree of difficulty, the extent of innovation involved, and the extent of benefits provided to a distressed community by the activity. The Fund specifically seeks comments about the appropriateness of the priority factors assigned to each activity, as well as other methodologies that could be explored for prioritizing activities.

In developing the categories of Eligible Development Activities, the Fund sought to minimize recordkeeping and reporting burdens. The Fund specifically seeks comments on the extent to which the activity categories correspond to information already collected by insured depository institutions and how the categories (and the manner in which activities are valued) might be modified to reduce reporting burden.

Measuring Activities

Section 1806.202 describes the methodology used to measure activities for the purpose of ranking applications and determining award amounts. All qualified activities will be measured by the increases in value of the activities between a retroactive baseline period (for which the applicant will provide historical data) and a prospective assessment period (for which the applicant must project future activity levels). Dates for the baseline and assessment periods will be published in the NOFA for each funding round.