NCRC
National Community Reinvestment Coalition

June 17, 2019

Public Finance and Regulatory Analysis Division
Office of Policy Development and Research
Department of Housing and Urban Development
451 7th Street SW, Room 8216
Washington, DC 20410-0500

Via Federal eRulemaking Portal

Re: Docket No. FR–6155–N–01
Request for Information
Review of HUD Policy in Opportunity Zones

Dear Secretary Carson:

On behalf of the National Community Reinvestment Coalition (NCRC), thank you for the opportunity to submit comments for the Department of Housing and Urban Development's Request for Information (RFI) regarding their policy in Opportunity Zones (OZs). On the same day, the Department also released the White House Opportunity and Revitalization Council (WHORC) Implementation Plan and announced over 50 targeting actions out of 160 federal programs where targeting, preferences or additional support for OZs are considered.[1] Importantly, this letter does not comprehensively address the breadth of issues raised by HUD's RFI, HUD's leadership of the WHORC, the WHORC Implementation Plan and the targeted actions that agencies are considering and taking collectively. It seeks to provide feedback on just some of the actions taken and considered by HUD and the WHORC.

For more than 25 years, NCRC's mission has been to create opportunities for people and communities to build and maintain wealth. NCRC members include community reinvestment organizations, community development corporations, local and state

[1] *WHITE HOUSE AND HUD PUBLISH OPPORTUNITY ZONE IMPLEMENTATION PLAN*, April 17, 2019 available at: https://www.hud.gov/press/press_releases_media_advisories/HUD_No_19_049

government agencies, faith-based institutions, fair housing and civil rights groups, minority and women-owned business associations, housing counselors and social service providers from across the nation.

Undoubtedly, the Opportunity Zones Program has the potential to transform thousands of communities across the country in every state in the nation. It is an ambitious and historic undertaking that seeks to match the interest of socially-minded private investors seeking tax relief on unrealized capital gains with the interest of local communities in need of revitalization and the local housing stakeholders and businesses seeking new sources of debt and equity financing. The challenge of integrating this new tax policy into the existing community development landscape presents various questions and unique challenges. The sheer scale and transformative power of the Opportunity Zones can be both a blessing and a curse, with the potential to attract and spur economic activity with broad social benefits equitably-shared in some places, but just as likely to accelerate the type of neighborhood change that results in displacement, dislocation and poor social outcomes for local residents in others.

There is a lot at stake for OZ communities and the U.S. Treasury. Secretary Mnuchin estimates that private businesses will invest $100 billion in Opportunity Zones. President Trump has said that there has been a race to invest in Opportunity Zones and that "Property sales prices in Opportunity Zones, if you have a home, have skyrocketed by more than 20%."[2] The Joint Committee on Taxation estimated that the OZ tax incentives would result in a revenue loss to the federal government of $9.4 billion between 2018 and 2022, associated with the deferral of capital gains tax and the OZ basis adjustments in years five and seven.[3] The largest tax benefit associated with OZs; however, the exclusion of capital gains tax on QOF investment returns in year 10, falls outside of the 10-year budget window. The revenue losses would not be expected until 2028.

2Remarks by President Trump at the Opportunity Zone Conference with State, Local, Tribal, and Community Leaders, April 17, 2019. https://www.whitehouse.gov/briefings-statements/remarks-president-trump-opportunity-zone-conference-state-local-tribal-community-leaders; Real estate firm Zillow reported that home prices surged by more than 20 percent in Opportunity Zones in the nine months after the designations were announced, even before investments had begun at: https://www.zillow.com/research/prices-surge-opportunity-zones-23393/ . See also Property firms get tax-zone benefits: Other businesses figuring out rules, Arkansas Democrat Gazette, June 15, 2019 at: https://www.arkansasonline.com/news/2019/jun/15/property-firms-get-tax-zone-benefits-20/

[3] U.S. Congress. Joint Tax Committee (JCT). "Estimates of Federal Tax Expenditures for Fiscal Years 2018-2022." JCX-81-18. October 4, 2018 at 27;

Empirically, evaluations of geographically targeted economic development policies have been mixed; and, evaluations of geographically targeted tax incentives for business owners and owners of capital have demonstrated a positive, but limited, effect on increasing the economic well-being of other individuals living within the target area.[4] In many ways, the scale of true local revitalization that will occur under this program as well as the level of disparity in the outcomes across communities will depend, in large part, on the policy discipline imposed around the Qualified Opportunity Zone Fund (QOF). For example:

