



Audit Report



OIG-11-091

Awards to OneUnited Bank Were Consistent With Requirements
But Certain Aspects of CDFI Fund Program Administration Need
to be Revisited

August 3, 2011

Office of
Inspector General

DEPARTMENT OF THE TREASURY

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Abbreviations

BEA	Bank Enterprise Award
CDFI	Community Development Financial Institutions
CPP	Capital Purchase Program
FDIC	Federal Deposit Insurance Corporation
FMS	Financial Management Service
JAMES	Joint Audit Management Enterprise System
OIG	Department of the Treasury Office of Inspector General
TA	Technical Assistance
TARP	Troubled Asset Relief Program

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*The Department of the Treasury
Office of Inspector General*

August 3, 2011

Donna Gambrell
Director, Community Development
Financial Institutions Fund

This report presents the results of our audit of the awards and assistance provided by the Community Development Financial Institutions (CDFI) Fund to OneUnited Bank (OneUnited). In total, since 1997 OneUnited and its predecessor institution, Boston Bank of Commerce, received \$5.5 million from the CDFI Fund through its CDFI Program and Bank Enterprise Award (BEA) Program. We undertook this audit because of media reports surrounding OneUnited and Congresswoman Maxine Waters' financial interest in the institution.¹

The objective of our audit was to determine whether the awards and assistance provided to OneUnited were made in compliance with applicable laws, regulations, and CDFI Fund policies and procedures. As part of our work, we reviewed all awards made to OneUnited, sampled awards to other banks, and interviewed CDFI Fund management and staff. Appendix 1 contains a more detailed description of our audit objectives, scope, and methodology. Appendix 2 contains background information on OneUnited's history and CDFI Fund programs. Appendix 3 provides a summary of annual awards for applicable programs.

¹ As reported in her 2004 financial disclosure statement, Congresswoman Waters purchased and then sold an interest in OneUnited during 2004. In addition, from 2002 through 2009, Congresswoman Waters reported that her spouse held an interest in OneUnited.

Results In Brief

We concluded that the CDFI Fund made its awards and provided assistance to OneUnited in accordance with applicable laws, regulations, and Fund policies and procedures. However, as discussed with CDFI officials during the course of our work, we disagreed with the decision by the CDFI Fund to hold its announcement of OneUnited's fiscal year 2010 BEA award pending completion of this audit. In our opinion, since the application review and award approval process had taken place before this audit began, the announcement of OneUnited's fiscal year 2010 BEA award should have been made commensurate with the CDFI Fund's announcement of the other fiscal year 2010 BEA awards.

During our audit, we identified the following issues that require action by the CDFI Fund.

- Policies and procedures are needed for assessing regulatory enforcement actions when considering BEA Program applications. In assessing those regulatory enforcement actions, the CDFI Fund needs to reconsider the public policy implications of making awards to financial institutions that are under formal regulatory enforcement action.
- Qualified activity for the BEA Program needs clarification.
- Improved verification is needed of BEA applicant compliance with distressed community requirements.
- Equity investment policy does not have an exit strategy.

We are recommending that the CDFI Fund (1) announce its determination on OneUnited's fiscal year 2010 BEA application; (2) establish written policies and procedures for obtaining and using information about applicants from the federal banking agencies; (3) ensure that BEA Program applicant guidance clearly details qualified activity reporting; (4) revise BEA Program reviewer guidance to ensure all the relevant information is considered in determining distressed community eligibility; and (5) include an exit strategy in its equity investment policy.

Management Response

In a written response, CDFI Fund management generally agreed with our recommendations and stated that corrective action has already been taken in some cases, and provided corrective action plans for the others.

With respect to its hold on announcing One United's fiscal year 2010 BEA Award, the response stated that the CDFI Fund Director considered the delay prudent given the nature of the audit and after considering the best interests of the U.S. government. The CDFI Fund announced the award to OneUnited on July 6, 2011, as the OIG had validated that the award was made in accordance with applicable laws, regulations, and CDFI Fund policies and procedures.

With regard to institutions where a federal regulator has taken a formal enforcement action, the CDFI Fund management responded that it has always and will continue to consider public policy concerns and the government's best interests before making these awards. The existence of an enforcement action, even one that cites excessive compensation and other management problems, does not indicate that the entire financial institution is not a "good citizen." The CDFI Fund discussed the existence of enforcement actions with federal regulators who indicated that an enforcement action should not be an automatic disqualifier and that an award may help the financial institution address some issues. BEA Program awards are made based on the community development activity of the entire organization and recognize the ability of a financial institution to continue to deploy needed resources in economically distressed communities across the country.

OIG Comment

The corrective actions taken and planned by the CDFI Fund are responsive to our recommendation. It should be noted that we did not validate, as part of our audit, the fiscal year 2010 award made to OneUnited as that award had not been finalized during our fieldwork. We did find that prior awards to OneUnited were made in accordance with applicable laws, regulations, and CDFI Fund policies and procedures. We are also not suggesting that an active formal enforcement action against a bank is an automatic

disqualifier for an award. We also understand that enforcement actions are taken by a bank regulator to address unsafe and unsound conditions at institutions that may not directly impact the activities that qualify for a BEA Program award. We nevertheless find it troubling that banks under formal enforcement actions have received awards and we believe that the CDFI Fund needs to establish more definitive criteria on how regulatory information about applicant banks is used in the award process.

The CDFI Fund's response also commented on several other matters in our report. The response is included as appendix 4.

