



March 1, 2021

Mr. Daniel Aiello  
Program Manager  
Capital Magnet Fund  
Community Development Financial Institutions Fund  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, DC 20220

RE: Request for comments of Information Collection and Request, Federal Register 85 FR 86648,  
December 30, 2020

Dear Mr. Aiello:

On behalf of the Capital Magnet Fund Coalition (CMF Coalition), we want to thank you for engaging with us several times since our inception in 2019 to receive and assess proposed changes to the administration of the Capital Magnet Fund (CMF). The Coalition represents the interests of CMF awardees and affordable housing stakeholders, and includes non-profit affordable housing developers, community development financial institutions, and affordable housing associations.

As you know, the CMF is a public-private partnership, and our members use these flexible federal funds to attract private investment into communities for affordable housing and economic development. The CMF provides funding that non-profit developers and lenders cannot find elsewhere—funding to do pre-development work, provide gap financing, create revolving loan funds, establish loan loss reserves, and provide loan guarantees—all critical pieces of affordable housing and community development. CMF provides enterprise-level financing that allows grantees to support continuing investment, long after the initial award has been deployed. These public and private funds together have been used to develop, preserve, rehabilitate, or purchase affordable housing, as well as related economic development activities such as day care centers, community health clinics, and workforce development centers.

Our membership strongly believes the CDFI Fund is doing a good job of implementing, awarding and overseeing the program, and appreciates the effort staff has made to make improvements over time. In dialogue with our coalition members, we have compiled the following responses to highlight areas where improvements can be made to make the program easier to utilize and to increase impact.

Sincerely,

Capital Magnet Fund Coalition

## CMF Application

In addition to our responses to the questions individually posed below, the CMF Coalition would like to highlight the following general recommendations for the CDFI Fund.

- 1. Layering of Compliance Requirements Makes the Award Difficult to Administer and Deploy** - The layering of geographic, Program Income, income targeting, and multiple leveraging compliance requirements make the award difficult to utilize and encumbers recipients accounting and asset management departments to monitor necessary inputs. 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, that they are having difficulty deploying capital). We believe this is the main 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 to administration.
- 2. Reduce Yearly Changes with 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 addition, to the extent changes are made to provide more awardee flexibility, then such changes should also be made retroactively to prior awardees through blanket amendments to prior year award agreements.
- 3. CMF Compliance Requirements Don't Provide Sufficient Discretion to CMF Award Recipient Decision Making and Responsiveness to Local Market Needs** - The CMF provides enterprise level grants to CDFIs and nonprofit housing developers. One of the strengths of this program and other CDFI Fund programs is that awardees receive institutional level investments, which provides organizational flexibility and the ability to leverage awards when responding to local affordable housing needs. Our member organizations believe in federal award accountability, and acknowledge the need for Treasury to measure impact, but the program's complex compliance requirements often steers recipient investment decisions rather than decisions being made in response to local market needs. The CMF Coalition recommends that the CDFI Fund review CMF compliance requirements to identify where changes can be made to provide administrative relief, while ensuring accountability.
- 4. Provide a Public Comment Period for Annual Changes to the CMF Assistance Agreement** - The CMF Assistance Agreement (AA) is the main document governing the award's compliance requirements. The CDFI Fund does not provide a public 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 appreciate the periodic review under the Paperwork Reduction Act, 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.

5. **Review CMF Compliance Practices for Smaller Investment Amounts** – The CMF Coalition believes that the CDFI Fund should consider providing specific, differentiated and less onerous compliance requirements for recipients utilizing CMF for smaller investment amounts, including pre-development financing, other early-stage financing or purchase assistance.

(a) Impact

The CMF Coalition generally agrees that collection, and subsequent reporting of impact data will improve evaluation and reporting of CMF project submissions. The proposed impact metrics in the application offer a fair evaluation of the socio-economic benefits of the project submissions. However, it is important that the impact metrics required by the application be identical to those later collected in the Performance Data Reporting.

The blending of affordable housing with Economic Development Activities is a unique benefit of the CMF that should be preserved and quantified. The CMF Coalition is concerned with the ability to adequately assess through independent or internal studies, the individual demographics of constituency served by these projects, unless based on the demographics of the surrounding area, especially Areas of Economic Distress.

We recommend the CDFI Fund release impact data annually, including from all previous CMF funding rounds, similar to other CDFI Fund-administered programs.