- Whether policies developed by HUD and whether White House Opportunity Revitalization Council (WHORC) oversight embrace the lessons learned from successful place-based economic development strategies that have yielded broad-based community-level outcomes;
- Whether QOFs managers are guided by inclusive, transparent and equitable principles with fund investments linked to community outcomes (e.g., the impact of investments on low-income persons) with related outcome-based reporting and compliance requirements;
- Whether lawmakers see the promise of potential *investments* through QOFs as a complement to existing community development policies and individual support programs or as a replacement for them and, specifically, as an opportunity to cut or eliminate existing and proven public policy approaches;
- Whether HUD and the WHORC consider seriously and comply with their obligation to affirmatively further fair housing in overseeing and executing the OZ program. Fundamentally, QOF has a financial incentive to drive up property values without any accountability for displacement and dislocation that it may cause. HUD and the WHORC, however, have an obligation to facilitate fair and equitable outcomes for communities.

At its inception, the Opportunity Zones approach does not embody any of the requisite discipline or the comprehensive approach of many successful place-based economic development initiatives. For example, it is unclear how QOF managers and investments will integrate into existing community planning efforts and existing incentives, whether data collection and reporting requirements will lead to an effective evaluation of the program's outcomes and impact, whether there will be knowledge-sharing around best practices, or whether their will be a role for community participation.

The U.S. Impact Investing Alliance and the Beeck Center at Georgetown University have collaborated to identify ways that QOF managers can thoughtfully deploy capital

[4] Bartik, Timothy. *Who Benefits From State and Local Economic Development Policies?*(Kalamazoo, MI: W. E. Upjohn Institute for Employment Research, 1991).

raised from investors, including collecting basic market and impact data that enable independent evaluators and researchers to analyze the outcomes of the overall policy, such as: guiding principles for opportunity zones stakeholders; and an opportunity zones reporting framework.[5] NCRC has joined others in outlining a set geographic, demographic, economic and census tract level information that should be collected and reported, including factors that would measure the level of neighborhood change and whether dislocation and displacement are occurring.[6]

However, HUD and the WHORC balance the data collection and reporting responsibilities, Government Accountability Office's (GAO) audits and efforts to evaluate round 1 of the Empowerment Zones (EZ) and Enterprise Communities (EC) programs must be instructive. Both HUD and the WHORC should seek to learn lessons from the past, follow best practices and avoid repeating the past mistakes.

> *"As discussed earlier, the EZ/EC program was designed to give the designated communities increased flexibility in deciding how to use program funds...**Part of the philosophy behind the program was to relieve states and localities of the burden of excessive reporting requirements**. Furthermore, no single federal agency had sole responsibility for oversight of Round I of the EZ/EC program, although federal standards require that agencies provide adequate oversight over public resources. In the beginning, the agencies made some efforts to share information, but these efforts were not maintained. For example, HUD officials said that they had received fiscal data from HHS and reconciled that information with their program data on the activities implemented in the early years of the program. According to HUD, the agency made additional attempts to obtain data from HHS but only recently received a report. An HHS official said the agency no longer regularly shared detailed data with HUD and USDA, which the official said was likely due to a lack of program staff."*[7]

[5] *Impact Investing in Opportunity Zones,* The Beeck Center, Georgetown University, accessible at: https://beeckcenter.georgetown.edu/project/inclusive-impact-investing-opportunity-zones/https://ozframework.org/about-index

[6] See more at Coalition Comment on Opportunity Zone Data, accessible at: https://www.regulations.gov/document?D=TREAS-DO-2019-0004-0031

7 *EMPOWERMENT ZONE AND ENTERPRISE COMMUNITY PROGRAM Improvements Occurred in Communities, but the Effect of the Program Is Unclear*, GAO 06-727, September 2006.

Even the final GAO audit in 2010 found it difficult to isolate the impact of these programs on the conditions in distressed communities.[8] While businesses and investors received significant tax and other program benefits and the programs did aid some economic development, government-sponsored studies and non-governmental economic studies that reviewed these programs were unable to link them to improvements in community-level outcomes. It is critical that the chair and the entire WHORC evaluate the prior audits and studies of similar approaches as well as the agency responses to the GAO recommendations to avoid similar missteps and to better measure community-level outcomes.

