CMF Coalition

Capital Magnet Fund Coalition

September 5, 2023

Ms. Marcia Sigal
Acting Director
Community Development Financial Institutions Fund
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Re: Capital Magnet Fund Program Request for Information

Dear Director Sigal:

On behalf of the Capital Magnet Fund Coalition (CMF Coalition), we are pleased to submit the following comments in response to the recent Request for Information (RFI) offered by the Community Development Financial Institutions (CDFI) Fund. We also would like to thank the CDFI Fund for its ongoing commitment to administering and improving the Capital Magnet Fund (CMF) program.

The CMF program, created in 2008, has had a substantial impact on furthering the availability of affordable housing. To date, the CMF program has awarded $1.07 billion dollars through seven funding rounds. Over 135 CDFIs and non-profit organizations have received CMF awards, and have used the funding to leverage $36.3 billion for affordable housing and economic development projects. In the most recent Fiscal Year 2021 award round, awardees estimated that they will develop 41,100 homes. Earlier rounds of awards, which are now completing affordable housing projects, have also supported the creation of tens of thousands of jobs.

In 2019, the CMF Coalition was formed by over 50 of the program's awardees and other interested organizations seeking to amplify the success of the CMF program while advocating for administrative changes to make the program even more impactful. While the CMF program has produced incredible results, there had been no unified voice advocating for the program before Congress and key federal agencies, including the CDFI Fund, the Department of the Treasury, and the Federal Housing Finance Agency.

We appreciate the CDFI Fund's recent commitment to advancing incremental reforms to the CMF program. For example, several prior recommendations made by the CMF Coalition were recently implemented, such as broadening the Service Area definition to include up to 15 states, allowing 15 percent of the award to be utilized outside of Service Areas, relaxing Program Income requirements by allowing reinvested dollars to be outside a Service Area, and expanding application preferences to include high opportunity areas. These regulatory improvements are all productive steps to ensure that affordable housing funds are used to the greatest effect, although much more should now be accomplished through the RFI process to improve the CMF Program.

The CMF Coalition strongly believes that the CDFI Fund should significantly overhaul its guidance documents to generally encourage more flexibility, innovation and usage. The administrative complexity of the program lowers application demand and is inconsistent with the Biden Administration's Housing Supply Action Plan, which is focused on increasing federal support for affordable housing supply and preservation, including by simplifying and aligning federal housing requirements.

The CMF Coalition believes there is no greater time than now to start this work with our nation facing record housing inflation, which is having a disproportionate impact on low-income families. There are too few federal affordable housing resources, and we collectively need each to work as effectively as possible by reducing transaction costs and duplications, while accelerating development.

The CDFI Fund can address the challenges we describe below unilaterally, since they are comprised of a mixture of regulatory - although primarily sub-regulatory - practices. While we address each question posed under the RFI in our comments below, we would insist that a broader review of existing restrictive administrative policies must be considered beyond the questions posed by the CDFI Fund. We look forward to working with the CDFI Fund in partnership on these programmatic improvements.

General Programmatic Comments

The key component of the CMF's program success, and what makes it distinct from other federal affordable housing programs, is the enterprise level nature of the funds. This structure allows the deep leveraging and flexibility to respond to local housing market needs. CMF funds have been utilized throughout the country, leveraging public and private funds to develop, preserve, rehabilitate, or purchase affordable housing, as well as related economic development activities such as day care centers, community health clinics, local charter schools and workforce development centers. As the CDFI Fund works to improve the program, we encourage the Treasury Department to keep the funding as flexible as possible, while ensuring awards are utilized as proposed by applicants. Imposing excessive administrative and compliance requirements on the CMF program, which is often a small but crucial component of total affordable housing development cost capital stack, will ultimately make the program less viable and decrease its impact.

Our Coalition's experience has shown that the layering of geographic, Program Income, income targeting, and multiple leveraging compliance requirements makes the award difficult to utilize. While we recognize that these requirements are largely based on information submitted at the time of application, a rigid adherence to a narrow band of outcome measurements dissuades organizations from applying (either because they view the requirements as too onerous or, in the case of prior year awardees, because they are having difficulty deploying capital). We believe this is the primary reason the program receives fewer applications than other CDFI Fund award programs, even though the potential applicant pool is significantly larger. The burden of compliance requirements means that organizations must divert needed resources and capacity from deploying capital for affordable housing to administration compliance.

