



Social Mission.
Private Enterprise.

May 6, 2016

Annie Donovan
Director
Community Development Financial Institutions Fund
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Director Donovan,

Housing Partnership Network (HPN) appreciates the opportunity to comment on the Capital Magnet Fund Interim Rule (RIN 1559-AA00.)

HPN is a member-driven organization comprised of nearly 100 entrepreneurial, high- capacity nonprofits that operate all across the country. The members are diversified social enterprises combining a mission focus with business acumen, including community development financial institutions (CDFIs) and other high performing affordable housing nonprofits. HPN members' businesses include multifamily development, lending, property management, and housing counseling. All of our members work to link their communities to services – education, workforce development, and health care. Collectively, HPN members have developed or rehabilitated 374,000 affordable homes, and assisted 9.8 million people through housing, community facilities, and services.

HPN is best described as a business collaborative. The members' senior leadership comes together with their peers to exchange information, solve problems, and share best practices. Their collaborations have spawned member-owned businesses that improve member operations and advance innovations in the practice of affordable housing and community development. For example, when members realized a need for long-term, low-cost capital they formed a multifamily real estate investment trust (REIT) called the Housing Partnership Equity Trust (HPET). HPET enables its 12 mission-driven nonprofit partners to quickly and efficiently acquire multifamily housing. Other businesses that have emerged from these collaborations include a group buying service and a new web-based approach to homebuyer education.

HPN is thrilled that the Capital Magnet Fund Program (CMF) is again being funded and look forward to working with you and your staff to make the CMF the most effective program possible. In the first funding round in 2010, CMF provided crucial, flexible, enterprise level

financing to several HPN members which they have used to address affordable housing and community development needs in markets across the country.

Relationship to other CDFI Programs

Section 1807.102 defers to the Notice of Fund Availability (NOFA), Notice of Guarantee Authority or Notification of Allocation Authority for the restrictions on CMF's use with other CDFI Fund Programs. This was initially quite confusing for HPN members, many of whom participate in other CDFI Fund programs or partner with groups that do. Most of our members eventually received answers to their questions on the interplay between these programs, however, waiting for answers caused delays and made thoughtful completion of the application more difficult. In future rounds, we would request that any applicable restrictions be given clearly at the beginning of the application process and that the CDFI Fund respond to inquiries as quickly as possible.

HPN members requested clarification on the use of CMF money in an eligible project where another partner in the project also may be using CDFI Fund program money. The applicants did not receive clarification on this point prior to the application deadline. Please consider addressing this concern in future funding rounds.

HPN thinks the unique strength of the CMF Program, as demonstrated by the CDFI Fund's own Interim Impact Assessment, is the flexibility of the funds. We urge you to keep this flexibility whenever possible when drafting regulations and other guidance for future CMF rounds.

Alignment of CMF with the Low Income Housing Tax Credit

HPN agrees with the CDFI Fund's decision to align the CMF program requirements with those of the Low Income Housing Tax Credit (LIHTC) program, however the alignment of these two programs could be more fully explained in future funding rounds.

The Fund should particularly look for ways to simplify costly compliance requirements while ensuring the CMF money is used in projects that serve target populations. For example, in properties that also have LIHTC investment, the Fund could clarify that the affordability restrictions required for LIHTC compliance are sufficient to meet CMF eligibility.

Also the Fund should consider that always deferring to LIHTC program requirements can create unnecessarily added cost and complexity. For example, when applicants wish to use CMF money in properties that do not receive LIHTC but do receive rental subsidy from other government programs it is often difficult to simultaneously meet different sets of affordability standards. This can create the problem of requiring the property to charge one rent to comply with rental assistance contracts and a different rent to comply with the LIHTC standards in CMF. One way the CDFI Fund could address this would be to create a safe harbor for CMF compliance when a project is in compliance with other government programs. Such a change would help to ensure the CMF dollars work well with the other funding sources available to CDFIs and nonprofits for leverage.

Definition of areas of “High Housing Need”

The definition of targeted areas of “high housing need” is overly restrictive and should be expanded to allow CMF recipients the flexibility to best to address the housing needs of extremely low-, very low- and low-income people in their community.