Question 1: on maximizing the beneficial impact

Highlights of this answer:

- QOF investments do not replace or supplant federal discretionary spending
- Regional/Local Opportunity and Revitalization Councils (ORCs) and community advisory councils must be added
- HUD and the WHORC should prioritize affordable housing/homeownership preservation and clarify policies around mission-driven property developers

Federal discretionary spending on housing and community development

Federal discretionary spending for individual support, housing programs and community development continue to play a critical role. As the RFI details, HUD-supported programs and initiatives have a substantial footprint across these communities. And the impact and role of programs under the WHORC's auspices extend well beyond those that are HUD-supported. QOF investments should not be seen as *replacing or supplanting* other economic development strategies funded through the annual appropriation cycle, much of which is formula-driven and embedded in the community development planning framework of communities nationally.

The president's FY 2018, 2019 and 2020 budgets sought to eliminate funding for the Community Development Block Grant (CDBG) Program, HOME Investment Partnership, the Community Development Financial Institutions (CDFI) Fund, the National Housing Trust Fund and Capital Magnet Fund, for example, but these are effective community development programs that continue to merit annual

8 *Information on Empowerment Zone, Enterprise Community, and Renewal Community Programs*, GAO 10-464R, March 12, 2010.

appropriations.[9] Even if OZs attract the $100 billion in private investment estimated by the U.S. Department of Treasury, these private investments will be largely market- and profit-driven, disperse and may not respond to community needs or deliver benefits that are broad-based and equitable.

In one apt observation:

> *"There's a lot of talk about the potential for OZs…. This is an exciting opportunity to create a whole new vehicle for investment. But let's remember that the first years of LIHTCs saw pricing in the $.40s. It took a few years for the market to mature, investors to become comfortable with the risks and rewards and the tools and structures to standardize. It's the same with OZs …."*[10]

Opportunity Zones are still evolving, have few parameters and remain unproven to produce equitable community-level outcomes in distressed communities. Both HUD and the WHORC must achieve some balance in targeting, preferences and providing additional support to OZs since there are non-OZ-designated distressed communities around the country that also have pressing community needs and must have the opportunity to compete and be awarded grants and other federal benefits.

Regional opportunity and revitalization councils and community advisory

While the WHORC is reviewing national policy with regard to Opportunity Zones, regional/local advisory structures in each one of HUD's ten regions are key. And a community/public advisory council should be added that includes a variety of stakeholders including, but not limited to, QOF managers, community development stakeholders (e.g., developers, CDFIs, EDCs, fair housing and affordable housing advocates, labor unions), lenders and state housing finance agencies. Initially, regional/local ORCs should convene key stakeholders quarterly, and no less than semiannually. Annually, the ORCs and community advisory councils should review OZ key benchmarks and progress.

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[9] For example, HUD has documented the historic and significant outcomes for the CDBG program in job creation and retention, public facilities and services, and housing activities at: https://www.hud.gov/program_offices/comm_planning/communitydevelopment/CDBG_Turns_40

[10] *Top 5 Ways to Use Opportunity Zone Funds in LIHTC Deals***,** Housing Finance Magazine, February 7, 2019. accessible **at:** *https://www*.housingfinance.com/news/top-5-ways-to-use-opportunity-zone-funds-in-lihtc-deals_o

The ORCs should also seek to bridge the gap between community organizations and small businesses and QOF managers. Examples from the Community Reinvestment Act (CRA) context are *Investment Connection* and *LINC* events. According to the Federal Reserve Bank of St. Louis:

> *"Investment Connection is a new approach to sharing information about community development needs in all parts of the Eighth Federal Reserve District, bringing together community and economic development organizations with financial institutions and others who seek to be responsive to those needs. Based loosely on the "Shark Tank" concept, the process and events provide community/economic development organizations the opportunity to pitch their programs to multiple financial institutions and other funders at one time."*[11]

Eligible activities include small-business development, community development finance, financial access and empowerment, affordable housing, economic and workforce development and community facilities and services.

Notwithstanding the information portal and other online resources, the WHORC agencies should designate staff within each region and each agency with responsibility for coordinating work around OZs and conducting outreach to community stakeholders.

