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in community and economic development

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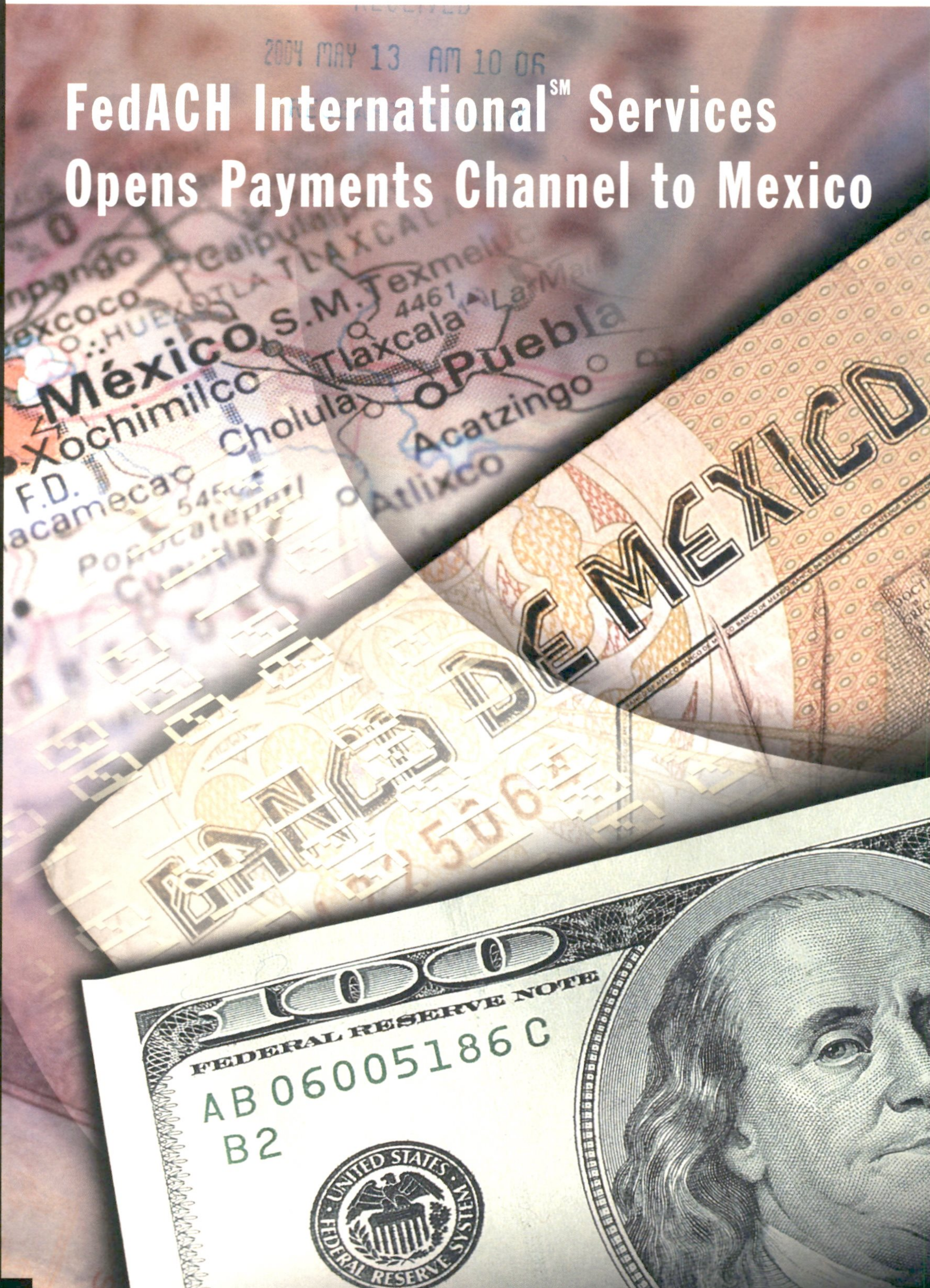
FedACH International℠ Services Opens Payments Channel to Mexico



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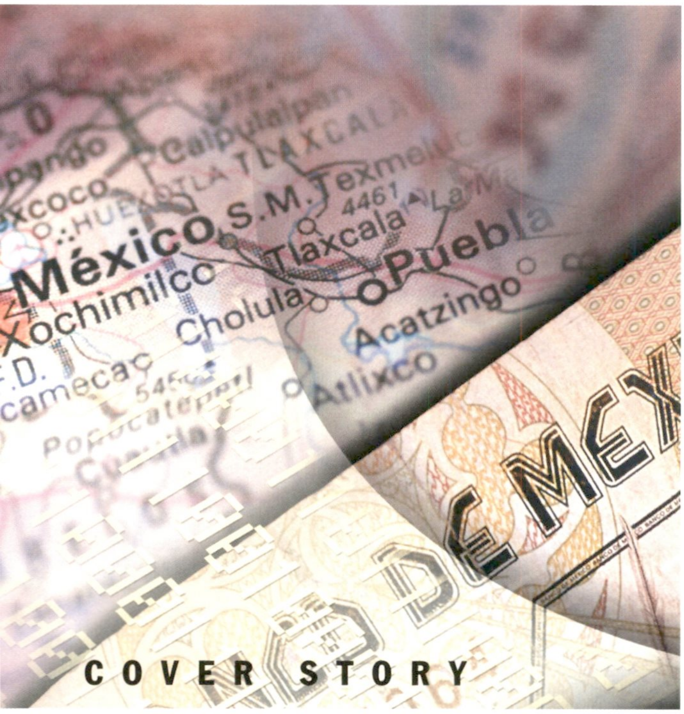


COVER STORY

NOTE TO READERS:

A few errors appeared in the table "Impact of 2000 Census on Nonentitlement and Entitlement Grantees Combined," on page 14 of the previous issue of *Partners* (vol. 13, no. 3, 2003). For the correct data—specifically, for Maine, Delaware, South Carolina, West Virginia, and Wyoming—see the Atlanta Fed's Web site at www.frbatlanta.org under "Publications/Periodicals/Partners/Third Quarter 2003." We apologize for any inconvenience this error may have caused.

FEATURES

CHANGE

We live in a world of constant change. Changes in our personal lives typically result from the decisions we make concerning education, employment, family and housing. All of these choices are easier when we set goals and follow plans. However, even the best laid plans can go awry when a medical emergency, family break-up or job layoff arises. Such troubles often force people to make difficult adjustments to survive.