In particular the use of census tracts for determining targeted investment areas is too narrow and can result in neighborhoods where one side of the street would count as a high housing need area while the other side would not. This ignores the reality of neighborhoods and compounds the difficulty of creating and preserving affordable housing where it is most needed. One way this could be addressed is through using zip codes, which cover a larger geographical area, instead of census tracts. Also, the characteristics of high poverty neighborhood is not the same across the country and should be expanded. For example, in some tight rental markets there are not any neighborhoods with high vacancy rates, but there are neighborhoods with great need for more safe and affordable housing.

HPN also recommends expanding the CMF targeted investment areas to include affordable housing in high opportunity areas and mixed income developments in areas of concentrated poverty. Recent rule making by the Department of Housing and Urban Development¹, the Federal Housing Finance Agency² and a decision by the United States Supreme Court³ all emphasize that some low-income families fare better when they have the chance to move to higher-opportunity areas. Our members agree that paying attention to the siting of affordable housing in order to maximize the benefits for residents is an appropriate policy goal and we acknowledge that defining areas of opportunity is difficult. Many states are adding “access to opportunity” scoring criteria to their Qualified Allocation Plans for LIHTC. These criteria vary depending on local market factors. It might make sense for the CDFI Fund to allow recipients to use CMF in areas that align with the applicable state criteria. Over time, as more research is done on “access to opportunity”, the CDFI Fund or other government agencies may be able to create an “opportunity index” that is broadly applicable. The Housing Partnership Equity Trust is currently working on such an index for our real estate investments and would be happy to share the data points we use.

Treatment of Leverage

Some of our members have concerns about the treatment of leverage in the 2016 NOFA. The distinction between project level and pre-investment level leverage is murky in certain cases and could use further explanation of what is required for leverage to be “pre-investment.” If the CDFI Fund decides to keep this distinction, please provide additional explanation. HPN members also found the leverage calculations unclear and suggest that the CDFI Fund add the leverage formulas to the application spreadsheet so the applicant knows how their leverage numbers will be treated.

¹ Affirmatively Furthering Fair Housing, Final Rule, 24 CFR Parts 5, 91, 92, 570, 574, 576, and 903. July 16, 2015.

² Enterprise Duty to Serve Underserved Markets, Notice of Proposed Rulemaking, 12 CFR Part 1282. December 18, 2015.

³³ Texas Department of Housing and Community Affairs v. Inclusive Communities Project, 135 S. Ct. 939 (2015).

Additionally, the emphasis on entity level leveraging strategy in the application scoring may unintentionally disadvantage single family mortgage lending and affordable housing nonprofit developers in the awards process. HPN would suggest you reconsider the weighting of these types of leverage in the next application round.

Homeownership

Applicants that applied to use CMF funds for affordable homeownership found the difference in the minimum requirements on percentage of total project costs dedicated to low income or extremely low income individuals (50%) and the percentage of homeownership units dedicated to those same groups (20%) difficult to reconcile, particularly when applying solely for homeownership projects. HPN fears this confusion could disadvantage applicants who would like to use CMF for single family development and lending.

HPN members are also concerned that the 10 year affordability restriction for homeownership which requires replacement of CMF capital in another single-family housing project targeting the same income population could prove difficult. We suggest instead that if the home is sold within the affordability period the recipient is required to reinvest the CMF funds in another CMF eligible project.

2016 Application

HPN members had difficulty understanding and in some cases completing the 2016 CMF application. To avoid a situation like this in the future we would encourage the CDFI Fund to seek public input from a variety of stakeholders before releasing the 2017 application. Mortgage lenders, multifamily and single-family developers and CDFIs that finance community facility projects all have very different financial profiles and strategies which should be taken into account when drafting the application. For example, nonprofit developers that finance their own projects and do not have a loan portfolio were unsure how to complete the loan portfolio tables.

HPN members also found that entering data from Excel tables into the AMIS “Related List” format was time consuming and inefficient. It would be easier for the applicants to submit Excel tables as attachments through the AMIS system or find another less cumbersome alternative.

On a positive note, HPN members found Daniel Aiello very helpful and would like to thank him for his assistance.

Timing of Applications

In future years, HPN would urge you to consider spacing out applications for the various CDFI Fund programs. HPN members are often applying to multiple CDFI Fund programs in a given year and having applications due in rapid succession does not allow for the strategic planning or thoughtful attention each application deserves.

Thank you for your consideration of these comments and your work on this crucial affordable housing program. Please feel free to contact me at ross@housingpartnership.net if you have any questions or wish to discuss further. HPN stands ready to share information and practitioner feedback on these important issues.

Sincerely,

Shannon Ross

Director, Government Relations