Preserving affordable housing must be a priority

HUD should take steps to assist mission-driven developers working to preserve, rehabilitate and build affordable housing, and particularly homeownership. Mission-driven developers compete directly with private equity, hedge funds and cash investors to acquire distressed housing inventory. However, their focus on and achievement of neighborhood stabilization outcomes are superior. In Opportunity Zones across the country, there are neighborhoods still recovering from the housing crisis, areas grappling with various levels of distress and blight and consumers seeking affordable homeownership opportunities. NCRC is among those mission-driven developers working to rehabilitate vacant and foreclosed homes in distressed communities that will remain affordable for low- and moderate-income (LMI) households.[12]

In markets across the country with supply constraints and affordability issues, investors are acquiring homes and converting them into single-family rentals and exacerbating supply and affordability issues. As QOF investments can worsen affordability challenges

11 See more at Investment Connection: The The St. Louis Fed's New Approach to CRA, at: https://www.stlouisfed.org/publications/bridges/winter-2017-2018/investment-connection-feds-new-approach-cra;

12 GROWTH by NCRC list of number of homes available for sale here: http://www.growthbyncrc.org/properties/state/for-sale/

in many communities, mission-driven developers need access to housing inventory, favorably-priced capital and policies that improve the economics of affordable homeownership work. For example, it can often cost more to acquire and rehabilitate a home than the property can be sold for, though such work at sufficient scale can also stabilize a neighborhood and restore a hobbled local housing market.

HUD should develop OZ policies that assist mission-driven developers that preserve or create affordable homeownership opportunities. Treasury has proposed some helpful clarifications of the OZ law's provisions in 1400Z-2 around Qualified Opportunity Zone Business Property, defined as property acquired in 2018 or later, for which the original use of such property commences with the QOF or where property is substantially improved. NCRC has supported comments by the Enterprise Community Partners and the National Council of State Housing Agencies on clarifications of "original use" and "substantial improvement" that would facilitate the redevelopment of vacant and abandoned properties as affordable housing in distressed communities, to preserve existing affordable homes and to prevent predatory and speculative purchasing of vacant land.[13] In addition, mission-driven developers that are building and preserving affordable housing should have a lower substantial improvement requirement. For example, a 15-20% threshold would help the economics of these transactions work. By comparison, the substantial improvement standard under the Low-Income Housing Tax Credit (LIHTC) requires a taxpayer to spend $6,800 per unit or 20% of the adjusted basis over a 24-month period.[14]

Clarifying HUD rules around the agency's distressed property dispositions, including FHA's Distressed Asset Stabilization Program (DASP) and the Home Equity Conversion Mortgage (HECM) program, would also help mission-driven impact investment funds. FHA has recently made a number of enhancements to the DASP program, including establishing a goal of selling 10% of assets to non-profits and local governments and prohibiting "walk-aways" on vacant properties to prevent purchasers from walking away from vacant properties - a provision designed to protect communities from blight.[15] HUD

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13 See comments on original use and substantial improvement by Enterprise Community Partners at: https://cdn.cremodels.com/wp-content/uploads/2018/12/Enterprise_comments_on_IRS_proposed_rule_Dec_2018.pdf; and NCSHA at: https://www.ncsha.org/wp-content/uploads/2019/01/NCSHA-December28OZcommentFINAL.pdf

14 New Opportunity Zones Could be Used to Finance Rental Housing, Novogradac, February 23, 2018 at: https://www.novoco.com/notes-from-novogradac/new-opportunity-zones-could-be-used-finance-rental-housing

15 FACT SHEET: Distressed Asset Stabilization Program Enhancements, retrieved at: https://www.hud.gov/sites/documents/FINAL_DASP_FACT_SHEET.PDF

should clarify the extent to which mission-driven impact investment funds preserving affordable housing for low- and moderate-income households, focused on neighborhood stabilization and preservation of affordable homeownership can use QOF investments to compete in DASP and HECM auctions and other distressed property dispositions (e.g., HUD Homes, Claims Without Conveyance of Title).

NCRC also supports prohibiting QOF investments that eliminate affordable housing units in a designated OZ without associated development of an equal number of replacement affordable units, unless a review of historic occupancy rates and a current market study support the elimination of such units.

Question 2: regarding creating an information portal on Opportunity Zones: *HUD is considering creating an information portal on Opportunity Zones. What types of information should HUD include in such a tool? How can it be made accessible to and most usable by HUD's various stakeholders and customers? If the portal includes information on Federal financing programs and incentives beyond those offered by HUD, what types of information would be most useful to include?*

Highlights of this answer

- HUD’s Information portal should have a list and profile of all QOF, including the OZs they are serving and manager contacts
- Regional/Local ORCs should have regional/local informational portals
- The portal should contain national, regional, local baseline information about each OZ and program benchmarks
- OZs should be overlaid on HUD’s AFFH Data and Mapping Tool
- It should contain best practices, investment connections, program audits
- Dedicated OZ staff

While including easily accessible information on federal, state and local financing programs and incentives is helpful, much of this information is available on other websites and can be linked to a HUD portal. Overall, there is a great deal of information made available about LIHTC, NMTC and other federal tax programs as well as other community development programs. Similar information should be made available about OZs. Given the scale of this program, both in investment potential and forgone tax revenue to the U.S. Treasury, it would be far more beneficial to have information about the QOFs, their guiding principles and the types of investments they targeting, making and location. And, importantly, how community development stakeholders, including small businesses, nonprofits and others, can access those potential investment opportunities.