Like individuals, communities also change over time. Some of these transitions are carefully orchestrated while others are unplanned. Although natural disasters, acts of terrorism or closures of sizeable factories tend to have an immediate impact in a community, shifts generally occur more gradually and are rarely the result of a single action.

All sizes and types of communities are affected by change. Government actions, employment availability, economic conditions, housing stock, ease of transportation, quality of schools, family values and nearby amenities are some of the factors that influence the speed and degree of transitions in communities.

Many communities in the Sixth Federal Reserve District have changed dramatically over the last half century. South Florida, for example, has seen a tremendous inflow of refugees and immigrants since the late 1950s. Initially most immigration came from Cuba with the fall of Fulgencio Batista's regime, but recent decades have seen the formation of a large Haitian community. Other immigrant groups from Central and South America have settled in South Florida as well.

Like most communities adjusting to waves of immigration, Miami has had to respond to the effects of unemployment and poverty coupled with insufficient affordable housing – factors that strain local economic, social and political conditions. But the transformation of Miami's population to majority-Hispanic has also made the city culturally and economically rich. In fact, South Florida Hispanics now have the highest per capita buying power of all Hispanics in the U.S.

Increased immigration has affected numerous other areas of the South in recent years as well. According to census data Hispanic populations have grown threefold or more in several of our communities during the 1990s, and many experts believe that these figures are under-representative. While the percentage of Latinos in relation to the population as a whole remains relatively low in the South, it's likely to grow significantly in the coming years.

The inflow of immigrants to the South is a new phenomenon in many of our markets, and it has been the cause of extensive debate locally and regionally. In addition to dealing with the impact on employment, housing, transportation and education, communities are also faced with identification requirements, language barriers, and the need to provide access to health and human services and financial services.

While there are no easy answers, one thing is clear – our communities' landscapes will continue to change. And how we deal with change will become increasingly important.

Juan

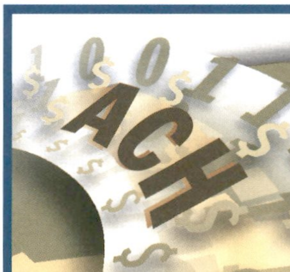
Juan C. Sanchez
Community Affairs Officer

FedACH International℠ Services Opens Payments Channel to Mexico

THERE'S NOTHING LIKE A FRIENDLY PUSH FROM TWO PRESIDENTS TO GET A HERCULEAN JOB DONE. AND THAT'S EXACTLY WHAT HAPPENED WHEN U.S. PRESIDENT GEORGE BUSH AND MEXICAN PRESIDENT VICENTE FOX SIGNED THE PARTNERSHIP FOR PROSPERITY AGREEMENT IN SEPTEMBER 2001.

Although the idea of an automated clearing house (ACH) connection between the United States and Mexico was considered a few years ago, the pieces didn't really come together until the Presidents challenged the private and public sectors in both countries. They stressed the importance of coming up with ways to lower the cost of remittances sent by Mexican workers in the United States back to their families in Mexico and of helping this population gain access to formal financial services such as bank accounts.

Specifically, the Partnership for Prosperity (see page 5) text included a pledge by the central banks in Mexico and the United States, the Banco de México and the Federal Reserve, to study the possibility of setting up an ACH that would be "an efficient interbank mechanism to carry out payments between both countries that would be available to all financial institutions." It also challenged the private sector to continue to reduce the cost of sending money to Mexico and to help identify ways to make the use of these funds more productive.



What is ACH?

ACH, an acronym for Automated Clearing House, is a nationwide system designed for the electronic exchange of debits and credits.

Partnership for Prosperity spurs payments

The challenge of the Partnership for Prosperity (Partnership) motivated private banks and transfer companies to accelerate improvements in existing payments products by making them more user-friendly and cheaper for consumers.

The real driver of the Partnership between the United States and Mexico was, of course, the needs of the growing number of Mexican immigrants living here. According to the U.S. Census Bureau's American Community Survey, 9.9 million foreign-born from Mexico resided in the United States in 2002. Many Mexicans send a significant portion of their earnings back home, resulting in growing flows of remittances into Mexico. The amount stood at US $13 billion in 2003, up from around US $10 billion at the start of this decade.

One of the Partnership's goals was to introduce this population to formal financial services. The majority of people sending money to Mexico do not have bank accounts. In the past, when they wanted to send money back home, they encountered a marketplace with few options and very little competition. According to the Inter-American Dialogue, the overall cost of transferring funds (including the fee to transfer funds and the foreign exchange spread) was higher to Mexico than to many other countries in the region, despite the magnitude of the flows from the United States to Mexico.

After the Partnership agreement, new payment products began to enter the market including Bank of America's SafeSend program and Wells Fargo's InterCuenta Express Mexican wire transfer service. These products encourage individuals to open bank accounts as well as to transfer money to Mexico via each bank's proprietary channel. Programs like these provide a significant advantage to consumers by offering more alternatives in the market. These developments are pushing down the cost of sending money to Mexico via wires as well.

Lowering barriers for smaller banks

In the past a bank had to have a presence in Mexico either directly or through a partnership with a local bank in order to offer products like the ones described above. It also had to have the ability to transfer funds and offer foreign exchange. Most smaller and medium-sized banks could only offer such a product to their customers through an intermediary institution. This added layer raised the overall cost of cross-border payments.

To streamline transactions for smaller institutions, architects of the ACH connection between the two countries envisioned a system that would provide every bank in both Mexico and the United States with access to a low-cost, efficient funds transfer vehicle. Once the infrastructure was in place to facilitate flows between the two countries, every bank would have the option to design products for its own particular individual and corporate customers.

FedACH International℠ Services frames new product

The Mexico Service now offered by the Fed's FedACH International℠ Services provides a channel for exchanges between the two central banks, which serve as the gateway operators in each country. The gateway operators receive, process, and distribute payments to all the banks in the domestic banking system. In the Mexico Service, U.S. dollars are converted into Mexican pesos by the Banco de México, which provides foreign exchange at a competitive market rate.

The inclusion of foreign exchange in the service provided by the central bank makes it possible for banks of any size to offer as many transfers as needed. Otherwise, banks would have to offer their own foreign exchange, and this service is not economical without large, regular volumes of funds. The Mexico Service extends other efficiencies for participating banks as well: cross-border items can be comingled with domestic ACH payments using the same, standard connections and formats.