We recommend that in addition to the program reforms below, the CDFI Fund take two broader actions to ensure all organizations are able to access CMF resources. ***First, we suggest that the CDFI Fund create a separate application category for smaller applicants and allocate no less than 10 percent of that year's assessment to these groups***. There is precedent for this activity since the CDFI Program has previously included a smaller applicant set-aside for many years, which helps ensure award funds reach these organizations. By creating a separate application stream, smaller entities under this set-aside should still have to meet all programmatic requirements but would importantly only compete against each other, rather than against larger applicants.

To further support CMF award recipients, including smaller organizations, we recommend that the CDFI Fund utilize Congressionally-appropriated funding for its Capacity Building Initiative to provide training and technical assistance on the CMF Program. The Department of Housing and Urban Development (HUD) regularly provides such assistance on its federal housing programs, which allows award recipients to build their understanding of program requirements and ultimately achieve greater impact in their communities. Dedicated and ongoing CMF training and technical assistance may also grow the application pool, since potential award recipients will know there will be support provided as program and compliance questions arise.

<u>Response to Request for Information</u>

A. Facilitate CMF Alignment with Other Federal Affordable Housing Programs:

With respect to the financing of affordable housing, CMF is often an integral part of project financing (the capital stack), along with capital generated or received through other federal programs. To help reduce Recipient reporting burden and to ease the administration of CMF Awards, the CDFI Fund is soliciting public input on areas where CMF can better align with other federal programs.

1. *Using CMF with other federal programs in the same project(s): The CDFI Fund is considering an approach where certain CMF Affordable Housing projects (funded under designated federal housing programs and subject to certain rules and restrictions similar to those under the CMF Program) could be categorically presumed as eligible Affordable Housing Activities and be deemed as meeting CMF rules and requirements for Affordable Housing. For example, under this approach, projects funded with both CMF and the Low-Income Housing Tax Credit (LIHTC), and meeting all LIHTC requirements, could be assumed to meet all CMF requirements such as affordability or rent requirements.*

    a. *Should the CDFI Fund consider this approach as a way to align the CMF program with other significant federal affordable housing programs?*

The CMF Coalition supports all efforts to streamline duplicative reporting requirements and encourage the blending of funding within the capital stack in order to broadly support affordable housing development. Since CMF awardees typically utilize awards for projects that combine multiple affordable housing funding sources, deeming eligibility for projects that fully comply with other sources of funding would greatly reduce the administrative burden that is associated with reporting requirements derived from multiple housing programs that are individually subject to regulations from numerous federal agencies.

b. *What are the potential benefits and concerns in utilizing this approach for CMF?*

As mentioned in our introductory remarks, President Biden's Housing Supply Action Plan commits that "to reduce transaction costs and duplication, and to speed development, the Administration will make changes to harmonize federal requirements across programs as much as possible…". The most immediate benefit to CMF Coalition members would certainly be the reduced administrative burden that is associated with meeting compliance requirements, in particular reporting simultaneously on multiple programs that collectively serve to build out the blended funding regime necessary to finance many affordable housing projects.

We would urge the CDFI Fund to maintain flexibility for awardees when determining the ability to waive projects into the administrative requirements of other affordable housing programs. Because the CMF program was subject to few statutory requirements following its establishment under the Housing and Economic Recovery Act of 2008 (HERA), the CDFI Fund has, in some instances, adopted duplicative regulatory frameworks in governing the administration of CMF awards. Several federal housing assistance programs are routinely subject to enhanced legislative and administrative oversight through the annual budget process. Further, some programs, such as LIHTC, are typically subject to regular Congressional reauthorizations that could result in program lapses or more frequent adjustments to their statutory requirements. When any modifications are made to federal programs that serve as a basis for regulation in the CMF program, the CDFI Fund must be prepared to react immediately or risk increasing the regulatory burden on awardees.

c. *What federal programs are sources of capital frequently used in conjunction with CMF that should be considered if this approach were to be adopted, particularly those related to rental, homeownership, and/or rural housing?*

CMF awardees frequently implement project funds in conjunction with a host of federal programs. In speaking with coalition members, the programs most frequently identified are LIHTC (Treasury), the HOME Investment Partnership Program (HUD), Section 8 Project-Based Vouchers (HUD), Project-Based Rental Assistance (HUD), and rural housing and rental assistance programs (USDA).

d. *What, if any, affordability, and property standards requirements currently in place for the CMF program would not be covered by using this approach, and should they be retained?*

No comment offered.