Findings

The CDFI Fund's Awards and Assistance to OneUnited Complied With Applicable Laws, Regulations, and Policies and Procedures

In 1997, OneUnited's predecessor institution, Boston Bank of Commerce, was awarded financial assistance from the CDFI Fund in the form of an equity investment totaling \$750,000.² Following that investment, the predecessor institution or OneUnited received seven BEA awards totaling \$4,747,170 from 2000 to 2008.

We concluded that the CDFI Fund made its awards and provided assistance to OneUnited in accordance with applicable laws, regulations, and CDFI Fund policies and procedures. The CDFI Fund's processing of OneUnited's applications was consistent with the processing of applications and awards made to other banks that we reviewed.

Although we did not find problems with the awards made to OneUnited, we noted an issue with the CDFI Fund's handling of OneUnited's fiscal year 2010 BEA application. After the CDFI Fund reviewed the application and determined that OneUnited was eligible for a \$285,166 BEA award in fiscal year 2010, the CDFI Fund Director decided not to announce the bank as a recipient and put the award announcement and disbursement of award funds on

² In December 2002, Boston Bank of Commerce, which had previously acquired Peoples National Bank of Commerce and Founders National Bank, acquired Family Savings Bank and changed its name to OneUnited Bank.

hold pending the results of this audit. On September 30, 2010, the CDFI Fund publicly announced those fiscal year 2010 BEA applicants that were approved for award, except for OneUnited. At that time, denied applicants were also sent a declination letter.

The CDFI Fund's decision to hold the announcement and disbursement of OneUnited's fiscal year 2010 BEA award is a serious concern to us. The CDFI Fund should not have been influenced by our ongoing audit, as long as it consistently followed a process with which it had confidence was in accordance with applicable laws, regulations, and CDFI Fund policies and procedures.

Policies and Procedures Are Needed for Assessing Regulatory Enforcement Actions When Considering BEA Program Applications

BEA Program regulation 12 CFR §1806.203(f) states that the CDFI Fund, in its sole discretion, may deny or limit the amount of an award for any reason. In addition, 12 CFR §1806.204(b)(8) gives the CDFI Fund the authority to request any other information it needs to document or otherwise assess the validity of information provided by the applicant. Therefore, the CDFI Fund has full discretion over the criteria used to determine BEA award eligibility.

For the first time in the BEA Program, the CDFI Fund considered information obtained from federal banking agencies³ as part of its review process for applicants in its fiscal year 2010 award cycle. While we consider this an important step to ensure that suitable institutions receive awards and assistance, the CDFI Fund has yet to develop written policies and procedures as to how federal banking agency information should be considered, such as what conditions reported by a regulator would result in a denial of an award. We were told such policies and procedures were being developed and that the CDFI Fund has memorandums of understanding with the federal banking agencies as to what information would be provided, used, and safeguarded.

³ The federal banking agencies are the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the National Credit Union Administration. Under P.L. 111-203, the functions of the Office of Thrift Supervision are transferred to the Office of Comptroller of the Currency, the Federal Reserve System, and the Federal Deposit Insurance Corporation on July 21, 2011, and the Office of Thrift Supervision is to be abolished 90 days later.

For the fiscal year 2010 awards cycle, the CDFI Fund approved 12 banks for BEA awards that were under cease and desist orders⁴ or another formal enforcement action from their federal banking agency, including OneUnited.

With respect to the fiscal year 2010 award cycle, the CDFI Fund obtained some but not the same information from three of the five federal banking agencies.⁵ The three federal banking agencies provided the CDFI Fund narrative descriptions of active enforcement actions against applicant banks and their overall Community Reinvestment Act⁶ rating of the banks. One of the three federal banking agencies also provided its latest CAMELS⁷ ratings of applicants.⁸ We asked a BEA program manager what the CDFI Fund did with the information. We were told that the CDFI Fund considered whether any reported enforcement actions directed the respective applicant bank to stop engaging in the activities that serve as the basis for a BEA award; specifically, lending by the bank in a distressed community. So, if the applicant was prohibited by an enforcement action from further lending in that distressed community, the CDFI Fund would not approve that bank for a BEA award.

⁴ In accordance with the Federal Deposit Insurance Act, Section 8(b), federal banking agencies have the authority to, among other things, issue formal enforcement actions requiring banks to cease and desist from engaging in unsafe and unsound practices or violation of law and to take affirmative action to remedy those conditions. Formal enforcement actions, like cease and desist orders, are publicly disclosed.

⁵ One federal banking agency did not respond to the CDFI Fund's request for information. Because credit unions are ineligible for BEA awards, the CDFI Fund did not request information from the National Credit Union Administration (the fifth federal banking regulator).

⁶ The Community Reinvestment Act encourages commercial banks and savings associations to help meet the needs of borrowers in all segments of the communities they serve, including low- and moderate-income neighborhoods. The Act requires the federal banking agencies to assess banks, under their respective supervision, in meeting the credit needs of the local communities in which they are chartered, consistent with safe and sound banking practices.

⁷ Federal banking agencies use the Uniform Financial Institutions Rating System, or "CAMELS," to assign composite and component ratings to financial institutions. An institution's composite CAMELS rating integrates ratings from six component areas—capital adequacy, asset quality, management, earnings, liquidity, and sensitivity to market risk. The ratings range from 1 to 5 with 1 being the highest rating and least supervisory concern. CAMELS ratings for active banks are not disclosed publicly.

⁸ A fourth federal banking agency declined to provide CDFI Fund with any information. However, BEA officials reviewed the banks' most recent financial data and assessed items like profitability, capital levels, and percent of non-performing loans to total loan portfolio. Accordingly, applicants regulated by this agency were also treated in an inconsistent manner by the CDFI Fund.