Initially this service is being offered to U.S. depository institutions for a surcharge of 67 cents for each payment item. The surcharge is in addition to the standard processing fees (less than a penny per item) that banks

ARCHITECTS OF THE ACH CONNECTION BETWEEN THE TWO COUNTRIES ENVISIONED A SYSTEM THAT WOULD PROVIDE EVERY BANK ACCESS TO A LOW-COST, EFFICIENT FUNDS TRANSFER VEHICLE.

incur for their domestic ACH connection. The price to the consumer for this service, which is determined by the participating bank, reflects the additional value added by the bank and its relationship with its customers. The service accommodates credit payments for individuals and businesses.

According to Dr. Manuel Orozco, project director at the Inter-American Dialogue, the impact of this product in attracting more banks into the remittance market will be to lower the cost over time. "I think the impact on pricing will give a push to lower the cost. The real impact will be felt if banks adopt a marketing strategy to attract immigrants into their banks by offering various financial products, of which low-cost or cost-free remittance transfers is one."

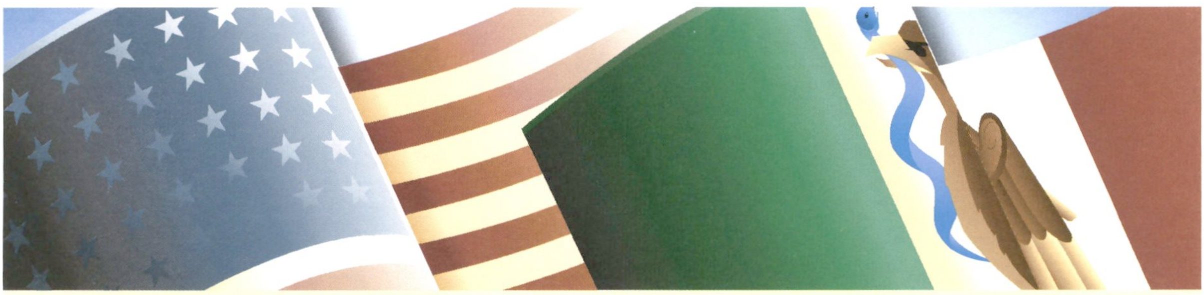
Banks are not the only beneficiaries of the Mexico Service. Credit unions can also access the service. Furthermore, the U.S. Social Security Administration is transmitting benefit payments over this channel to recipients living in Mexico. Previously, government benefits were delivered by check, which meant higher costs. The government paid to issue a paper check and to deliver it across the border, and the recipient generally paid a fee to cash a foreign currency check in addition to foreign exchange conversion. Now funds can be delivered in a secure, efficient, low-cost manner.

The two central banks offering these services in each country will only work directly with depository institutions. Individuals or businesses interested in using the service should contact their banks directly about its availability. Currently the service is only offered from the United States to Mexico, but the capacity for bi-directional flows is now being developed.

Mexico Service model may extend to other countries

In January of 2004, Presidents Bush and Fox concluded that significant progress had been made since the Partnership for Prosperity began. They noted that the cost of sending remittances had fallen by 58 percent, while the flow of remittances had grown steadily each year. Now leaders in North and South America are turning their attention to the possibility of bringing these same improvements to other countries in the region as well. ♦

By Elizabeth McQuerry, assistant vice president in the Atlanta Fed's Retail Payments Office, and Jennifer Grier, community affairs project manager at the Atlanta Fed.



Partnership for Prosperity Agreement

In September of 2001, President George Bush and President Vicente Fox launched the Partnership for Prosperity with the vision of "unfettering the economic potential of every citizen, so each may contribute fully to narrowing the economic gap between and within our societies." This public-private alliance was charged to find ways to foster an environment in which no Mexican feels compelled to leave his home for lack of jobs or opportunity.

The Partnership called on the expertise of more than 100 U.S. and Mexican business leaders, government officials and academics. The group met in two conferences– one held in Merida, Mexico, in December 2001 and the other in Washington, D.C., in February 2002– to identify several overarching strategies fundamental to the Partnership's success:

- expanding and broadening access to capital;
- sharing best practices and technical expertise;
- linking institutions with shared goals; and
- building capacity for growth.

The program's action plan, developed to outline the steps necessary to meet the Partnership's goals, cited the importance of expanding access to capital. The plan deemed it essential to "work to lower the cost for Mexicans working in the United States of sending money home by, in part, encouraging more banks to market aggressively the opening of accounts to Mexican workers and to offer remittance features in their accounts."

SOURCE:

Partnership for Prosperity, Report to President Vicente Fox and President George W. Bush (Monterrey, Mexico; 3/22/02)

Revitalizing Neighborhoods Through Social and Economic Integration

CENTRAL CITIES HAVE BEEN LOSING UPPER- AND MIDDLE-INCOME HOUSEHOLDS TO SUBURBAN COMMUNITIES IN RECENT DECADES. ALTHOUGH SOME URBAN NEIGHBORHOODS ARE ONCE AGAIN FLOURISHING, THIS TREND IS NOT UNIVERSAL.

Many city communities still suffer from concentrated poverty, blight and private sector disinvestment. The question of how to revitalize these areas persists, and city officials, community development corporations, and the private sector continue to debate the appropriate strategies for addressing the problem.

New strategies for urban revitalization

In the past, revitalization strategies focused on improving the opportunities for the low-income residents living in underserved communities. Although individual households have benefited, these strategies have not succeeded in improving the economic composition of the communities as a whole, nor has the private sector provided the outside investment essential for growth.

A different approach to urban revitalization takes advantage of renewed interest in urban living to encourage economic and social integration. Out-migration from cities was originally driven by expanding highway systems, the availability of housing, and better school systems. The result was a declining economic base that coincided with changing racial composition in the central cities, as many white households moved out to the suburbs leaving a concentrated low-income, minority population. However, a growing suburban population, highway congestion and the rising cost of living have diminished the relative benefits of living in the suburbs, and some households are now rediscovering urban neighborhoods. These households are recognizing the convenience of urban living, the amenities associated with cities and the historic character of certain neighborhoods. Folding these new residents into existing communities is one approach to urban revitalization.

This strategy works to increase job and income opportunities for existing residents while simultaneously encouraging in-migration of higher income residents.

The goal is to achieve greater economic diversity that will spur additional public and private investment needed to revitalize an entire community instead of helping just one family at a time.

Diversity strategy offers benefits, raises concerns

Studies indicate that increasing economic diversity in central cities brings both fiscal and social benefits. The most obvious fiscal benefit is a higher property tax base as higher income households purchase more expensive homes or add value through renovation. Higher income households will also support existing retailers and draw new businesses, increasing commercial property tax and sales tax revenues.