Basic information about every QOFs

The information portal should include a comprehensive list of *all QOFs registered in the country*, each fund profile and the name and contact of the QOF manager.[16] The portal should include a link to the QOFs website, which must contain, at a minimum, annual reports made to investors as well as community based outcomes that the QOF is tracking (e.g., local jobs created/local resident hiring, SBE, MBE, WBE, LBE participation goals, affordable housing units produced). The Beeck Center's OZ Impact Reporting Framework is a potential template on *investment intention and community engagement* as well as *impact measurement and reporting.*[17] The Beeck Center also has a sample reporting form that should be made available at each QOF's website and linked from the information portal.

A baseline report

The information portal should also include baseline data and performance context for each OZ. Included in the baseline information should be some assessment of community capacity (e.g., number of nonprofits and community-based organizations related to housing, community development, economic development, working with small businesses, Community Development Financial Institutions (CDFIs), Minority Depository Institutions (MDIs), incubators, workforce training programs, etc).

The OZ boundaries should also be overlaid on the Affirmatively Furthering Fair Housing (AFFH) Data and Mapping Tool, through which HUD already provides a great deal of baseline demographics, affordable housing, transportation, education and other data critical to effective and equitable community development planning.

Benchmarks

The portal should include a topline set of national benchmarks that the WHORC is using to measure the impact of the program over time. There should also be separate regional and local benchmarks linked from the national portal. Changes in poverty rate, employment levels, existing business expansions and new business start-ups, for example, should be included but also community-level outcomes for local residents, including those that measure neighborhood change.

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[16] NCSHA has developed directory of publicly-announced multi-project QOFs. HUD information portal should include all QOFs that are registered/operating. The NCSHA directory is here: https://www.ncsha.org/resource/opportunity-zone-fund-directory/

[17] *Impact Investing,* see footnote 5.

In a recent report, NCRC found that nearly half of gentrification and cultural displacement nationally is concentrated in seven cities.[18] We have also found that nearly 70% of gentrified neighborhoods are within or adjacent to an OZ in those seven cities and others.[19] NCRC's report reviewed changes in median home prices, median household income and college-educated residents based on the gentrification work of Dr. Lance Freeman.[20] The report also measured the cultural displacement of neighborhoods where gentrification occurred by examining a change in population in minority neighborhoods. There are additional methods of measuring neighborhood change that can inform this discussion and should be considered with regard to Opportunity Zones.[21] It is critical to understand cultural displacement and its impact as a part of gentrification. The potential of the Opportunity Zone program to result in both requires the accurate benchmarking of data. Changes in median home prices, median household income and college-educated residents should be included as benchmarks in HUD's information portal.

The information portal should also include information about local hiring and participation of small, minority-owned, women-owned and local businesses.

Best practices and other information

Both the national and regional information portals should contain information about best practices both from the OZ context and other place-based economic development

[18] *Shifting Neighborhoods: Gentrification and Cultural Displacement in American Cities,* March 2019, at: https://ncrc.org/gentrification/. The cities are New York City, Los Angeles, Washington, D.C., Philadelphia, Baltimore, San Diego and Chicago.
[19] We have also overlaid gentrified communities with the OZ map, at https://ncrc.org/oz/

20 ***See Displacement or Succession?: Residential Mobility in Gentrifying Neighborhoods, at:*** **https://journals.sagepub.com/doi/10.1177/1078087404273341**

[21] See *Guide to Measuring Neighborhood Change to Understand and Prevent Displacement,* NNIP, April 2019, at: https://www.neighborhoodindicators.org/sites/default/files/publications/guide_to_measuring_neighborhood_change_to_understand_and_prevent_displacement.pdf; Also see *the Forgotten Tenants in New York City's Immigrant Small Business Owners,* ANHD, March 6, 2019 which identifies rising commercial rents among other issues for local small businesses in gentrifying areas, at: https://anhd.org/report/forgotten-tenants-new-york-citys-immigrant-small-business-owners See Table 1 at *Gentrification: Framing our Perceptions (2018),* at: https://www.enterprisecommunity.org/download?fid=10224&nid=7602

efforts, including government, academic and nonprofit research.[22] It should include best practices for QOF managers and GAO and other audits of the program.