The program manager also told us that the CDFI Fund eliminated banks from further consideration if they had a CAMELS composite rating of 5; this resulted in the rejection of two applicants during the fiscal year 2010 award cycle. While this approach seemed reasonable, we learned later that the CDFI Fund had CAMELS ratings only for institutions regulated by one of the five federal banking agencies. We do acknowledge that a CAMELS rating of 5 is not the only criteria used to eliminate an award applicant, but the evaluation and ultimate award determination of each applicant should be based on consistent treatment of consistent information.

In October 2008, the Federal Deposit Insurance Corporation took regulatory enforcement action against OneUnited by issuing a cease and desist order. The order addressed OneUnited's deficient capital, liquidity, and earnings, as well as issues with excessive employee compensation and other management problems. OneUnited is still operating under this cease and desist order. We found that the BEA program manager reviewed OneUnited's outstanding regulatory action and obtained additional information from the regulator on the matter. We asked the BEA program manager what criteria were used to approve OneUnited for an award given the deficiencies at the bank cited in the cease and desist order. The BEA program manager told us that the CDFI Fund determined that OneUnited should be given the award because the cease and desist order did not direct the bank to stop its lending activities in eligible areas, which was the basis for the BEA award.

In our opinion, this raises a serious public policy issue. That is, should an agency of the federal government be making monetary awards to financial institutions that are under an active regulatory enforcement action for engaging in unsafe and unsound banking practices and/or non-compliance with banking laws? We discussed this with the CDFI Fund Director who stated that sometimes banks that are having trouble are the ones that most need an award, and that financial assistance from the CDFI Fund can help the bank address specific problems such as capital levels and loan loss reserves. While we acknowledge the CDFI Fund's position, we believe it sends the wrong message to institutions that are not well-managed or "good citizens" in terms of conducting business consistent with federal regulatory objectives. Particularly in the case of OneUnited, where the cease and desist order cited among

other things, excessive employee compensation and other management problems. Accordingly, we strongly encourage the CDFI Fund to reconsider its position and give this matter careful attention as it develops its policies and procedures and ensure that those policies and procedures represent the government's best interests and sound public policy.

We did make an observation in the conduct of this audit that we believe is important to point out. Specifically, we noted that in December 2008, OneUnited received \$12 million from the Department of the Treasury's Capital Purchase Program.⁹ As of March 31, 2011, OneUnited had missed eight consecutive dividend payments to Treasury on its investment, totaling \$1.21 million.¹⁰ While the federal government has mechanisms in place to offset tax refunds and other federal payments against debts owed to the federal government, there is no such mechanism or specific legal authority for offsetting late dividend payments owed to Treasury under TARP against other federal payments. Our review found that OneUnited's dividends owed to Treasury are non-cumulative, meaning it has no legal obligation to pay Treasury unless it declares a dividend. Accordingly, future awards to OneUnited from the CDFI Fund would also not be offset to pay missed TARP dividend payments. While this is legally permissible, we find it troubling nonetheless and plan to conduct further work in this area.

Qualified Activity for the BEA Program Needs Clarification

The BEA Program provides monetary incentives for insured depository institutions to increase their financing activities in distressed communities. It rewards increases in the dollar volume of qualified financing activities from one year (the baseline year) to the next (the assessment year). Award amounts are based on a percentage of the dollar increase in an awardee's qualified financing activities. For example, for the fiscal year 2010 cycle,

⁹ The Department of the Treasury's Capital Purchase Program (CPP) is a preferred stock and equity warrant purchase program carried out by the Department's Office of Financial Stability; it is part of the Troubled Asset Relief Program (TARP).

¹⁰ OneUnited is not the only financial institution to have missed dividend payments on TARP CPP investments. As of March 31, 2011, 173 financial institutions had missed dividend payments to Treasury totaling \$277.3 million. Of that amount, \$265.7 million were for cumulative dividends and interest owed to Treasury by 143 institutions and \$11.6 million were for non-cumulative dividends that would be owed to Treasury by 30 institutions, including OneUnited, if declared by the institutions.

awardees that performed distressed community financing activities were eligible to receive a percentage of the increased financing activity from the baseline year.¹¹

Based on our review of OneUnited's BEA awards and the other BEA awards from our sample, we found that the methodology used by applicants for determining eligible increases in activity was inconsistent because the CDFI Fund's guidance was not clear. Current BEA application guidance states that an applicant who includes a dollar value for an assessment year's qualified activity must report the baseline year's qualified activity. We found that some applicants submitted all qualified activity completed in the baseline year and other applicants, including OneUnited, submitted selective baseline activity. Applicants like OneUnited submitted baseline activity from narrow census tracts that corresponded with its reported assessment year activity, instead of submitting all of its qualified activity completed for the baseline year. Although the CDFI Fund's current practice is to review qualified activity at the census tract level, current BEA application guidance does not instruct applicants to use individual census tracts when reporting on qualified activity.

By OneUnited and certain other applicants reporting information on only qualified activity for specific distressed census tracts, rather than all qualified activity, they are able to show annual increases in qualified activity even though their overall qualified activity may have actually decreased over the same period. For example, OneUnited reported \$1.6 million in affordable home loans in its fiscal year 2009 BEA application and \$1.1 million in its fiscal year 2010 BEA application. On the surface OneUnited's qualified activity appeared to actually *decrease* during the assessment period for its fiscal year 2010 application; however, OneUnited did not report any of the \$1.6 million from fiscal year 2009 as baseline activity for its fiscal year 2010 BEA application. Therefore, the entire \$1.1 million from fiscal year 2010 was treated as an increase in activity and was the basis for a BEA award of \$285,166.