Social benefits are also associated with this strategy. Research suggests that the presence of middle- and upper-income households can help reduce social isolation in inner city communities. Higher income households can help build social structures in neighborhoods by reinforcing mainstream values and thus offset problems associated with concentrated poverty such as crime, drug abuse and illiteracy. Greater social capital in a community may also help lower income residents connect with employment opportunities outside of the immediate neighborhood. However, realizing these social benefits requires extensive social interaction between the new and the old residents, and this is often hard to achieve.

A strategy focused on increasing economic and social diversity also raises significant concerns. The biggest is the possibility that existing residents will be replaced by the new, higher income households. Displacement can occur if existing subsidized housing units are demolished to build market rate units or if new households moving into a neighborhood drive up rents or housing prices to such an extent that housing, including property taxes, is no longer affordable for the existing residents. Residents may also be displaced when landlords opt to sell rental housing for conversion to owner–occupied housing.

Gentrification, which usually refers to the economic and racial changes in a neighborhood associated with the in-migration of higher income households, is often seen in a negative light because it can lead to displacement. It is important to note, however, that gentrification is not necessarily synonymous with displacement, and that gentrification without displacement can provide benefits to existing residents. If a community has a large supply of vacant property or abandoned housing, gentrification is less likely to uproot existing residents.

Loss of affordable housing units is another significant concern associated with promoting economic diversity. For example, subsidized housing units may be demolished to build mixed-income or market-rate housing, or vacant land suitable for assisted housing development may be targeted for more profitable housing. The federal HOPE VI program faced such problems. Created to address the problem of concentrated poverty in public housing projects by redeveloping this housing with lower density, mixed-income housing, HOPE VI has been effective in helping some communities achieve greater economic and social diversity; but the overall supply of assisted housing units has also been reduced.

Finally, the political feasibility of diversity strategies is questionable. Cities may promote economic diversity by using public subsidies to encourage higher income families to locate in targeted neighborhoods. However, conflicting views exist regarding this use of public resources. Many feel that public money should only be used for direct help to the neediest of families. Another challenge is that revitalization strategies focusing on both existing and new households will have to speak to the needs of both, and critics contend that the concerns of existing residents are often overshadowed by those of the newer and higher income residents.

Building blocks for a diversity strategy

A successful strategy to promote economic diversity must be two-fold. First, existing residents must be encouraged to build and retain social and economic capital in their neighborhood. Secondly, the in-migration of higher income households must be encouraged. To achieve these two objectives, revitalization strategies must focus on both "push and pull" factors: factors that push households out must be reduced while qualities that pull households back into the city must be enhanced.

Row 8.9n Townhomes: A New Model for Diversity?

The recent completion of Row 8.9n townhomes by Affordable Housing Resources (AHR) in Nashville's Hope Gardens neighborhood brings the first market-rate housing to the area in years. Located within walking distance of the state capitol and downtown, the neighborhood was slated for revitalization by the Tennessee Housing Development Agency (THDA) in the 1990s, when it was designated as the state's first Bicentennial Neighborhood. AHR has been working in partnership with the state, the city and other nonprofit and for-profit developers since then to rejuvenate the neighborhood with new, affordable single-family housing.

The AHR project initially added approximately 50 new homes, creating opportunities for homeowners in the neighborhood and filling many of the vacant lots. However, these homes have not attracted economically diverse buyers. According to AHR, most of their homes have sold with significant subsidy to a typical buyer who is a single mother with two children. Leaders of the revitalization efforts recognized that attracting higher income households was critical to bring about real change in Hope Gardens.

In spring of September 2001, AHR broke ground on Row 8.9n. The 29-unit mixed-income townhome project in Hope Gardens gets its name from its location between 8th Avenue and 9th Avenue North. A $5 million project, the development is a public-private partnership, with funding from a number of federal, state and local sources. Priced between $130,000 and $170,000, with subsidies available for 11 of the units set aside for affordable housing, these homes appeal to a new market. In the past new homes in the neighborhood sold for under $95,000. The loft-style architecture and brownstone exterior of the Row 8.9n homes represent a new look for the neighborhood. All of the units, regardless of price, feature the same high-quality amenities.

The Row 8.9n homes have attracted an economically and socially diverse group of buyers not seen elsewhere in Hope Gardens. The new homeowners' incomes range from $20,000 to more than $70,000, and the community is home to a spectrum of professionals from entry-level architects to musicians to executives. To encourage a wide economic range of buyers, AHR partnered with a local financial institution to offer below-market financing to all buyers, regardless of income.

The success of this project encouraged AHR to start Ireland Street townhomes, a second mixed-income housing project in Hope Gardens. With prices ranging from $149,000 to $199,000, this 28-unit project includes fewer affordable units. Interest in the new project is strong, and more than 50 percent of the units have been pre-sold.

Row 8.9n and Ireland Street are bringing new homebuyers into Hope Gardens, and the neighborhood demographics are slowly changing. Crime has dropped, and the city has completed other infrastructural improvements in the neighborhood. According to Steve Neighbors, Director of the Home Company, the development subsidiary of AHR, "Change happens slowly. We can encourage the economic changes but the social integration and real interaction will have to happen over time."

Encouraging greater social and economic diversity throughout the neighborhood continues to be a challenge for revitalization efforts, but these two projects provide a great foundation to prove that it is possible. ♦

Schools: Improving public schools is the cornerstone to any revitalization strategy, especially if the goal is to keep or attract families with school-aged children in the city. Public schools are one of the largest problems in urban areas and one of the biggest obstacles to overcome for successful urban revitalization. The problem with schools is self-perpetuating: as families with school-age children leave the central city to find better schools in suburban communities, central cities are increasingly dominated by households that are unable to support the level of taxation and public expenditure needed to improve the schools. Several mechanisms for improving schools can be considered, such as expanding magnet schools into disadvantaged communities and giving neighborhood residents priority for enrolling.

Economic opportunity: Expanding economic opportunity is also critical, particularly for existing residents. Job training programs can help existing residents expand their skills so they can compete for better jobs and increase their incomes. A necessary complement to job training, however, is increasing the number of job opportunities in a community, as well as improving transportation systems to expand access to jobs outside the community. Cities can expand employment opportunities in central cities by supporting small businesses and micro-enterprise programs as well as by recruiting new businesses.