2. *CMF income limit definitions: The definitions of Low-Income, Very Low-Income, or Extremely Low-Income in the CMF Interim Rule differ from some other federal housing programs.*

    a. *Are such differences impactful to the financing or management of CMF projects, and if so, how?*

HERA gives discretion to the CDFI Fund to define the appropriate mix of extremely low-, very low-, and low-income families that are assisted with program awards. As noted above, the CMF program rules differ from other programs, specifically such as LIHTC, in the percentage of families that must qualify in area median income (AMI). The CMF Coalition agrees that normalization across programs would reduce the reporting burden on projects that frequently utilize blended capital.

    b. *Should the CDFI Fund change the definition of income groups to better align with other federal housing programs? If so, how should the CDFI Fund define income limits? Which definitions of income groups should be changed, and which programs should the CMF program align with?*

Per the response above, the CMF Coalition believes it would be logical to align with the LIHTC program which utilizes a requirement that at least 20 percent of tenants be at 50 percent AMI, or 40 percent of tenants be at 60 percent AMI. There are several project opportunities that our coalition members see that have 40 percent or more of the tenants at 60 percent AMI versus units at 50 percent AMI. Those opportunities often do not get funded with CMF funds due to the focus in the awardee Assistance Agreements on extremely low-income and very low-income units.

3. *CMF income certification for LIHTC projects: HERA addresses and provides guidance regarding the requirement for annual recertification of tenant incomes for properties financed under the LIHTC Program. Under this guidance, properties that are 100% low-income rent-restricted are no longer required to undertake ongoing recertification. See Housing and Economic Recovery Act of 2008, Public Law 110–289 (7/30/2008), 122 Stat. 2888, section 3010(a) (2007– 2008)(codified at Public Law 110–289, 122 Stat. 2654 (2008)). The CMF Interim Rule at 12 CFR 1807.401(f) requires annual re-examination of tenant income.*

    a. *Would adopting a similar approach as outlined in IRC sec. 142(d)(3)(A) with respect to LIHTC income determinations result in a meaningful impact on the administration of the CMF program?*

The CMF Coalition believes that this would have a positive impact on administration of the program.

b. *If so, how can this approach be balanced against the possible risk of leasing a unit to a non-qualified Family and noncompliance with tenant income determination requirements (12 CFR 1807.401(f)) and over-income tenants (12 CFR 1807(g))?*

The CMF program and LIHTC mitigate risk through the severe consequences of noncompliance for program awardees.

B. *CMF Commitment Deadline:* *Section 1339(c) of HERA stipulates that grants under the program must be Committed for use within two years after the allocation of the Award. As a way to ensure that funds are used in a timely manner, the CMF Interim Rule applies a two-year commitment of any Award to specific projects and further specifies that the commitment must be made in a written, legally binding agreement. The CDFI Fund is requesting input on alternate approaches. One possible approach may be that the commitment deadline would be satisfied if, within two years, a Recipient committed the Award to one of the six Eligible Activities (i.e., capitalize a Loan Loss Reserve, Revolving Loan Fund, Affordable Housing Fund or a fund for Economic Development Activities; or make Risk-Sharing Loans; or provide Loan Guarantees), coupled with a new requirement that a commitment to a specific project must be made within three years after the Effective Date of the Assistance Agreement.*

1. *What are some of the difficulties, if any, of meeting the current two-year commitment deadline under the CMF Interim Rule and why are they difficult?*

The CMF Coalition would note that the 2-year Commitment-For-Use Deadline is the only timeframe utilized by the CMF Program that actually exists in statute. We would further highlight that the 3-year initial disbursement deadline, the 5-year project completion deadline, the additional six-month period for projects being placed into service, the additional 12-month period for initial occupancy following project completion, and the 5-year reinvestment timeframe are all imposed by the CDFI Fund through regulation and annual funding notices, and are enforced through awardee Assistance Agreements.

In the experience of the awardees represented in the coalition, the 5-year project completion deadline has generated the most frequent concern given the recent, persistent uncertainty in the housing and construction sectors. Since 2020, project completion timelines have fluctuated drastically due to the COVID-19 pandemic, the resulting supply chain crisis, and more recently as a result of rising interest rates and housing market uncertainty. We appreciate the CDFI Fund's willingness to entertain flexibility in the non-statutory deadlines on a case-by-case basis, but the arbitrary nature of any allowed delays in deadlines, and the severe penalty risk that an awardee could be deemed "non-compliant" for all CDFI Fund programs, including the CDFI-FA program, represents a significant barrier for many CDFIs and non-profit affordable housing organizations when contemplating CMF participation.