¹¹ BEA applicants are eligible to receive a percentage of their increase in qualified distressed community financing activities, which include affordable housing loans, affordable housing development loans and related project investments, education loans, commercial real estate loans and related project investments, home improvement loans, and small business loans and related project investments.

CDFI Fund officials explained that OneUnited’s strategy of submitting activity from different and specific distressed census tracts each year is acceptable and that BEA Program laws, regulations, and guidance documents do not require applicants to report all qualified activities for all qualified census tracts. Officials stated that applicants are free to report all qualified activity or to report only activity in specific census tracts.

Even so, as illustrated by the OneUnited reporting example, we believe that this represents a fundamental problem with the program’s design. Specifically, even when qualified lending in distressed communities decreases from one year to the next, an applicant can report it in such a way that it appears to show an increase, thus allowing the applicant to be eligible for an award. We do not believe this meets the intent of the program. As discussed in an earlier finding, evaluation and ultimate award determination of each applicant should be based on consistent treatment of consistent information

The CDFI Fund Needs to Ensure Applicants Comply With Requirements

BEA Program regulations require that eligible lending activity must be in a distressed community. To be designated a distressed community, the community must be an area that is contiguous and has a population of

- not less than 4,000 if any portion of the area is located in a metropolitan area with a population of 50,000 or greater, or
- not less than 1,000 in any other case.¹²

In addition, the distressed community must be a geographic area where

- at least 30 percent of the eligible residents have incomes below the national poverty level as published by the U.S. Bureau of the Census, and

¹² 12 CFR §1806.200.

-
- the unemployment rate is at least 1.5 times greater than the national average according to the U.S. Bureau of Labor Statistics' most recent data.

BEA regulations also state that an applicant can report eligible lending activities in two or more geographic units which, in aggregate, meet the minimum area eligibility requirements provided that no single geographic unit within the area has a poverty rate below 20 percent.

In assessing the activity submitted by applicants, the CDFI Fund checks to determine whether each census tract of activity fully qualifies as a distressed community (i.e., it meets all the requirements listed above) or partially qualifies as a distressed community (i.e., it meets some of the requirements). The CDFI Fund, however, does not verify in the aggregate whether the geographic units meet the minimum area eligibility requirements.

Equity Investment Policy Does Not Provide for an Exit Strategy

As of September 30, 2010, the CDFI Fund was holding approximately \$22.3 million in outstanding investments in 26 CDFIs, of which equity securities (non-voting shares of ownership) represented \$15.4 million for 13 CDFIs. Equity securities purchased by the CDFI Fund are recorded at cost and adjusted annually to record any permanent impairment to value. We noted that the CDFI Fund does not have an exit strategy for these equity investments.

The case of OneUnited serves as an illustration of how the CDFI Fund has acquired equity securities over time. Specifically, in 1998, the CDFI Fund purchased 750 shares of the bank's Class D nonvoting convertible preferred stock for a total of \$750,000 as a financial assistance award. The assistance agreement for this award required OneUnited to meet specific performance goals for the 5 years following receipt of the award. The CDFI Fund closed out the assistance agreement in February 2003 under its determination that OneUnited satisfied the terms of the agreement.

Eight years later, however, the CDFI Fund is still holding the equity securities as an investment.¹³

The CDFI Program regulations at 12 CFR §1805.500 require that all financial assistance awarded be matched with funds from sources other than the federal government. 12 CFR §1805.501 goes on to state that matching funds shall be at least comparable in form and value to the financial assistance provided by the CDFI Fund.

While the CDFI Fund's equity investment policy details the process for monitoring the investments for possible impairment, it does not include any guidance with respect to redeeming them after the agreed performance period of the financial assistance is met. As noted above, the CDFI Fund has retained its equity investment in OneUnited for more than 13 years without any redemption or exit plan.

Without an exit strategy for these investments, the CDFI Fund bears the additional cost of monitoring the investments for indefinite periods. Additionally, the fact that the Treasury Department has an ownership interest in these institutions could unintentionally create the appearance of a federal guarantee or a perception that such institutions may be given preference when considered for future awards.

Recommendations

We recommend that the CDFI Fund Director:

1. Announce the CDFI Fund's determination on OneUnited's fiscal year 2010 BEA application.

Management Response

The CDFI Fund management announced OneUnited Bank as a fiscal year 2010 BEA Program award recipient on July 6, 2011.

¹³ During fiscal year 2010, the Fund recorded \$5.9 million in impairment losses on its outstanding equity securities investments, including a \$420,000 impairment loss on its OneUnited investment. As a result, OneUnited's investment balance was reduced to \$330,000 as of September 30, 2010.

OIG Comment

On July 8, 2011, we confirmed that OneUnited was listed among the 2010 BEA award recipients on the CDFI Fund's website.

2. Establish written policies and procedures for obtaining and using information about applicants from the federal banking agencies. The policy and procedures should ensure that the information considered for each applicant is consistent, regardless of the institution's federal regulator. We caution the CDFI Fund that the best interests of the government and the need for sound public policy should be carefully considered when making an award to any institution where a federal regulator has taken a formal enforcement action. In this regard, the CDFI Fund's policy should clearly state the extraordinary circumstances for making an award to an institution under a formal enforcement action, if permissible at all.

Management Response

The CDFI Fund has a long standing history of interagency coordination and has instituted written memorandums of understanding with several bank regulatory agencies to facilitate the sharing and evaluation of regulatory information prior to the fiscal year 2010 BEA Program round. On April 7, 2011, the CDFI Fund Director approved the CDFI Fund Regulator Review Process, a policy for requesting and incorporating the review of regulatory information in a funding round. The CDFI Fund will review and revise the current policy, as appropriate. The timeframe for completing this action is fiscal year 2012.