Range of housing opportunities: Neighborhood stability is enhanced by greater rates of homeownership. Encouraging existing residents to purchase homes and attracting new higher income home buyers will help achieve both economic diversity and greater neighborhood stability. Developer subsidies, homebuyer education, downpayment assistance and below-market financing are all tools used to promote homeownership. Homebuyer education or private-sector financial incentives are often more politically feasible than direct public subsidies for homeownership.

In promoting diversity, it is equally important to offer a full range of housing options. Developing attractive, high-quality rental housing (assisted and market-rate) as well as single-family homes in the same community makes it possible for residents to meet their changing housing needs as their lives evolve.

Expanding amenities and reducing drawbacks: Improving neighborhood amenities may encourage greater economic and social diversity. Promoting the cultural opportunities unique to a city, developing infrastructure, and improving parks, recreational facilities, and shopping districts all make neighborhoods more appealing. Encouraging new retail and service businesses in central cities is also crucial.

At the same time, cities need to address the drawbacks associated with urban living. Improving blighted properties, cleaning up public spaces and working with police, local businesses and community residents to reduce crime make central city communities more attractive. Improving amenities and addressing disamenities is also a more politically feasible strategy, since this approach will benefit both new and existing residents.

Community marketing: While it is critical to address the obvious problems in central city communities, it is also necessary to deal with the perception of these problems. Difficulties in low-income communities often appear on the evening news, so it is important to balance negative impressions with attention to improvements and amenities. Revitalization strategies must also target the appropriate market. For example, since improving schools may be the hardest issue for a community to address, neighborhoods may wish to focus initially on attracting households without school age children, such as young professionals and empty-nesters.

Developing a successful strategy

A strategy that promotes economic and social diversity is just one approach for revitalizing urban communities, and it may not be the best strategy for every community. It is easier to incorporate new, higher income households in a community, for example, if adequate vacant land or housing stock exists to support new residents without displacing existing ones. It is also important to consider whether a community can support economic change. Job training for existing residents may help individuals, but without new economic opportunity in the community, it will be hard to improve the employment status or incomes of existing residents significantly. The strategy must be politically feasible and resources must be shared between existing residents and incentives to attract new households.

Because one component of a revitalization strategy in isolation will not bring about the widespread change needed to achieve economic diversity, a holistic approach is essential. It is also important to maintain a long-term vision. Achieving economic diversity is likely to be easier than creating social diversity, and it may take longer still to see real social interaction between neighborhood residents.

Leadership of the revitalization process must cut across all sectors, and all stakeholders should be represented. To minimize the conflict between competing and conflicting objectives, existing residents, potential new residents, businesses, and government must be included in developing and implementing strategies. The foundation for the success of this or any other strategy is developing partnerships and building consensus among all stakeholders. ♦

This is part one of a three-part series exploring the issue of communities in transition in the Sixth District.

By Jessica LeVeen, regional community development manager in the Atlanta Fed's Nashville Branch.

The Row 8.9n townhomes in Nashville have attracted an economically and socially diverse group of buyers with its loft-style architecture and high-quality amenities.

Sarbanes-Oxley: Guidance for Nonprofit Governance

IN RECENT YEARS, AMERICA WATCHED IN SHOCK AS CORPORATE EXECUTIVES WERE REMOVED FROM THEIR WORKPLACES AND HOMES IN HANDCUFFS, CHARGED WITH MISAPPROPRIATING AND MISUSING CORPORATE FUNDS, AMONG OTHER THINGS.

As employees of the companies under the leadership of these executives realized that their retirement funds had disappeared, Americans demanded swift action. In response, Congress passed the American Competitive and Corporate Accountability Act of 2002, commonly known as the Sarbanes-Oxley Act ("Sarbanes-Oxley"),[1] hoping to rebuild Americans' trust in corporate governance.

Initially, Sarbanes-Oxley focused on the for-profit sector, but recently, this focus has expanded to include the nonprofit community. Some nonprofit organizations raise millions of dollars each year, while others raise only tens of thousands of dollars or even less. Regardless of the size of a nonprofit's budget, these organizations are often governed by volunteers who are not well-versed in methods of accounting and financial matters. The possibility that such volunteers may contribute to the appearance of impropriety is considerable. While many of the provisions of Sarbanes-Oxley do not apply to nonprofits, voluntary adoption of some of the governance practices it recommends can significantly reduce the potential for inadvertent impropriety. Two of the provisions of the new legislation are binding for nonprofits, as well.

Drexel University, a nonprofit educational institution in Philadelphia, recognized the need to safeguard nonprofits and recently adopted many of the governance practices prescribed by Sarbanes-Oxley for profit-based entities.[2] The State of New York is also considering legislation that will make nonprofit corporations subject to the requirements of Sarbanes-Oxley.[3] What do the provisions recommend, and how might their voluntary adoption improve nonprofit governance?

Independent, competent audit committees

Sarbanes-Oxley requires an entity to maintain an audit committee comprised of members who are (1) part of the board of directors and (2) independent, insofar as they are not a part of the management[4] team and not compensated as a consultant or for other professional services.[5] The members may, however, be compensated for serving on the board of directors. Organizations must also disclose whether the audit committee includes a financial professional; if it does not, the corporation must explain the rationale for this omission.[6]

Although nonprofit entities are not yet required to comply with this provision, the legislation recommends that even small nonprofit organizations at the very least have their financial statements compiled by a professional accountant. Those nonprofits with minimal budgets usually can obtain the services of a professional accountant on a pro bono basis.

For nonprofit organizations with larger budgets ($500,000 or more) or those nonprofits receiving federal funding, the Act recommends formation of an audit committee separate from its finance committee, consisting of members who have expertise and knowledge in financial matters. This committee should conduct annual audits and obtain the services of a financial expert to guide its activities. Members of the audit committee should not be compensated specifically for serving on the committee and should be free of financial interests in the organization and of conflicts of interest that might result from relationships with any entity doing business with the nonprofit organization. Staff members should not serve on the audit committee; at most, they might serve as consultants to it.

Ensuring that auditors are responsible

Sarbanes-Oxley requires that the partner of the auditing firm hired to assess an organization's accountability rotate off of the job every five years to provide a periodic check on the auditing process.[7] The legislation expressly prohibits an auditing firm from performing other work for the organization, such as providing legal services, investment services, or management services.[8] The auditing firm is required to report all accounting policies and practices used by the entity.[9]

Despite the fact that these provisions are not currently required of nonprofit organizations, those nonprofits performing annual audits should consider adopting them. It is especially important for nonprofit entities to refrain from requesting that their accountants and lawyers provide services beyond the preparation of financial documents and offering legal advice, respectively. Some nonprofit corporations may have to address this issue by employing independent management companies to assist in operating their organizations.

