

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220



TO: [redacted], Office of Information and Regulatory Affairs

FROM: Ryan Law, Deputy Assistant Secretary for Privacy, Transparency, and Records

SUBJECT: Justification for Emergency Processing: CDFI Equitable Recovery Program Application, OMB No. 1559-NEW

Pursuant to the Office of Management and Budget (OMB) procedures established at 5 C.F.R. § 1320.13, The Community Development Financial Institutions Fund (CDFI Fund) requests emergency processing for the CDFI Equitable Recovery Program (CDFI ERP) Application.

About the Information Collection

The CDFI ERP Program is a new program that received \$1.75 billion in The Coronavirus Response and Relief Supplemental Consolidated Appropriations Act of 2021 (Section 523 of Division N; Pub.L. 116-260, entitled Emergency Support for Community Development Financial Institutions (CDFIs) and Communities Responding to the COVID-19 Pandemic) (the Act).

The purpose of the program is to expand lending, grant making and investment activities in low- or moderate-income communities and to borrowers that have significant unmet capital and financial services needs and were disproportionately impacted by the COVID-19 pandemic. In order to expand investment and lending, CDFI ERP Awards will be used by CDFIs to provide: (i) Financial Products; (ii) Financial Services; (iii) Development Services; (iv) Grants; (v) Loan Loss Reserves; and (vi) Capital Reserves. These program activities may finance and/or support community development, economic development and affordable housing finance activities targeted to low- and moderate-income populations that have been disproportionately impacted by the COVID-19 pandemic. CDFI ERP Recipients may also use a portion of their award funds for operational purposes in the following categories: (vii) Compensation – Personal Services; (viii) Compensation – Fringe Benefits; (ix) Professional Service Costs; (x) Travel Costs; (xi) Training and Education Costs; (xii) Equipment; and (xiii) Supplies.

The CDFI ERP Application will facilitate the collection of information required to administer the CDFI ERP, to make award determinations, and to process disbursements expeditiously to CDFIs selected to receive emergency support under this program. The application information collections are under statutory mandates. To reduce burden, the information collection is tailored to leverage data that already exists at the CDFI Fund. The CDFI Fund will collect only the additional data that is necessary.

Why Treasury is Requesting Emergency Processing

The CDFI ERP funds appropriated under the Supplemental Appropriations Act, cited above, were intended by Congress to provide expeditious relief related to the COVID-19 pandemic. In May and June of 2021, federal courts imposed preliminary injunctions on certain coronavirus relief programs that involved race-based policies.¹ Because the statutory language for this program also included race-based policies related to dissemination of the funding, the court rulings necessitated extensive collaboration between Treasury Office of General Counsel, Department of Justice, and White House Counsel's office to determine an appropriate approach related to the structuring of the CDFI Equitable Recovery Program. Only after those issues were resolved could Treasury commence with developing the program application and award criteria.

As a result, providing these emergency funds has been unavoidably delayed. Now that the program design has been vetted and approved by pertinent offices, our goal is to disseminate these emergency funds expeditiously to mitigate the economic hardship still being experienced by communities and borrowers impacted by the COVID-19 pandemic (e.g., small businesses, at risk tenants and homeowners, small farms). Following the normal PRA process would result in continued public harm to potential recipients by further delaying pandemic relief funding that Congress sought to provide through this program.

The CDFI Fund is requesting that OMB complete its review by June 14, 2022 so that the application round can commence as soon as possible (within two weeks of approval).

¹ See *Vitolo v. Guzman*, 999 F.3d 353 (6th Cir. 2021); Decision and Order Granting Plaintiffs' Motion for a Temporary Restraining Order, *Faust v. Vilsack*, Case No. 21-C-548 (June 10, 2021).