OIG Comment

The commitment by CDFI Fund management to review and revise current policy, as appropriate, meets the intent of this recommendation. The CDFI Fund will need to establish a definitive date that this planned action is expected to be

completed in the Joint Audit Management Enterprise System (JAMES).¹⁴

3. Ensure that BEA Program applicant guidance clearly details qualified activity reporting requirements to ensure that all applications contain consistent information and are assessed fairly. All applicants must be advised as to how the CDFI Fund evaluates increases in qualified activity completed during the period.

Management Response

CDFI Fund management stated they will review the applicant guidance and ensure that qualified activity reporting requirements are clearly articulated in the fiscal year 2012 materials. The timeframe for completing this action is fiscal year 2012.

OIG Comment

Management's planned actions meet the intent of our recommendation. The CDFI Fund will need to establish a definitive date that this planned action is expected to be completed in JAMES.

4. Revise BEA Program reviewer guidance to ensure that application reviewers consider all the relevant information in determining distressed community eligibility, especially when some of the claimed lending activity occurs in geographic areas that do not meet all the requirements for a distressed community. The CDFI Fund must ensure that, as a whole, the lending area claimed by applicants fully meets distressed community eligibility requirements. The timeframe for completing this action is fiscal year 2012.

Management Response

The CDFI Fund will review and revise the application, systems, and reviewer guidance, as appropriate, to ensure that application reviewers consider all the relevant information in

¹⁴ JAMES is the Department of the Treasury's audit recommendation tracking system.

determining distressed community eligibility and that the lending areas claimed by applicants fully meet distressed community eligibility requirements.

OIG Comment

Management's planned actions meet the intent of our recommendation. The CDFI Fund will need to establish a definitive date that this planned action is expected to be completed in JAMES.

5. Revise the CDFI Fund's equity investment policy to include an exit strategy for its equity investments.

Management Response

The CDFI Fund noted that while the current Equity Investment Policy for the CDFI Program does not contain an explicit strategy, the individual awardee Assistance Agreements generally allow for the sale of the investment at the discretion of the CDFI Fund. Nevertheless, the CDFI Fund will revise the Equity Investment Policy to include an appropriate exit strategy for equity investments. The timeframe for completing this action is fiscal year 2012.

OIG Comment

Management's planned action meets the intent of our recommendation. The CDFI Fund will need to establish a definitive date that this planned action is expected to be completed in JAMES.

* * * * *

We appreciate the courtesies and cooperation provided to our staff during the audit. If you wish to discuss the report, you may contact me at (202) 927-6512 or Susan Roy, Audit Manager, at (202) 927-5746. Major contributors to this report are listed in appendix 6.

/s/

Michael J. Maloney
Audit Director

The objective of our audit was to determine whether the Bank Enterprise Award (BEA) awards and other financial assistance provided to OneUnited Bank (OneUnited) were made in compliance with applicable laws, regulations, and Community Development Financial Institutions (CDFI) Fund policies and procedures. Because of recent publicity surrounding OneUnited and Congresswoman Maxine Waters, we performed this audit of all awards and assistance OneUnited received from the CDFI Fund to determine if the award determinations were proper.

The scope of our audit included all applications by OneUnited and its predecessor institution, Boston Bank of Commerce, for CDFI Fund awards and assistance, including OneUnited's fiscal year 2010 BEA application. For each of OneUnited's awards, we reviewed the award master files and other CDFI Fund records and conducted interviews with CDFI Fund management. Table 1 lists OneUnited's applications for CDFI Fund awards and assistance and the status of those applications since fiscal year 1997.

Table 1: OneUnited Bank's Financial Assistance and BEA Awards

Fiscal Year^a	Program	Application/ Award Number	Award/Assistance Amount	Comments
2010	BEA	101BE009704	On Hold	CDFI approved a \$285,166 award but put the award on hold.
2009	BEA	091BE008175	Not Approved	The application was not approved. After adjusting for ineligible items, the CDFI Fund determined that OneUnited's qualified financing activity had decreased during the assessment period.
2008	BEA	081BE007683	\$675,000	
2007	BEA	071BE007214	500,000	
2006	BEA	061BE006828	500,000	
2005	BEA	051BE005837	500,000	
2004	BEA	041BE005051	1,500,000	
2002	BEA	021BE003855	330,000	
2000	BEA	001BE001970	742,170	
1997	CDFI	971CD000997	750,000	
Total Awards and Assistance			\$5,497,170	

Source: CDFI Fund historical award documents, www.cdfifund.gov.

^a OneUnited did not apply for a BEA Program award or other financial assistance in fiscal years 2003, 2001, 1999, and 1998. The 2009 application was denied after the BEA reviewer determined that some of the submitted activity was ineligible. The disallowed activity resulted in a decrease in activity and thus no award.

In addition to reviewing OneUnited’s awards, we reviewed additional awards from each year in which OneUnited applied for an award. We selected two awards for each year based on the CDFI Fund program type and award amount. We determined whether that the application and award documentation for OneUnited and the other awardees reviewed were consistent with CDFI Fund program criteria. Table 2 lists the other awards we reviewed during our fieldwork.