Coalition members have not generally experienced commitment-for-use deadline constraints, but we would generally appreciate flexibility across all CMF project timeframes.

2. *In what way(s) would the proposed two-step approach make it easier for CMF Recipients to meet the Commitment Deadline?*

Typically, awardees are focused on a specific eligible activity category when submitting the original application. The resulting flexibility would allow for an additional year to identify specific projects.

3. *What are some concerns or issues with this two-step approach?*

Given the complexity of conforming projects to the existing timelines under the CMF program, the coalition would be interested in understanding if subsequent changes would be required for the completion, placed-in-service, initial occupancy and reinvestment timelines.

4. *Are there other alternative approaches to commitment that would satisfy the statutory two-year commitment deadline?*

The CDFI Fund has historically maintained a hesitancy to alter the interpretation of statutory language governing the formation of the CMF program in HERA. The CMF Coalition would welcome any opportunity to discuss regulatory interpretation that would seek to ease administration burden while increasing program flexibility in furtherance of creating more affordable housing.

In a November 2022 letter to the Department of the Treasury, the CMF Coalition proposed that the CDFI Fund update the timeline requirements so that construction has to commence within five years of the award date, rather than require project completion by that time period. Under this structure, affordability covenants would be recorded within the five-year compliance period, confirming that units were in production, with a very high likelihood of project completion. This change would allow the funding to be utilized with more flexibility, while increasing leverage. Current placed-in-service deadlines push recipients to lend at later stages with lower leverage, since many put in higher loan amounts for construction and permanent debt. A CMF subsidy would be more valuable as early stage lending where it is difficult to find conventional sources than later stage financing. Under this structure, recipients would still be required to monitor the program's 10-year affordability requirements from the placed-in-service date.

C. *CMF Leverage Requirements and Calculation Rules:* *Leveraging the CMF Award to attract private and other public capital is an important component of the program. At a minimum, the CMF statute under HERA requires that the Award be leveraged ten times. There are three types of leverage under CMF: (a) Enterprise-Level, (b) Project-Level, and (c) Reinvestment-Level. CMF defines (a) Enterprise-Level as capital earned, borrowed, or raised by the Recipient or its Affiliates, which is designated for use and ultimately used to pay for Leveraged Costs but is not initially restricted for use for specific properties at the time it is earned, borrowed or raised; (b) Project-Level as capital used to pay Leveraged Costs that is restricted to a specific project when it is raised; and (c) Reinvestment-Level as the reallocation of repaid CMF Award and/or Enterprise-Level Capital into new eligible activities within the established Investment Period.*

1. *Should Reinvestment-Level leverage, which measures the reinvestment of both a CMF Award and Enterprise-Level leverage, be removed and only Enterprise-Level leverage*

and Project-Level leverage be considered to simplify the calculation of Leveraged Costs? Please explain the rationale for your answer.

The CMF Coalition supports a balanced approach to leverage considerations in the application scoring, including through the expanded use of public sector capital. While we have no issues with the CDFI Fund expressing a preference for Enterprise-Level Leveraging or Reinvestment-Level Leveraging, it is vital that the leveraging strategy be viewed holistically in the context of the lending product and that applicants be provided with ample opportunities to justify their specific strategy.

2. *If the Reinvestment-Level leverage is retained, should the calculation be changed to a multiplier and based only on the Award amount (i.e., number of times the Award amount is repaid and reinvested in excess of the original Award amount), rather than a calculation of the reinvestment of a combination of the Program Income from the Award plus new Enterprise Level leverage? Please explain the rationale for your answer.*

No comment offered.

3. *What are some concerns or issues with either of these approaches discussed in items 1 and 2 above?*

The CMF Coalition is concerned that awardees who currently utilize Reinvestment-Level Leverage would see their competitiveness reduced in future award rounds.

4. *Are there any other ways the CDFI Fund might consider simplifying the calculation of how Recipients leverage their CMF Award? If yes, please describe.*

The CMF program is strengthened by simplifying leveraging requirements as much as possible and allowing for post-award compliance amendments where there are strong justifications.