(b) Entity Types

The CMF Coalition represents a broad cross-section of awardees, to include both Financing Entities and Affordable Housing Developers/Managers. We believe that a primary asset of the CMF is its ability to serve both nonprofit affordable housing developers and CDFIs, while being used for all types of affordable housing and related economic development activities.

The CMF Coalition appreciates that the CDFI Fund bifurcates the application pool so CDFIs and nonprofit developers compete against one another in proportion to their representation of the applicant pool. Having standards specific to affordable housing type will ensure that application proposals are not disadvantaged due to their proposed use of CMF funding.

We would recommend that maximum flexibility be granted to applicants as the entity selection has a direct impact on the answers to “Question 31 – Portfolio Health”, and would alter whether applicants complete “Table E” or “Table F” related to portfolio reporting. For example, the CDFI Fund may be better served with relevant data if a CDFI that is expecting to act primarily in a developer role would complete “Table F” related to its Property Portfolio.

(c) Areas of Economic Distress and High Opportunity Areas

The CMF Coalition generally agrees with the proposed addition of High Opportunity Areas to broaden the ability for the CMF awards to extend assistance all low-income persons. By providing equal application preference for projects serving low-income households in high opportunity areas to those in low-income communities, the CDFI Fund can properly use its authority to seek remedy for those in Areas of Economic Distress.

The CMF Coalition believes that differentiated evaluation standards may need to be contemplated for rental and homeownership applicants in High Opportunity Areas. Affordable homeownership is difficult in High Opportunity Areas due to the deep subsidy needs, which are generally not available, coupled with the CMF program's homeownership price limits.

We note that the lack of public information on evaluation criteria coupled with a low percentage of Recipients receiving awards for homeownership makes it challenging to know if the current evaluation framework is treating all proposals fairly.

We recommend removing the single family price limit since the competitive nature of the application will ensure that CMF dollars are being utilized for high impact, affordable homeownership. The price limit regulations at 1807.402 limit 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 don't 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 this proposal since single family projects assisted with Community Development Block Grants are not subject to price limitations.

(d) Areas of Economic Distress Data Sets

The CMF Coalition appreciates the annual assessment of Areas of Economic Distress. Should the CDFI Fund ultimately choose to incorporate High Opportunity Areas, which are also assessed on an annual basis, it would be logical to continue application of the same standard. The CMF Coalition continues to urge the CDFI Fund to consider all proposed changes that would ease burden on applicant selection of proposed projects.

(e) Rental and Homeownership Housing

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 since almost 90 percent of the units funded to date have been rental units. We urge the CDFI Fund to provide equal application preference for homeownership projects serving low-income households in higher opportunity areas as those taking place in low-income

communities. In addition, we encourage the creation of differentiated evaluation standards so that homeownership housing is competitive.

The application and scoring process should recognize that homeownership tends to target higher income ranges compared to rental housing and ensure that single family proposals can fairly compete for funding. We recommend removing the single family price limit since the competitive nature of the application will ensure that CMF dollars are being utilized for high impact, affordable homeownership. There's federal precedent for this proposal since single family projects assisted with Community Development Block Grants are not subject to price limitations. We believe that the possible addition of a metric to determine wealth building for homeowners could assist CDFI Fund evaluation.

(f) Economic Development Activities

The ability for CMF awardees to fund Economic Development Activities is a primary and differentiating feature of CMF capital. The CDFI Fund should preserve the 30% allowance for Economic Development Activities. The CDFI Fund should endeavor to support the ability of applicants to create a pipeline for these projects by encouraging partnerships to source CMF borrowers.

(g) Priorities

CMF applicants are largely community-based organizations who frequently are among the first to call attention to emerging barriers to housing and economic development needs. We applaud the CDFI Fund for working to react to changing priorities and emerging crises. However, we believe that sudden alterations in application requirements create confusion and lead to decreased interest in CMF participation. The CDFI Fund may want to consider the ability to phase-in and phase-out priority initiatives to allow for project development in a more thoughtful manner.

(h) Multi-State Service Areas

Overall, the CDFI Fund has lessened geographic flexibility for CMF awards. In the FY 2016 funding round, applicants could commit to serve a National Service Area. While the current 15 states maximum in a multi-state service area is an improvement on the 10 state allowance in FY 2017 and 2018, the CDFI Fund can still provide additional flexibility.

The CMF Coalition encourages expansion of the multi-state service areas, possibly to include all 50 states, in order to provide the maximum flexibility for applicants to responding to ever-changing housing needs while ensuring that all affordable housing need are adequately met in the current difficult economic conditions. While the statute states that Treasury shall fund activities in geographically diverse areas, this shouldn't preclude an applicant from serving a National Service Area. The CMF Coalition recommends that the CDFI Fund allow applicants to serve a National Service Area while continuing to use its authority to ensure adequate rural coverage.