Attesting to financial statements

Under Sarbanes-Oxley provisions, a corporation's chief executive officer and chief financial officer must certify the appropriateness of financial statements and represent accurately the financial condition of the entity.[10] Sarbanes-Oxley also stipulates that the CEO, CFO, controller, and chief accounting officer should not have worked for the firm conducting the entity's annual audit during the year preceding the audit.[11]

Although these provisions are not now binding for nonprofit organizations, these entities must nonetheless be conscientious about the integrity of their financial statements. Nonprofit organizations with gross receipts in excess of $25,000 are required to file Form 990, 990-EZ or 990-PF, and all nonprofits are advised to complete it.[12] Many states additionally require organizations to register and file annual reports with the state in order to solicit funds.

Form 990 and the annual report typically must be signed by an officer of the organization who too often does not understand the statement or verify its accuracy. To ensure accountability, officers must take responsibility for fully understanding the financial information and verifying its accuracy. Ultimately, the board of directors has a fiduciary responsibility for approving the reports that are the basis for the information provided on Form 990 and the annual reports, and both the officers and the board of directors may be held responsible for false or inaccurate information.

Insider transactions and conflicts of interest

Sarbanes-Oxley prohibits loans to any directors or executives of a for-profit entity.[13] While this prohibition is not currently applicable to nonprofit organizations, they too must be cautious of private benefit and self-dealing; these indiscretions could cause an organization to lose its tax-exempt status and subject both the entity and individuals to excise taxes. The Internal Revenue Service takes a firm stance on such practices: do not engage in them. In fact, the Internal Revenue Service recommends that nonprofit organizations develop and enforce policies regarding conflicts of interest.

Disclosure

Under the provisions of Sarbanes-Oxley, organizations must disclose internal control mechanisms, corrections to financial statements, adjustments to balance sheets, and material changes in operations or financial situations.[14] The strict disclosure requirements do not yet apply to nonprofit organizations, but they indicate the importance of portraying financial conditions accurately.

Since Form 990 is a public document and must be provided to any person or entity who requests a copy,[15] it is in a nonprofit organization's best interest to attend to it conscientiously. Funding generated from public sources and individual donations could be jeopardized by misrepresentation of the organization's financial condition in Form 990. Questionable financial practices not only threaten charitable giving, but they can also cause permanent damage to a nonprofit organization's public image and thereby undermine its charitable activities.

Protection for whistle-blowers, documents

Protection for whistle-blowers and criminal penalties for retaliation against whistle-blowers stipulated by Sarbanes-Oxley extend to nonprofits.[16] Nonprofits can comply with these requirements by adopting and publicizing confidential, anonymous formal processes to address complaints and by stressing that individuals will not be punished for reporting problems, however unfounded they might be.

Prohibitions against intentional destruction of litigation-related documents also apply to nonprofits. Criminal penalties exist for the altering, covering up, falsifying, or destroying any document to prevent its use in an official proceeding such as a federal investigation or bankruptcy proceeding. Liability also extends to individuals who persuade others to destroy documents.[17]

In order to comply with regulations concerning documents, nonprofit organizations need to retain appropriate records regarding their operations. Although the task is daunting for any type of organization, nonprofit entities are advised to develop written document retention policies that provide for the retention and periodic destruction of documents. Requirements vary depending on the type of document, so nonprofit organizations should seek the advice of an attorney when developing document policies.

Some analysts foresee complete application of Sarbanes-Oxley to nonprofit organizations. While their predictions have not yet materialized, nonprofit organizations would be wise to begin adopting measures to protect themselves from the appearance of impropriety. By responding to the concerns raised in the Sarbanes-Oxley legislation, nonprofit organizations can begin to reexamine their practices to ensure that they do not become the next centerpiece corporate scandal. ♦

By Sarah E. Gohl Isabel, Esq. and Timothy B. Phillips, Esq. with Troutman Sanders LLP. Sarah and Tim work extensively with nonprofit organizations from basic formation to complex joint venture arrangements. They can be reached via email at sarah.isabel@troutmansanders.com or tim.phillips@troutmansanders.com.

ENDNOTES

1. Sarbanes-Oxley Act of 2002, Pub. L. No. 107-204, 116 Stat. 745 (2002).
2. Drexel University, Drexel Trustees Adopt the Sarbanes-Oxley Act on Governance and Auditing Practices, Feb. 26, 2003 Press Release available at http://www.drexel.edu/dateline/default.pl.
3. S. 4836A, 2003 Leg. Sess. (N.Y. 2003).
4. Sarbanes-Oxley Act § 301.
5. Sarbanes-Oxley Act § 301.
6. Id. at § 407(a).
7. Id. at § 203.
8. Id. at § 201(a).
9. Id. at § 202.
10. Id. at § 302(a).
11. Id. at § 206.
12. I.R.C. § 6033; Treas. Reg. § 1.6033-2(a); Instr. to Form 990.
13. Sarbanes-Oxley Act § 402.
14. Id. at § 401.
15. I.R.C. § 6104.
16. Sarbanes-Oxley Act § 301.
17. Id. at 802.

Sixth District CRCs Adapt to a Changing Environment

The Sanctuary Lofts consists of 32 loft units and commercial office space located in historic Tampa Heights neighborhood in Florida. This historic rehab development was financed through Neighborhood Lending Partners, Inc., Historic Tax Credits and developer equity.

COMMUNITY DEVELOPMENT DEALS HAVE BECOME SO COMPLEX IN RECENT YEARS THAT IT IS COMMON PRACTICE TO INVOLVE SEVERAL FUNDING SOURCES AND NUMEROUS PUBLIC AND PRIVATE PARTNERS IN A PROJECT.

It is difficult to recall the time when Low Income Housing Tax credits were considered "creative and innovative." Then many banks were reluctant to finance affordable-housing deals on a go-alone basis. Multi-bank community development organizations or consortia emerged just 15 years ago as a new financing vehicle to attract bank participation in these deals by offering a mechanism that allowed banks to pool their funds and share risk.

One such consortium is the community reinvestment corporation (CRC) model pioneered by The Development Fund, a nonprofit organization based in San Francisco. CRCs have significantly benefited the financial industry by providing a greater understanding of these projects, so that over time this business has become second nature for most banks. Given banks' growing familiarity with community development lending, what is the role for CRCs in today's financial environment?