Table 2: Additional Awards Selected for Review

Fiscal Year	Program	Awardee	Award/Assistance Amount	Comments
2009	BEA	Bank A ¹⁵	Not Approved	The application was not approved. After adjusting for ineligible items, the CDFI Fund determined that the qualified financing activity had decreased during the assessment period.
2009	BEA	Bank B	Not Approved	The application was not approved. After adjusting for ineligible items, the CDFI Fund determined that the qualified financing activity had decreased during the assessment period.
2008	BEA	Shorebank	\$675,000	
2008	BEA	Neighborhood National Bank	675,000	
2007	BEA	Mission Valley Bank	500,000	
2007	BEA	Franklin National Bank	500,000	
2006	BEA	Albina Community Bank	500,000	
2006	BEA	Bank of America, NA	500,000	
2005	BEA	Guaranty Bank	500,000	
2005	BEA	Citizens Bank and Trust	500,000	
2004	BEA	Community Capital Bank	1,500,000	

¹⁵ The names of the 2009 non-approved applicants from Table 2 are not public information, therefore we have called them Bank A and Bank B. The CDFI Fund does not release the names of applicants that are denied during the award round. We gave the real names of Banks A and B to the CDFI Fund.

Appendix 1
Objectives, Scope, and Methodology

Fiscal Year	Program	Awardee	Award/Assistance Amount	Comments
2004	BEA	Carver Federal Savings Bank	1,500,000	
2002	BEA	Bank of Cherokee County	330,000	
2002	BEA	MemphisFirst Community Bank	330,000	
2000	BEA	Laredo National Bank	768,354	
2000	BEA	Keybank, NA	668,500	
1997	CDFI	Boston Community Capital, Inc.	1,000,000	
1997	CDFI	Sable Bancshares, Inc.	1,000,000	
Total Awards and Assistance			\$11,446,854	

Source: CDFI Fund historical award documents, www.cdfifund.gov.

We conducted our fieldwork from August 2010 to December 2010. We reviewed the CDFI Funds award files for OneUnited award files and compared them to our sample files to determine if the awards and assistance were provided in accordance with CDFI Fund policies and procedures and in a consistent manner. As part of this work, we reviewed all pertinent criteria, including applicable laws, regulations, and CDFI Fund policies and procedures. We also reviewed CDFI Fund standards of practice, Notices of Funds Availability, and application reviewer guidance. We chose not to sample additional applications from the fiscal year 2010 BEA Program cycle because all final award determinations had not been made during the time of our fieldwork.

We also performed the following fieldwork:

- We interviewed CDFI Fund officials and staff, including officials and staff responsible for the BEA Program and CDFI Fund counsel to obtain an understanding of these programs and to obtain answers to specific questions regarding OneUnited's awards.

- We contacted OneUnited to verify that the bank account numbers used to deposit CDFI Fund awards belonged to the bank and were corporate accounts, not personal accounts.
- We obtained Congresswoman Waters's 2008 through 2010 financial disclosure statements from the Office of the Clerk for the U.S. House of Representatives. We also contacted Congresswoman Waters's office where her Chief of Staff referred us to the public website, www.opensecrets.org, which held her financial disclosure statements from 1995 through 2009. We reviewed the financial disclosure statements to determine the nature of her involvement with OneUnited.
- We interviewed the CDFI Fund Director to discuss OneUnited's awards and its fiscal year 2010 BEA application status.
- We reviewed historical award program documents available on the CDFI Fund's website to establish annual summary information for the programs under which OneUnited received awards. A table of this information is provided in appendix 3.

In addition, we reviewed OneUnited's TARP Capital Purchase Program (CPP) contract and consulted Treasury's Financial Management Service (FMS) on OneUnited's missed dividend payments. An FMS official stated that Treasury is not offsetting federal payments for missed TARP CPP dividends. Our review found that the dividends owed Treasury by OneUnited are non-cumulative, meaning that OneUnited has no legal obligation to pay Treasury unless it declares a dividend. OneUnited has not declared a dividend since receiving assistance through CPP, and therefore has not made any quarterly dividend payments to Treasury. None is required under the terms of OneUnited's TARP CPP.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Community Development Financial Institutions (CDFI) Fund

The CDFI Fund was established by the Riegle Community Development and Regulatory Improvement Act of 1994. The CDFI Fund's mission is to increase economic opportunity and promote community development investments for underserved populations and in distressed communities in the United States. The CDFI Fund achieves its purpose by promoting access to capital and local economic growth through the following:

- Community Development Financial Institutions Program
- New Markets Tax Credit Program
- Bank Enterprise Award Program
- Native Initiatives
- Capital Magnet Fund
- Financial Education and Counseling Pilot Program

Our audit was focused on the two CDFI Fund programs through which OneUnited Bank (OneUnited) received awards and financial assistance—Community Development Financial Institutions Program and Bank Enterprise Award Program.

Community Development Financial Institutions Program

Through the CDFI Program, the CDFI Fund provides Financial Assistance in the form of grants, loans, deposits and equity investments to CDFIs, and Technical Assistance grants to CDFIs and entities that propose to become certified CDFIs.

Financial Assistance awards are in the form of grants, loans, deposits and equity investments to CDFIs that have comprehensive business plans for creating community development impact.

Technical Assistance (TA) awards are in the form of grants to CDFIs and entities proposing to become CDFIs in order to build their capacity to advance community development and meet capital access needs in their target markets. TA awards can also be accessed by larger and more established CDFIs to support their continued development.

Bank Enterprise Award Program

The BEA Program recognizes the key role played by traditional financial institutions in community development lending and investing. Through the BEA Program, the CDFI Fund provides monetary awards to regulated banks and thrifts for increasing their investments and financial activities in economically distressed communities (those with high poverty and unemployment) and/or investments in CDFIs. The size of the award is a percentage of the increase in activities from one annual reporting period to the next.