(i) Rural Areas

The need to serve rural communities has never been more present, a reality reflected in numerous federal grant, loan and tax credit programs. In the Fiscal Year 2018 CMF NOFA, the CDFI Fund utilized a broader rural definition used in the Federal Housing Finance Agency's Duty to Serve regulations. This rural definition captured more rural areas as it incorporates commuting patterns versus the OMB nonmetropolitan definition. In line with our general call for more flexibility, the CMF Coalition recommends that the CDFI Fund allow for more applicant investment in rural areas that may not be contained within a specific Service Area. The CMF Coalition supports the proposal to create a Rural National Service Area as proposed in the Notice because it will allow award recipients additional flexibility to deploy awards in rural communities.

(j) Leverage

The CMF Coalition continues to support a balanced approach to leverage considerations in the application scoring, and while we have no issues with the CDFI Fund expressing a preference for Enterprise-Level Leveraging or Re-investment 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.

The Recipient Level leverage requirements are also challenging for certain single family activity. For instance, down payment assistance doesn't have strong Recipient Level leverage although it does have high project level leverage. Many CMF Coalition members who utilize CMF dollars for affordable single family work believe they are not as competitive for an award since higher leverage is often easier to achieve in rental housing. The CDFI Fund should differentiate leveraging expectations for single-family activity, while simplifying leverage requirements. Further, the CDFI Fund should allow for post-award compliance amendments where there are strong justifications.

The suggested proposition of advantageous scoring for higher leverage ratios would create disadvantages for single family activity, and potentially other activities, where projects cannot be reasonably expected to leverage as high as other project types. As mentioned in responses above, further information from the CDFI Fund on the process used for evaluation of single family and multifamily applicants would allow the CMF Coalition and stakeholders to better address whether leverage requirement disparities exist between eligible uses.

As noted in the recently released FY 2020 Award Book, CMF awardees anticipate a nearly 33:1 leverage ratio, significantly higher than the statutory 10:1 ratio. The CMF Coalition encourages our members and all applicants to seek a high leverage ratio, but cautions the CDFI Fund that raising the basic requirements above statutory levels may be a regulation in search of a problem.

(k) Program Income

The CMF Coalition appreciates the flexibility that the CMF award dollars offer, and recognizes that with this flexibility, there is also an obligation to ensure that returned funds flow to additional eligible housing or economic development activities. This understanding is consistent with the leveraging concepts inherent in the CMF statute, and also with other

Federal community development programs. However, we believe that, in instances where the awardee has already satisfied through its initial investments the requirements contained in the assistance agreements, further restrictions should not be imposed.

The CDFI Fund has a history of annual changes to the Program Income requirements. As we have expressed to the CDFI Fund on numerous occasions, our concern continues to be that specifically mandating re-investment in targeted populations and projects, coupled with an additional 10 year affordability requirements unduly heighten incidences of non-compliance. Awardees will be required to line up the perfect mix of projects (with respect to geography, income targeting, leveraging, etc.) in a compressed reinvestment period, and be subjected to an extended compliance period of ten years beyond the placed-in-service date of the newly financed projects. As a result, the awardee must modify investment decisions in a potentially unproductive manner in order to satisfy Program Income requirements.

The compliance concerns for many awardees extend beyond the CMF program. Many CMF awardees are CDFIs that are also applicants for CDFI Program awards, NMTC allocations, and CDFI Bond Guarantee financing. A designated non-compliance in any one CDFI Fund award program may unfairly disqualify an applicant from receiving funding under another program.

We continue to note that Program Income definition utilized by the CMF program is not concurrent with OMB requirements and is a significant barrier for applicants.

(l) Streamlined Collection of Data on Track Record/Projections

The CMF Coalition supports the streamlined collection of data in an effort to create a less burdensome submission that will inevitably arrive at the same successful project completion.

(m) Alignment with other Housing Programs

LIHTC is the nation's largest subsidy source for the development of affordable multifamily housing. However, current CMF program regulations generally mirror those established for the HOME Program.

The CMF Coalition recommends that wherever practicable, the CDFI Fund should provide "safe harbors" with respect to compliance regimes for investments in properties that are financed with, or will be taken out by, LIHTC investments. These projects are already heavily regulated and monitored by state housing finance agencies, and in all circumstances, have a much longer extended use period than is required under the CMF Program. Specifically, we believe that adjustments will be necessary within AMIS to account for the newly implemented LIHTC Income Averaging occupancy set-aside.