A look at the conception of CRCs

Since 1989, The Development Fund has partnered with financial institutions throughout the country to create CRCs to meet long-term community development debt financing needs. Restricted by technical limitations, lending limits, or both, financial institutions often cannot fund community development projects independently. These nonprofit mortgage banking consortia allow banks to lend through a pool of funds, and thus reduce their individual exposure to risk. Well-managed CRCs also allow banks to realize a reasonable rate of return and provide access to a staff with a high level of technical expertise.

Florida CRCs account for two of the ten created by The Development Fund: the Central Florida Community Reinvestment Corporation established in 1990 in Orlando, Florida, and The Tampa Bay Community Reinvestment Corporation created in 1993 in Tampa, Florida. Both organizations are finding ways to respond to the changing funding environment. During the last five years both decided to extend their market area to the entire state of Florida as well as broaden their mission to include economic development. To reflect this change in geography and mission, they changed their names to Florida Community Partners and Neighborhood Lending Partners, Inc., respectively.

Meeting the credit needs of large projects

The original purpose of the CRCs was to address the specific need for permanent financing of large community development projects. Initially, while banks were willing to finance the construction of affordable multifamily developments, permanent financing was more difficult to obtain at competitive terms and rates. This was especially true for development projects that incorporated Low Income Housing Tax Credits and other layers of funding necessary to make rents affordable for lower income households.

In addition to structuring financing, CRCs package loans for sale in the secondary market. This serves to create a stable source of liquidity and income, allowing them to further leverage the loan pool to support the continued production of affordable housing units.

The success of CRCs has provided participating banks with valuable experience about how to undertake safe, sound community development deals. Their steady progress along the community development learning curve and the appeal of a profitable new market prompted many larger institutions to establish in-house programs to finance affordable multifamily projects.

THE SUCCESS OF CRCs HAS PROVIDED PARTICIPATING BANKS WITH VALUABLE EXPERIENCE ABOUT HOW TO UNDERTAKE SAFE, SOUND COMMUNITY DEVELOPMENT DEALS.

Development projects in the Florida market grew large enough to accommodate the entry of new lenders and eventually a richly competitive environment took shape in which all participants—developers and lenders alike—improved their performance and capacity to maintain an edge. This success suggests that the CRC structure could prove effective in supporting New Market Tax Credit projects that target economic development. Their history will provide a sound reference on best practices in private-public partnerships that promote healthy development financing.

Sixth District CRCs respond to new dynamics

In addition to other changes, Sixth District CRCs have experienced a shift in the composition of their bank partners. While some large regional institutions continue to invest in the organizations, many of today's investors are small community banks. Their participation is bringing new dynamics to the community development arena.

Historically, small banks have long been filling the credit gap for 5 to 50-unit multifamily properties. These loans must often be kept in their portfolios because secondary markets are slow to absorb smaller multifamily loans. Many of these smaller institutions are now negotiating lending limits to facilitate inclusion in larger community development deals through a loan participation arrangement. The loan pool allows them to take part in much larger and more complex affordable housing projects that require technical assistance and monitoring beyond the reach of small institutions acting independently.

A. "Buster" Castiglia, president and COO of Continental National Bank of Miami, a designated CDFI, points out that by creating a loan pool and partnering with an experienced lender like Neighborhood Lending Partners, Inc., small banks are able to compete with the handful of large financial institutions that have cornered the market for financing large complex affordable housing projects.

Florida CRC creates a new niche

CRCs have themselves evolved in the changing environment, and many have developed a diversified line of products and services to meet emerging community development credit needs. In addition to expanding its partner list, Neighborhood Lending Partners, Inc. (NLP), for example, has also broadened its service territory and product lines to maximize its market potential and growing borrower base. This year the organization will open its third regional Florida office. NLP West Florida, South Florida, and North Florida, combined, will manage loan pools totaling over $189 million. The organization is also a designated CDFI and leverages federal funds through a separate $17 million CDFI loan pool.

NLP president Debra Reyes says,"Our customers are looking for a one-stop shop when it comes to financing and service." NLP has created new products to finance single-family construction and economic development while retaining the organizational focus on leveraging private and public funds to maximize development. Reyes says that NLP's edge is still in the technical service and assistance that they provide. The organization offers personal assistance and counseling for clients in addition to mentoring financial institutions throughout a complex financing structure. These kinds of services increase the value of the relationship with NLP beyond the mere loan product.

CRCs still make a difference

When discussing NLP's strategic planning process, Reyes says that all CRCs "had to evaluate what they're doing and develop new products." This reassessment has helped them stay competitive and responsive to emerging community development finance needs, and thus they remain a valuable vehicle enabling financial institutions to participate and stay engaged in quality development activities.

Furthermore, says Miriam Lopez, chair and chief executive officer of TransAtlantic Bank in Miami, "The CRC vehicle allows my bank to support lending that makes a difference in the community." As community development projects grow in size and complexity, so the role of CRCs evolves to continue meeting credit needs and to widen the network of committed partners for the benefit of our communities. ♦

For more information, contact:
Florida Community Partners
407-898-1661
FloridaPartners.org

Neighborhood Lending Partners, Inc.
813-879-4525
nlp-inc.com

By Ana Cruz-Taura, regional community development director in the Atlanta Fed's Miami Branch.

Consumer Advisory Council Appoints Two New Members from Sixth District

Two of the nine new members appointed by the Federal Reserve Board this January to serve on the Consumer Advisory Council (CAC) for three-year terms are from the Sixth District. Their expertise and leadership make them uniquely qualified to serve the Board in this important advisory role.

Hattie Dorsey

Atlanta, Georgia

Ms. Dorsey is the President and Chief Executive Officer of the Atlanta Neighborhood Development Partnership, Inc., a not-for-profit corporation that promotes community revitalization in Atlanta's neighborhoods. She has worked extensively in the areas of single- and multifamily housing, community and economic development, regional equity, and public policy.

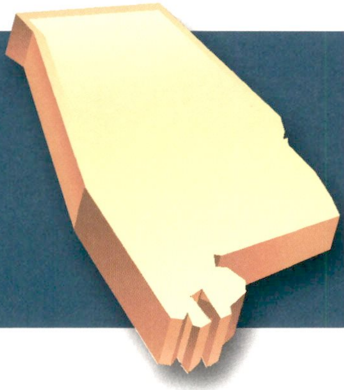
Paul J. Springman

Atlanta, Georgia

Mr. Springman is Group Executive, Predictive Sciences, for Equifax. He has responsibility for providing modeling, analytical services, decisioning systems and applications processing for clients. He has been involved in launching a new business line, "Consumer Direct," to provide credit information, account monitoring alerts, and scoring analysis services to consumers.