OneUnited Bank

OneUnited Bank (OneUnited) was formed from the December 2002 consolidation of four minority-owned banks: Boston Bank of Commerce in Boston, Massachusetts; Peoples National Bank of Commerce in Miami, Florida; Founders National Bank in Los Angeles, California; and Family Savings Bank in Los Angeles, California. OneUnited is headquartered in Boston and has 10 branches. Three branches are in Massachusetts, 5 branches are in California, and 2 branches are in Florida.

OneUnited is regulated by the Federal Deposit Insurance Corporation (FDIC) and as of December 31, 2010, had \$522.9 million in total assets. In October 2008, OneUnited consented to the issuance of a cease and desist order by FDIC in order to improve the safety and soundness of the bank. The cease and desist order, FDIC-08-294b, included asset growth restrictions, minimum capital requirements, dividend payment restrictions, and executive compensation reductions.

Appendix 3
Annual CDFI Fund Program Results

The following table summarizes the annual awards for the Bank Enterprise Award (BEA) Program for 1999 through 2010 and for the Community Development Financial Institutions (CDFI) Program for 1997 through 1998. The programs and years covered in the table correspond to the types of awards OneUnited Bank and its predecessor institution, Boston Bank of Commerce, received from the CDFI Fund (see appendix 1 for a complete list of OneUnited's awards). OneUnited's awards (or its predecessor institution) are included in the program results below, however the fiscal year 2010 pending BEA award was not included.

Table 3: Summary of CDFI Fund Awards

Year	Program	Total Awards	Total Awarded	Average	Low	High
2010	BEA	69	\$24,722,288	\$358,294	\$6,000	\$600,000
2009	BEA	55	\$22,332,326	\$406,042	\$6,000	\$700,000
2008	BEA	52	\$20,101,901	\$386,757	\$6,000	\$675,000
2007	BEA	51	\$11,167,711	\$218,971	\$6,000	\$500,000
2006	BEA	47	\$11,880,000	\$232,941	\$5,940	\$500,000
2005	BEA	53	\$9,896,217	\$186,721	\$6,000	\$500,000
2004	BEA	49	\$17,007,562	\$347,093	\$1,500	\$1,500,000
2003	BEA	75	\$13,881,938	\$185,093	\$3,000	\$2,141,230
2002	BEA	81	\$23,017,603	\$284,248	\$375	\$2,000,000
2001	BEA	139	\$46,147,988	\$332,024	\$110	\$2,500,000
2000	BEA	159	\$46,400,000	\$291,986	\$894	\$3,350,500
1999	BEA	102	\$31,494,652	\$308,526	\$2,250	\$5,104,263
1998	CDFI	54	\$54,171,500	\$1,003,176	\$50,000	\$2,500,000
1997	CDFI	54	\$43,819,300	\$811,469	\$78,500	\$3,250,000

Source: CDFI Fund historical award documents, www.cdfifund.gov.

Appendix 4
Management Response

OIG
Comments
follow the
Response



DEPARTMENT OF THE TREASURY
COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND
601 THIRTEENTH STREET, NW, SUITE 200 SOUTH
WASHINGTON, DC 20005

MEMORANDUM

DATE: July 8, 2011

TO: Michael J. Maloney, Director, Fiscal Service Audits
Office of the Inspector General
Department of the Treasury

FROM: Donna Gambrell, Director /s/

SUBJECT: Audit Report: Awards to OneUnited Bank Were Consistent With
Requirements But Certain Aspects of CDFI Fund Program Administration
Need to be Revisited

Thank you for providing the Community Development Financial Institutions (CDFI) Fund with the opportunity to comment on the Office of the Inspector General (OIG) draft audit report, "Awards to OneUnited Bank Were Consistent With Requirements But Certain Aspects of CDFI Fund Program Administration Need to be Revisited" (OIG-11-0##). Please find our comments below:

Finding 1 – The CDFI Fund’s Awards and Assistance to OneUnited Complied with Applicable Laws, Regulations, and Policies, and Procedures

OIG Recommendations

OIG recommends that the CDFI Fund Director take the following action:

1. Announce the CDFI Fund’s determination on OneUnited’s fiscal year 2010 BEA application.

Management Response

The announcement of OneUnited’s FY 2010 BEA Program award was delayed, pending the OIG’s confirmation of the propriety of the award. While the OIG may not agree with the CDFI Fund Director’s decision to hold the announcement of the award, given the nature of the audit and after considering the best interests of the U.S. government, the Director felt it was prudent to delay the announcement of the award, and thus the disbursement of federal funds. As the OIG has validated that the award was made in accordance with applicable laws, regulations, and CDFI Fund policies and procedures, on July 6, 2011 the CDFI Fund announced OneUnited Bank as a FY 2010 BEA Program award recipient.

PCA: Not applicable

PCA Due Date: Not applicable.

Point of Contact for PCA: Not applicable

Finding 2 – Policies and Procedures Are Needed for Assessing Regulatory Enforcement Actions When Considering BEA Program Applications

OIG Recommendation

OIG recommends that the CDFI Fund Director take the following action:

2. Establish written policies and procedures for obtaining and using information about applicants from the federal banking agencies. The policy and procedures should ensure that the information considered for each applicant is consistent, regardless of the institution's federal regulator. We caution the CDFI Fund that the best interests of the government and the need for sound public policy should be carefully considered when making an award to any institution where a federal regulator has taken a formal enforcement action. In this regard, the Fund's policy should clearly state the extraordinary circumstances for making an award to an institution under a formal enforcement action, if permissible at all.