D. *CMF Program Income (PI) Rules:* *The nature of CMF as a financing program often results in Recipients earning Program Income (PI) from the repayment of loans and returns on equity investments. PI generated during the first five years of the CMF Award (the Investment Period) from the repayment of CMF funds from loans or equity must be reinvested under certain requirements specified in the Recipient's Assistance Agreement. Note that the questions below refer to the PI earned during the Investment Period and not PI earned thereafter, which is treated differently per the Assistance Agreement.*

1. *Currently, the Recipient's Assistance Agreement requires that PI be expended only on specified eligible activities in the Agreement. Should the use of PI earned on the CMF Award be expanded to include all CMF eligible activities as outlined at 12 CFR 1807.301? Please explain the rationale for your answer.*

The CMF Coalition believes that one of the most substantial burdens imposed by the CMF program is the CDFI Fund's treatment of Program Income (PI). PI earned in the form of principal and equity payments must be used by the Recipient for the approved, eligible CMF award uses as set forth in the Assistance Agreement (AA) during the Investment Period. The requirements are triggered when the cumulative balance of PI earned equals $100,000 or greater. The CDFI Fund increased the compliance burden in Fiscal Year 2018 by increasing the reinvestment window from four years to five years. The CMF Coalition believes requiring reinvestment consistent with statutorily allowable uses is appropriate. However, the CDFI Fund currently requires that reinvested funds must also meet specific production requirements contained in the AA, which we believe is burdensome and counter-productive if an awardee has already met all leveraging and performance requirements. The reinvestment requirements go beyond those demanded by the Office of Management and Budget and similar government programs, including those currently administered by the CDFI Fund. Most troubling, the requirements are a primary source of non-compliance by awardees due to the need to find additional affordable housing projects similar to ones that were initially applied to the primary investment. CMF awardees are committed to requirements that fairly prioritize the reinvestment in additional affordable housing without onerous project selection criteria that can be unnecessary and punitive. We propose that Treasury only require CMF PI to be utilized for mission-based purposes if a recipient has met all Schedule 1 Performance Goals in the CMF AA.

2. *Should adding eligible activities specific only to PI, and not otherwise eligible under the program, be allowed? If yes, what additional eligible activities should be contemplated for the use of PI and why? If no, please explain the rationale for your answer.*

The CMF Coalition generally supports opportunities to expand eligible activities within the core functions delineated in the statute – 1. development, preservation, rehabilitation, or purchase of affordable housing for primarily extremely low-, very low-, and low-income families; and 2. economic development activities or community service facilities. The Coalition believes there should not be eligible activities exclusive to only one type of investment, such as PI.

3. *Currently, projects funded with PI must be completed within 36 months of being Committed. Should the CDFI Fund modify the 36-month completion deadline as it relates to the use of PI? If so, what deadline if any, should be established? Please explain the rationale for your answer.*

The CMF Coalition has previously commented that there is merit to extending the deadline for commencing construction to five years – not the two years currently in practice, or the three years that was queried under this RFI.

4. *Should the CDFI Fund modify the requirement that any PI in excess of $100,000 be Committed to a project the following year? Please explain the rationale for your answer. If yes, what time period or threshold amount should be considered and why?*

As noted above, the CMF Coalition remains opposed to the expansion of the reinvestment window that the CDFI Fund directed in Fiscal Year 2018 from four years to five years. By expanding the window, the CDFI Fund has needlessly created confusion as PI that is received at the end of the reinvestment window would need to be re-deployed despite effective award completion.

Likewise, increasing the threshold amount will directly lessen the administrative burden, with the ancillary benefit of providing small and emerging CDFIs with regulatory relief that will in turn encourage increased participation.

5. *Under the CMF Assistance Agreement, CMF's 10-year affordability period applies to projects funded with PI.*

    a. *Should the long-term affordability period for projects funded with PI be shortened? Please explain the rationale for your answer.*

Yes, the CMF Coalition believes that it is important to not expand long-term timelines for reporting solely on the basis of tracking PI. To do so dramatically increases administrative burdens on reporting.

    b. *If yes, what period of time would be reasonable, balancing both the goals of increasing affordability and reducing administrative burden, and why?*

As described above, at a minimum, the time period for tracking PI should be reduced to four years, from five. That action, in turn, will serve to shorten the long-term affordability period.

E. CMF Clarification of Rules on Loan Loss Reserves and Loan Guarantees: *Under CMF, Recipients may use their Award to establish Loan Loss Reserves or Loan Guarantees. Currently, CMF requirements related to Loan Loss Reserves and Loan Guarantees are limited. In order to ensure that these uses are properly addressed under the program:*

1. *What additional guidance and rules would be useful to Recipients and why?*

The CMF Coalition supports using the CMF program to further innovative ways to finance affordable housing and support guidance and rules that allow for flexibility in administering the awards. For example, we are aware that Loan Loss Reserves have been used as an affordable loan fund to foster homeownership, and we applaud the CDFI Fund for continuing to seek innovative solutions to achieve affordability.