The CAC advises the Board about how to address its responsibilities under the Consumer Credit Protection Act and on other matters in the area of consumer financial services. The Council meets three times a year in Washington, D.C.

Spotlight on the District



ALABAMA

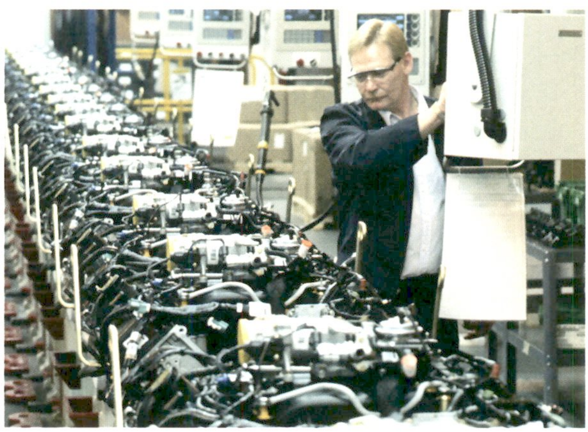
EDA GRANT BOOSTS ECONOMY IN RURAL ALABAMA COMMUNITY

A $2 MILLION GRANT FROM THE ECONOMIC DEVELOPMENT ADMINISTRATION (EDA) WILL HELP TO CONSTRUCT ROADS, SEWER LINES AND ADDITIONAL PLANT SITES IN A LOCAL INDUSTRIAL PARK IN THE LOWNDES COUNTY, ALABAMA TOWN OF FORT DEPOSIT.

Lowndes County, which has suffered from extreme poverty conditions and a high unemployment rate for many years, has recently attracted the interest of several parts manufacturers that are considering locating their facilities there. Prompted by the recent construction of a new Hyundai factory in adjacent Montgomery County, these plants will bring jobs and an economic boost to the local economy. Without the assistance of the EDA grant, however, the county's low tax base would not have supported the infrastructural improvements essential to accommodate the new manufacturing plants. Assistance to acquire the grant was received from the National Center for Neighborhood Enterprise.

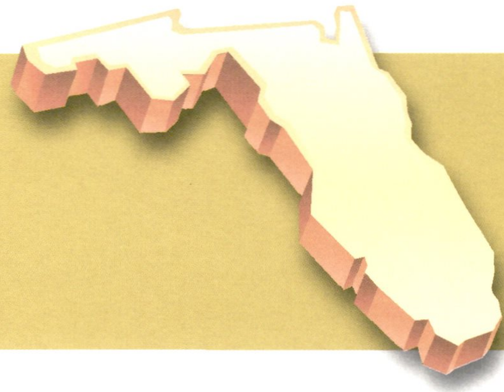
Created by Congress to generate new jobs, help to retain jobs and to stimulate industrial and commercial growth in economically distressed areas of the United States, the EDA provides grants for infrastructural development. By building local capacity and developing businesses, it helps communities eliminate conditions of persistent unemployment in economically distressed regions such as Lowndes County.

By Michael Milner, regional community development director in the Atlanta Fed's Birmingham Branch.



FLORIDA

NORTHEAST FLORIDA PROSPERITY CAMPAIGN



THE NORTHEAST FLORIDA PROSPERITY CAMPAIGN, WORKING THROUGH THE LEADERSHIP OF THE JACKSONVILLE HUMAN SERVICES COUNCIL WITH FUNDING PROVIDED BY THE JESSIE BALL DUPONT FUND, LAUNCHED AN INITIATIVE IN OCTOBER 2003 TO ASSIST LOW-INCOME RESIDENTS AND THE WORKING POOR.

The new campaign aims to:

- Provide free assistance with filing federal income taxes
- Help eligible citizens claim their earned income tax credit (EITC)
- Offer financial education
- Break the cycle of poverty

An additional benefit to the northeast Florida region from this initiative is the potential increase in dollars for the local economy. It is estimated that $10 million in new funds will flow into the region's economy this year as a result of the campaign, with as much as $50 million estimated over the next three years.

Coalition partners make a difference

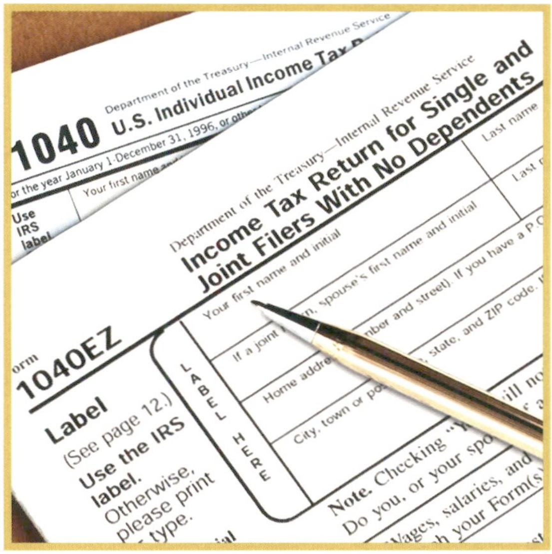
A coalition of companies and organizations from all sectors came together to improve the prosperity of the community. Coalition partners include financial institutions, social service organizations, the United Way, governmental agencies, universities and schools, private employers and corporations, churches and faith-based organizations. The Federal Reserve Bank of Atlanta's Community Affairs program is also an active partner in the campaign.

The campaign recognizes that it is not enough to assist low-income families and individuals in preparing their tax returns, obtaining their refunds, and claiming earned income tax credits; central to the long-term goals of the campaign is a comprehensive approach to financial education and asset-building opportunities.

As part of the initiative, the campaign coalition provided financial education training to over 50 volunteers in January, using the FDIC's Money Smart program as its standard curriculum. New classes began in February. Because faith-based organizations and churches play a critical part in reaching low-income families, several of the classes are conducted at churches in the evenings and on Saturday. Trained volunteer financial counselors are also available at the Volunteer Income Tax Assistance (VITA) sites to answer financial planning questions and encourage clients to sign up for Money Smart classes. An additional component of this initiative is an Individual Development Account (IDA) program available to Money Smart graduates who meet the eligibility criteria.

Throughout the Sixth District, similar programs are underway. Financial education and asset-building are the key to the success and sustainability of these efforts, and ultimately vital to the economic health of our communities.

By Janet Hamer, regional community development manager in the Atlanta Fed's Jacksonville Branch.



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