Management Response

The CDFI Fund has a long standing history of interagency coordination and has instituted written memorandums of understanding with several bank regulatory agencies to facilitate the sharing and evaluation of regulatory information prior to FY 2010 BEA Program round. Moreover, on April 7, 2011, the CDFI Fund Director approved the CDFI Fund Regulator Review Process, a policy for requesting and incorporating the review of regulatory information in a funding round. The CDFI Fund will review the current policy in light of the OIG recommendations and revise, as appropriate.

With regard to institutions where a federal regulator has taken a formal enforcement action, the CDFI Fund has always and will continue to consider public policy concerns and the government's best interest before making these awards. The existence of an enforcement action, even one, as in the case of OneUnited Bank, that cites excessive compensation and other management problems does not indicate that the entire financial institution is not, according to the OIG, a "good citizen." During the review period, the CDFI Fund discussed the existence of enforcement actions with federal regulators who indicated that an enforcement action should not be an automatic disqualifier and that an award may help the financial institution address some issues. BEA Program awards are made based on the community development activity of the entire organization and recognize the ability of a financial institution to continue to deploy needed resources in economically distressed communities across the country.

Appendix 4
Management Response

OIG Comment 1

Finally, it should be noted that the Treasury Department's Troubled Asset Relief Program Capital Purchase Program (TARP/CPP) is not operated by the CDFI Fund. As such, the CDFI Fund has no authority to offset missed TARP/CPP dividend payments with CDFI Fund awards. Furthermore, it is our understanding that OneUnited Bank was not required to declare a dividend, has no legal obligation to pay Treasury any missed dividends, and was not in default of its TARP agreement at the time the CDFI Fund finalized the FY 2010 BEA award decision.

OIG Comment 2

The CDFI Fund would like to clarify the following points contained in the audit report:

OIG Comment 3

- Footnote 5: Credit unions are not eligible to apply to the BEA Program; therefore the CDFI Fund would never request information from the National Credit Union Administration with regard to BEA Program applicants.
- CRA ratings were reviewed for all applicants. While only one regulator provided the CDFI Fund with CRA ratings, BEA Program staff retrieved and reviewed the CRA rating for all other applicants from publicly available sources. At the time of review, the most recent CRA rating available for OneUnited was Satisfactory.

PCA: See above Management Response to Recommendation No. 2

PCA Due Date: FY 2012

Point of Contact for PCA: Charles McGee, Senior Program Analyst,
Administrative Operations

Finding 3 – Qualified Activity for the BEA Program Needs Clarification

OIG Recommendations

OIG recommends that the CDFI Fund Director take the following action:

3. Ensure that BEA Program applicant guidance clearly details qualified activity reporting requirements to ensure that all applications contain consistent information and are assessed fairly. All applicants must be advised as to how the Fund evaluates increases in qualified activity completed during the period.

Management Response

The CDFI Fund will review the applicant guidance and ensure that qualified activity reporting requirements are clearly articulated in the FY 2012 materials.

PCA: See above Management Response to Recommendation No. 3

PCA Due Date: FY 2012

Appendix 4
Management Response

Point of Contact for PCA: Charles McGee, Senior Program Analyst,
Administrative Operations

Finding 4 – The CDFI Fund Needs to Ensure Applicants Comply With Requirements

OIG Recommendations

OIG recommends that the CDFI Fund Director take the following action:

4. Revise BEA Program reviewer guidance to ensure that application reviewers consider all the relevant information in determining distressed community eligibility, especially when some of the claimed lending activity occurs in geographic areas that do not meet all the requirements for a distressed community. The CDFI Fund must ensure that, as a whole, the lending area claimed by applicants fully meets distressed community eligibility requirements.

Management Response

The CDFI Fund will review and revise the application, systems, and reviewer guidance, as appropriate, to ensure that application reviewers consider all the relevant information in determining distressed community eligibility and that the lending areas claimed by applicants fully meet distressed community eligibility requirements.

PCA: See above Management Response to Recommendation No. 4

PCA Due Date: FY 2012

Point of Contact for PCA: Charles McGee, Senior Program Analyst,
Administrative Operations

Finding 5 – Equity Investment Policy and Program Needs to Be Reconsidered

OIG Recommendations

OIG recommends that the CDFI Fund Director take the following action:

5. Revise the CDFI Fund's equity investment policy to include an exit strategy for its equity investments.

Management Response

While the current Equity Investment Policy for the CDFI Program does not contain an explicit exit strategy, the individual awardee Assistance Agreements generally allow for the sale of the investment at the discretion of the CDFI Fund.

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Appendix 4
Management Response

Nevertheless, the CDFI Fund will revise the Equity Investment Policy to include an appropriate exit strategy for equity investments.

PCA: See above Management Response to Recommendation No. 5

PCA Due Date: FY 2012

Point of Contact for PCA: Charles McGee, Senior Program Analyst,
Administrative Operations

OIG Comments

1. We are not suggesting that the CDFI Fund offset BEA awards for delinquent TARP dividend payments. We discuss the missed TARP dividends by OneUnited only to point out that the federal government does not have a mechanism to offset delinquent TARP dividend payments against other federal payments going to TARP recipients.
2. We have clarified in the report that credit unions were ineligible for BEA awards.
3. We did note during our review that the CDFI Fund had obtained CRA rating information for all applicants.

Appendix 5
Major Contributors to This Report

Michael J. Maloney, Director, Fiscal Service Audits
Susan I. Roy, Audit Manager
John B. Gauthier, Auditor-in-Charge
Christen J. Stevenson, Referencer

Department of the Treasury

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Community Development Financial Institutions Fund

Director
Liaison Officer

Office of Management and Budget

OIG Budget Examiner