The portal should also include detailed examples of successful community-based investments and partnerships that are replicable. For example, Federal Reserve Banks' *Investment Connection* and *LINC* initiatives include funder and community testimonials on their website.

Question 4: What types of technical assistance should be offered through HUD? Question 5: What role can HUD play in helping to ensure that existing residents, businesses and community organizations benefit? Question 6: How can HUD properly evaluate the impact on communities?

Highlights of these answers

- Set SBE, MBE, WBE and LBE participation goals and diversity targets
- Facilitate small business capacity building and technical assistance; ensure it is well-funded
- Facilitate community capacity building
- The WHORC should align workforce training and encourage local hiring
- Data collection and outcome-based reporting and compliance is critical

Technical assistance and goals will be critical to bridge the divide separating small, minority-owned, women-owned and local business enterprises (SBEs, MBEs, WBEs, LBEs) from QOF managers and investors willing and able to make equity investments, enter partnerships or procure goods and services. Discrimination, informational asymetries and other externalities, preexisting networks and longstanding business relationships are among the barriers that entrepreneurs and local enterprises often face in a number of financing, investing and procuring context. HUD, both as an agency and as the lead agency for the WHORC, will play a key role in helping businesses, but also local residents and community-based organizations, participate in the economic activity generated by QOF investments.

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[22] See www.localhousingsolutions.org, for example, which catalogs a number of resources and strategies to help cities, towns and counties develop comprehensive and balanced local housing strategies that enhance affordability, protect low-income residents from displacement, and foster inclusive neighborhoods. Consider also a number of publications by Community-Wealth in collaboration with the Democracy Collaborative at: https://community-wealth.org/policy-brief/Supporting-Local-Business-Development-to-Build-Wealth#

The Financial Services Innovation Council (FSIC) cited several recent news reports about equity capital:

- 80% of Venture Capital investments goes to 4 states
- Less than 1% of Venture Capital investments go to women and minorities
- There are currently several trillion dollars of capital sitting on the sidelines, even though businesses and communities are starving for capital investments;
- Anecdotally, it has been reported that entrepreneurs are being told that deals as large as $40 million are too small for the types of investments that will be made under this program.[23]

A number of laws have been enacted and policies adopted to correct for discrimination and various market failures in procurement and across the financial marketplace. Set-aside programs for government procurements and duties to serve financial institutions are common examples. While Opportunity Zones are targeting distressed and underserved communities, affirmative policy measures must be taken to ensure SBEs, MBEs, WBEs and LBEs are included.

Participation goals

WHORC should adopt SBE, MBE, WBE and LBE participation goals for QOF procurement and other investment activities. Performance toward those goals should be tracked and reported in the information portal among other key benchmarks.

We also support many of the objectives outlined by the FSIC, including diverse and inclusive boards and investment committees, diverse portfolios with some investments in smaller enterprises/projects and diverse investees.[24] Unless goals around diversity and inclusiveness are set and measured, QOF investments and partnerships will not have equitable outcomes. Also, goals will encourage various stakeholders to conduct outreach and help develop innovative strategies to partner with small businesses.

Small business capacity building and technical assistance

HUD, as chair of the WHORC and the regional/local ORCs, should facilitate strategies that allow small businesses to overcome issues related to size and scale. Contract

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23 FSIC Letter to the Senate, February 2019. http://www.fsicoalition.org/wp-content/uploads/2019/02/FSIC-Opportunity-Zone-Comment-Letter-Feb-2019-Senate-Finance-2-27-19.pdf

24 ibid.

splitting, teaming, mentoring and joint ventures are common approaches that have helped local enterprises build capacity and participate in procurement and other business opportunities in their community. Proposal writing, business planning, entrepreneurial training, one-on-one business technical assistance, tax preparation assistance, human resources guidance, accounting assistance, legal assistance, marketing assistance and assistance with bonding and insurance requirements are among the services that smaller enterprises in OZs will need in order to compete and thrive in OZs. The information portal should connect to various federal, state and local resources and the regional/local ORCs should host related events for small businesses.