2. *Should there be a requirement for the establishment of escrows or restricted accounts for Loan Loss Reserves or Loan Guarantees? Please provide the rationale for your answer.*

Unlike many other programs across the federal government, a CMF program awardee's fiscal surety is governed by the statutory leverage ratio, and therefore we do not see a need for further constraint in the form of escrows or coverage limits.

3. *What coverage limits (i.e., percentage of loan covered in the event of borrower default) would be considered sound and reasonable and why?*

See prior response.

4. *What factors should be considered for proper and effective use of Loan Loss Reserves or Loan Guarantees and why?*

See prior response.

F. *CMF Manufactured Housing Affordability Rules:* *Under CMF, manufactured housing that meets the federal Manufactured Home Construction and Safety Standards may be financed. Under the CMF Interim Rule at 12 CFR 1807.104, manufactured housing is defined as Single-family housing consisting of a combination of the manufactured housing and the lot, or a manufactured housing lot. Given the hybrid nature of manufactured housing Homeownership—where the unit is typically owned by an individual or Family, but the lot it sits on may be rented—the CDFI Fund is requesting input as to how best to measure the affordability of both the cost of the unit and the rental of the manufactured housing lot.*

1. *Currently, CMF only measures the cost of buying the manufactured housing unit. Should the cost of renting the lot also be considered as it relates to affordability? Please provide the rationale for your answer.*

Financing activities in the manufactured housing sector are not commonplace among CMF Coalition members. In the limited experience that members of the coalition have, awardees will typically only finance manufactured housing that resides on a lot that is also titled as real estate, not rented. It is the opinion of many CDFIs that awardees should have some confidence in the ownership structure of the lot and rental pricing so as to preserve affordability.

2. *What are some ways to measure the affordability of both the price of the unit and the cost of renting the manufactured housing lot?*

See prior response.

3. *What additional guidance and rules would be useful as it relates to resident-owned manufactured housing communities?*

In the experience of some CMF Coalition members, financing cooperative ownership of manufactured housing communities has more in common with multi-family housing, than home ownership. As mentioned above, the lack of visibility into the rental price of the lot presents significant uncertainty.

4. *Are there additional points of clarification related to manufactured housing that should be considered? If yes, please describe them.*

See prior responses.

G. *CMF Funding for Assisted Living Facilities:* *CMF is a flexible program that affords Recipients the opportunity to finance a range of affordable housing types. As it relates to rental housing, projects are subject to a variety of regulatory requirements, including tenant income determinations and rent limitations. While affordable assisted living projects are* *eligible uses of the Award under the CMF Interim Rule, the hybrid nature of assisted living—where rent generally includes both the cost of housing and services—often conflicts with the existing CMF limitations and restrictions. For example, the combination of the cost of rent and the services that are typical in assisted living projects may result in rent levels that do not meet the affordability requirements under the CMF regulations.*

1. *What challenges currently exist in using CMF Award funding to finance and/or develop assisted living facilities?*

As mentioned in the question, the combination of rent and services presents a unique challenge to affordability requirements. While we do not believe that CMF Coalition members have financed assisted living projects, we are nonetheless interested in how the services would be classified.

We generally do not believe that the services are a statutorily-approved use of CMF awards, or would qualify as economic development activities, as they do not serve the purpose "to stabilize or revitalize a low-income area or under-served rural area." However, if the services component were to be funded by public or private health insurance apart from the core housing needs, then there could be a role for the CMF program. That said, Medicaid rules can vary widely from state-to-state, and those individuals who can afford private pay assisted living generally would not meet income requirements for assistance under the CMF program.

2. *If there are challenges, describe how CMF Program requirements may be modified to better accommodate the development of assisted living projects, while ensuring that projects remain targeted and affordable to those with incomes that are Low-Income and below? Are there other federal or state programs that could provide an example of best practices in this area? If yes, please describe them. For example, could the cost of housing be separated from the cost of services, to accommodate CMF requirements?*

See prior response.

3. *What additional guidance and rules related to separating costs would be useful?*

See prior response.

4. *What is the demand to fund this type of housing with CMF Awards?*

The CMF Coalition is not aware of any demand by its membership.

5. *Are there additional points of clarification related to funding affordable assisted living facilities that should be considered? If yes, please describe them.*

No comment offered.