The WHORC and the Small Business Administration (SBA) should consider how some targeting of the SBA's 7(a) and 504 programs could assist small businesses in Opportunity Zones in benefiting from contracting and other economic activities as a result of QOF investments. For example, in FY 2018, 28.7% of the total amount of 504/CDC approved loans went to minority-owned businesses (20.5% Asian, 6.6% Hispanic, 1.4% African American and 0.1% Native American) and 10.6% went to women-owned businesses.[25]

C*ommunity capacity building*

There is great variation in community infrastructure and capacity across OZ communities. Some communities with developed local networks will have the capacity to attract private capital to projects, businesses and initiatives that enhance their communities; some communities will need greater technical and other assistance building community capacity and skills, ensuring projects are eligible for investment and facilitating partnerships necessary to effectively utilize significant financial resources within the OZ program's timeframe. Other communities will not be in a position to receive QOF financing at all but may be able to benefit from information about the program's impact and strategies elsewhere.

We have recommended that HUD and the WHORC ensure that there is baseline information on every OZ, including the extent of community capacity as well as a list and profile of every QOF in each region. The WHORC and the regional/local ORCs should assess and report on the distributions of QOF investments by region and within regions. The WHORC and the regional/local ORCs should help bridge gaps in information between QOF investments and community-based organizations. WHORC agencies should provide technical assistance to local jurisdictions, nonprofits and

25 SBA, "SBA Lending Statistics for Major Programs (as of September 30, 2018)," at https://www.sba.gov/sites/default/files/aboutsbaarticle/WebsiteReport_asof_20180930.pdf.

community-based organizations to facilitate connections between local residents to any opportunities created by QOF investments, and to ensure that QOF investments reflect some diversity across regions and within regions, and among urban, rural and minority communities.

Align workforce training, encourage and track local hiring

Even where QOF investments create local job opportunities, those opportunities may not benefit or fit the skills of the local residents. The Maryland Department of Legislative Services (DLS), for example, found "a significant mismatch between the skills of those who fill[ed] the private jobs within enterprise zones and those who reside[d] in or near the zones."[26] DLS estimated only *about one in eight enterprise zone jobs, or 12%, were filled by community residents. DLS concluded:*

> *While enterprise zone tax credits may incentivize some businesses to create additional jobs within enterprise zones, the tax credit is not effective in providing employment to zone residents that are chronically unemployed and/or live in poverty. A number of factors contribute to this problem, including skills mismatches for new jobs created, lower than average educational attainment levels of zone residents, and labor mobility.*[27]

The WHORC is currently targeting preferences points for OZ applicants for some Department of Labor and SBA competitive grant programs. WHORC and the regional/local ORCs should encourage local workforce development boards/councils and career one-stops to partner with businesses, assess local workforce development

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[26] *Evaluation of the Enterprise Zone Tax Credit*, Department of Legislative Services Office of Policy Analysis (August 2014). *Opportunity Zones: What We Know and What We Don't,* The Tax Foundation (January 8, 2019). Of Maryland's five Enterprise Zone regions, only one region's employment figures consisted of more than 10 percent low-skilled jobs (12 percent of jobs in "Capital Region" were low-skilled). On the other hand, 57 percent of the jobs created in the "Baltimore City" zone were high-skilled workers, while only 4 percent qualified as low-skilled. Low-skilled employment included construction, mining, and logging; semi-skilled included manufacturing, utilities, trade and transportation, leisure/hospitality, and other services; high-skilled included information, financial activities, education, health care, professional/scientific/technical, and business services. .

[27] Ibid. Baltimore City region employed the most community zone workers at 32 percent, likely because it is significantly larger than the other four zones and comprises a significant portion of the commercial and industrial areas of the city. Maryland's other four zones all employed fewer than 15 percent of community residents. Western Maryland's zone employed 14 percent of workers from the zone community, Greater Baltimore Area 13 percent, Eastern Shore 8 percent, and Capital Region 6 percent.

needs and ensure that local residents are matched to training programs that meet those needs.

HUD's Section 3 program, for example, requires that recipients of certain HUD financial assistance, provide training, employment, contracting and other economic opportunities to low- and very low-income persons, especially recipients of government assistance for housing, and to businesses that provide economic opportunities to low- and very low-income persons. HUD should highlight and encourage investments in businesses in HUD's Section 3 Business Registry and track QOF investments and partnerships that provide job training, apprenticeship, employment and contracts with HUD Section 3 and other local residents in Opportunity Zones.