H. CMF Affordable Homeownership Purchase Price Limitation Rules: *The CMF Interim Rule sets the purchase price limitation for a Single-family home at 95% of the median purchase price for the area, as used in the HOME program (12 CFR 1807.402(a)(2)).*

1. *Should the CDFI Fund use a different index or indices to set purchase price limits for affordable owner-occupied housing? If yes, please identify and describe them.*

The CMF Coalition strongly recommends removing the single family price limit because the competitive nature of the application will ensure that CMF dollars are being utilized for high impact, affordable homeownership. The price limit regulations in 12 CFR 1807.402 restrict the single-family housing price to no more than 95 percent of the median purchase price for the area, as used in the HOME Program and as determined by HUD and the applicable participating jurisdiction. Supporting homeownership opportunities for low-income households in higher opportunity areas is often financially infeasible if the purchase price limit is limited to this amount. In addition, our members have reported that the HOME price limits do not adequately account for actual median values, since they rely on Federal Housing Administration data only, creating a significant difference in the median home price published by the National Realtors Association, as compared to the HOME limit. We believe there is sufficient federal precedent for eliminating the price limit since single-family projects assisted with Community Development Block Grants are not subject to price limitations. Lastly, we are aware that HUD is planning to update these HOME limits, leading the CMF Coalition to question whether the CDFI Fund should be artificially applying the requirements when they are not required by statute.

2. *Should utilizing underwriting criteria rather than sales price limits be an alternative? Please describe the rationale for your answer.*

See prior response.

3. *Are there any other specific barriers or limitations that may inadvertently discourage organizations from using CMF to support Homeownership activities? If yes, please describe them.*

The CMF Coalition believes it is important to differentiate leveraging expectations for single-family activity where projects cannot be reasonably expected to leverage as high as other types of projects.

4. *What are other changes to the CMF program that could foster greater use of CMF to support Homeownership activities?*

The CMF Coalition requests the creation of differentiated application evaluation standards for single family and multifamily applicants. Having standards specific to affordable housing type will ensure that application proposals are not disadvantaged due to their proposed use of CMF funding. We also recommend additional guidance throughout the application materials that reflects differences between CDFIs and nonprofit developers. Our members have noted that the application materials appear to largely assume a use of funds for the development or financing of multifamily housing units. The CMF Coalition is concerned about the viability of applications for homeownership housing, especially because nearly 90 percent of the units funded to date have been rental units. We urge the CDFI Fund to utilize differentiated evaluation standards so that homeownership proposals are competitive.

I. CMF Economic Development Activities Compliance Requirements: *CMF allows Recipients to use up to 30% of their Award for Economic Development Activities (EDA) in conjunction with Affordable Housing Activities (12 CFR 1807.302 (c)). These activities may include the development of community facilities, as well as the development/revitalization of commercial space. Under the current CMF Interim Rule, Economic Development Activities, unlike Affordable Housing, do not have a specific requirement that the EDA retain its eligible use for a minimum period. To ensure accountability, the CDFI Fund is considering requiring that EDA financed under a CMF Award maintain its eligible use for a minimum period of time.*

1. *Should CMF establish a minimum period of time that the EDA financed under a CMF Award maintain its eligible use? Please describe the rationale for your answer.*

The CMF Coalition enthusiastically supports the statutory requirement that CMF awards be available to increase investment and attract private capital to economic development activities. A tenet of the flexibility provided by CMF funding is the ability to foster neighborhoods that support affordable housing, and EDA financing is both a unique and critical tool to accomplish the mission. The CMF Coalition deeply believes that stable neighborhoods allow for stable and affordable housing availability.

However, to the question posed, the CMF Coalition would not support setting a minimum period of time that the EDA must be financed under a CMF award. It is unreasonable to assume that a CDFI or non-profit affordable housing organization could impose a minimum period of time on a non-profit or private community service provider. Furthermore, establishing such a metric could dissuade eligible EDA projects from accepting CMF award financing.

2. *If yes, what would be a reasonable period of time, considering the Affordability Period for Affordable Housing is 10 years? Please describe the rationale for your answer.*

See prior response.

J. Participation of Regulated CDFIs in the CMF Program: *Regulated CDFIs including banks, credit unions, and cooperatives are eligible to apply under CMF. The CDFI Fund is seeking input on how to foster greater participation by these regulated financial institutions.*

1. *Are there any specific barriers or limitations that may inadvertently discourage regulated CDFIs' participation in CMF? If yes, please describe them.*

No comment offered.

2. *What changes to CMF could foster greater participation from regulated CDFIs?*

No comment offered.