Data collection and public reporting

NCRC has joined with coalition partners in urging the U.S. Treasury and HUD to collect broad-based, granular and longitudinal data variables about all OZ investments and make it publicly available on an annual basis in a format that is internet accessible, searchable, downloadable and customizable.[28] The data should be accessible from the information portal.

QOF Investments must be linked to community outcomes reporting. Unlike other economic development tax incentives, OZ tax benefits are not allocated and are uncapped. There is no competitive process for investors to qualify for the tax relief in order to claim it and to which community-outcome standards could be attached. Nonetheless, outcome-based reporting can and must be required in order to measure impact and prevent an unwarranted tax windfall to capital owners at the expense of local communities and taxpayers with little community benefit to show for it. New Market Tax Credit (NMTC) recipients, for example, are required to adhere to a set of outcome-based reporting and compliance requirements.[29] The CDFI Fund provides examples of community-based outcomes in the NMTC program.

> *"Financing Minority Businesses*: *QLICI [Qualified Low -Income Community Investment]* will finance expansion of minority-owned manufacturing plant, which will result in the hiring of X number of L*ow-Income Persons*.
>
> *Housing Units*: *QLICI* will finance construction of mixed-use development that will

28 Coalition comment, see footnote 4.
29 See CDFI Fund, the NMTC Program - Allocation Application Frequently Asked Questions, at: https://www.cdfifund.gov/Documents/Updated%202018%20NMTC%20Application%20FAQs%20Document%20-For%20Posting%20MASTER.pdf#search=faqs

include X number of apartments, of which Y will be affordable to *Low-Income Persons."*

QOF investments should be required to collect similar outcome data, and the WHORC should report it and make it accessible from the information portal.

In the 1990s, Congress established a statutory framework to improve federal management practices and provide greater accountability for achieving results. Through various legislative initiatives, including The Results Act, Congress sought to respond to a need for accurate, reliable and integrated budget, financial and program information for congressional and executive branch decision-making. The WHORC should consider how similar goal-setting and performance measurement can be integrated into the OZ reporting framework. In reviewing the CDFI Fund, for example, GAO provided a Sample Performance Schedule that included the goal, measure, benchmarks and assumptions.[30]

Congress clearly intended the program to have impacts that could be evaluated and measured. And, without a doubt, QOF managers will have to provide similar information in annual reports and other financial documents for fund investors. Quite frankly, it is good governance, wise stewardship and consistent with minimal due diligence.

Importantly, neither HUD nor the WHORC should relieve recipients of other federal assistance or tax incentives of the data collection or reporting requirements associated with their programs in OZs in the name of streamlining.

Questions 9 regarding issues not addressed: *Are there other aspects of Opportunity Zones that should be considered and are not addressed in this request for information?*

Disaster recovery

Community Development Block Grant-Disaster Recovery (CDBG-DR) funds have played a crucial role in the recovery efforts for communities across the nation who have recently experienced a disaster. Since 1992, CDBG-DR has provided relief to states recovering from natural disasters such as hurricanes and earthquakes as well as

[30] See Table 2.1 and 2.2. at *COMMUNITY DEVELOPMENT: CDFI Fund Can Improve Its Systems to Measure, Monitor, and Evaluate Awardees' Performance*, GAO/RCED-98-225 (July 1998): https://www.gao.gov/assets/160/156245.pdf

national tragedies such as the Oklahoma City Bombing and the September 11 attacks.[31] There is a heavy burden on state and local governments' in the aftermath of a disaster, especially since they often do not necessarily know how much assistance that CDBG-DR provides, nor whether Congress will appropriate and HUD will approve that assistance in a reasonable amount of time.[32] HUD should expand the definition of Opportunity Zone to temporarily include areas designated as disaster areas.

NCRC appreciates the opportunity to share our views. If you have any questions or need additional information regarding our comment, please do not hesitate to contact Gerron Levi, Director of Government Affairs at 202-464-2708.

Sincerely,

Jesse Van Tol
Chief Executive Officer
National Community Reinvestment Coalition

[31] Department of Housing and Urban Development. "CDBG-Disaster Recovery Grant History 1992-2018" Retrieved from https://files.hudexchange.info/resources/documents/CDBG-DR-Grant-History-Report.pdf

[32] *The Evidence Base on How CDBG-DR Works for State and Local Stakeholders*, 115th Cong., 1-12 (2018) (testimony of Carlos Martín, Senior Fellow, Urban Institute). Subcommittee on Oversight and Investigations, Committee on House Financial Services