3. *Should fostering greater participation from regulated CDFIs be a goal of CMF? Please describe the rationale for your answer.*

No comment offered.

Closing Recommendations

In closing, we would like to take the opportunity to reiterate several areas where we believe the CDFI Fund could reduce uncertainty in the administration of the CMF Program through reforms of internal processes. In particular, the CMF Coalition believes the CMF program is one of the most flexible and effective affordable housing programs in the federal government, and looks forward to promoting the program.

1. **Regular Timeline for Issuance of Annual Application and Award Functions –** While the CMF Coalition recognizes that the COVID-19 pandemic has necessarily altered the annual award processes for programs directed by the CDFI Fund, we encourage the resumption and long-term commitment to a regular annual schedule for solicitation of project applications and awards. Doing so will allow potential CMF applicants to properly manage upcoming projects. The CMF Coalition suggests that a standard June (NOFA) to December (Award) timeline be utilized.

2. **Publicly-Released Annual Reporting –** The CMF Coalition suggests that the CDFI Fund make compliance information on the program available publicly on an annual basis. The CMF program has very rigorous reporting requirements, and we believe this information should be released so that policymakers, CMF stakeholders, and the general public can fully understand the program's impact. We note that the CDFI Fund releases these data on an annual basis for most of its other administered programs.

   We also request that the CDFI Fund release a report to the public which provides annual application summary statistics so stakeholders can understand if applicants are being funded in proportion to their representation in the application pool. For instance, the lack of publicly available information on CMF evaluation criteria coupled with a low percentage of recipients receiving awards for affordable homeownership makes it challenging to know if the current evaluation framework is treating all proposals fairly.

3. **Public Comment Period for Annual Changes to the CMF Assistance Agreement** - The CMF Assistance Agreement (AA) is the primary document governing the award's compliance requirements. The CDFI Fund does not provide a comment period for the public to review and suggest changes to the CMF AA. Our members believe the CMF AA can be improved by simplifying certain sections (most notably Program Income), which would increase awardee awareness and lessen compliance risk from confusion on compliance requirements. While we greatly appreciate this RFI, the CMF Coalition recommends that the CDFI Fund provide an annual CMF Assistance Agreement public comment period on any proposed changes before the CDFI Fund finalizes and sends the document to awardees.

4. **Timeline Delay Request Process –** The CMF Coalition recommends that the CDFI Fund create and publish timing standards for making determinations on timeline delay requests. A set practice for notification and review will allow award recipients to plan more effectively when attempting to use CMF dollars for non-regulatory activities. Since the onset of the COVID-19 pandemic, the CDFI Fund has worked to determine timeline delay requests on a case-by-case basis, which has led to confusion. The practice of requesting temporary delays has become more typical amongst awardees given the uncertainty with interest rates and rising prices, and we believe the prevalence demands more established policies.

5. **Limits on Annual Changes to the CMF NOFA, Compliance, and Overall Administration Practices and Conform New Changes to Previous Awards -** The CMF NOFA, Assistance Agreement, and compliance practices have changed year-to-year, which increases administrative burden on applicants and award recipients. The CMF Coalition recommends the CDFI Fund make comprehensive updates based on stakeholder concerns and then try to limit changes in immediate subsequent years. In addition, to the extent changes are made to provide more awardee flexibility, such changes should also be made retroactively to prior awardees through blanket amendments to prior year Assistance Agreements.

6. **Require a Post-Award Debrief –** The CMF Coalition believes that the CDFI Fund should be required to provide a post-award debrief to those organizations not selected in annual funding rounds. This communication should, at a minimum, include reviewer comments so that those who were not awarded funds will know the associated reasoning. While we are not expecting the CDFI Fund to reveal all information related to the deficiencies of an application, nor compare that application to successful peers, it is critical to strengthen the program in future years by providing guidance on areas of application and project improvement.

Thank you for the opportunity to provide these comments. The CMF Coalition welcomes the ability to explore these and other possible improvements to the CMF program. We share the goal of meeting our nation's affordable housing needs through innovative programs, such as the Capital Magnet Fund.

The CMF Coalition stands ready to provide additional details on our extensive experience with the program in an effort to ensure productive deployment of federal housing resources. To that end, we are available at your convenience to discuss the current state of the CMF program, and to provide further details on our comments. Please contact Towner French (tfrench@cozen.com) if you need additional clarification or follow up on any of the recommendations provided in this RFI response.

Sincerely,

The Capital Magnet Fund Coalition

CC: Mr. Andrew Schlack, Program Manager, Capital Magnet Fund