(n) Loan Loss Reserves/Guarantees

The CMF Coalition would encourage that maximum flexibility be given for the use of awards.

## **CMF Performance Report**

The CMF Coalition recognizes that the broad use of CMF dollars means that the regulations cannot capture all aspects of how award Recipients will use the funds. That said, some of our members have experienced long delays from the CDFI Fund in processing waivers, including delays in excess of a year from the time of application to a decision by the CDFI Fund. The CMF Coalition recommends that the CDFI Fund create and publish timing standards for making determinations on waiver requests. This will allow award Recipients to better plan when attempting to use CMF dollars for non-regulatory activities.

The CMF Coalition has previously expressed our concerns with the tracking of interest payments on loans. CMF dollars are often used by CDFIs as a blended source with other lending capital. Tracking interest earned on just the CMF portion of a loan can be relatively complex depending on the structure and status of the loan (interest-only, amortizing, and whether the loan is disbursing) and often yields small amounts of interest. CMF recipients appreciate that interest repayments are exempt from the Program Income requirements and can be used flexibly to further a group's mission. However, recipients must report interest earned on the CMF Performance Report and our members believe this requirement is overly burdensome and excessive compared to similar CDFI Fund and federal award programs. The CMF Coalition recommends that the CDFI Fund not require CMF recipients to track interest payments in their CMF Performance Report.

### **(a) Data Collection Changes**

The CMF Coalition urges the CDFI Fund to consider the difficulties of compiling required compliance data collected from awardee partners. In addition, we have noted previously in our comments potential issues with some of the reporting proposed for Economic Development Activities that would require information pertaining to the demographics of the constituency utilizing these economic developments.

Our members state that CMF reporting in the Awards Management Information System (AMIS) is generally burdensome and does not always capture the full extent of the CMF's award impact. In addition, CMF awardees utilizing an award for single family find reporting more time intensive than multifamily since members have stated that data often has to be manually entered twice or requires manual workarounds.

We encourage the CDFI Fund to engage in a review process with stakeholders should new data collection requirements be instituted, and provide for the availability of administrative relief, including for those awardees utilizing CMF funds for smaller investment amounts.

### **(b) Bulk Upload of Data**

We continue to encourage the CDFI Fund to consult with stakeholders to identify modifications or additions to AMIS that would allow award Recipients to fully reflect compliance and to make updates to AMIS, including but not limited to providing confirmation of submission of reports.



We support the bulk upload of data as a means to streamlining the input of duplicative project records, and stand ready to work with the CDFI Fund to assess and implement appropriate safeguards. Members of the CMF Coalition have also previously requested a limited ability to perform independent deletion records and other error correction procedures.

The CMF Coalition continues to be available to the CDFI Fund to discuss various reporting preferences, including simplification of the platform dashboard.

(c) Output Reports

The CMF Coalition appreciates development of Output Reports, and pledges to continue working with the CDFI Fund to refine the parameters of useful data.

(d) Data Collection Frequency

The CMF Coalition continues to generally stress moderation in the need for annual reporting requirements. Annual data collection is dependent less on the specific metrics, and should more importantly focus on functionality and restraint.

We thank the CDFI Fund for the opportunity to offer suggestions and welcome opportunities to explore these and other possible improvements to the CMF application and compliance reporting. Please contact Towner French ([tfrench@capitolcounsel.com](mailto:tfrench@capitolcounsel.com)) if you need additional clarification or follow up on any of the recommendations provided in this letter.

Sincerely,

Capitol Magnet Fund Coalition

Atlanta Neighborhood Development Partnership  
BlueHub Loan Fund  
Central Bank of Kansas City  
Century Housing  
Cinnaire  
Disability Opportunity Fund  
Enterprise Community Partners  
Florida Community Loan Fund  
Genesis Community Loan Fund  
Genesis LA Economic Growth Corporation  
Habitat for Humanity  
Homewise  
Housing Partnership Network  
Housing Trust Silicon Valley  
Kentucky Highlands Investment Corporation  
Legacy Bank and Trust

Local Initiatives Support Corporation  
Low Income Investment Fund  
Massachusetts Housing Investment Corporation  
Massachusetts Housing Partnership  
National Association of Affordable Housing Lenders  
Novogradac and Co.  
Ohio Capital Finance Corporation  
Opportunity Finance Network  
Rhode Island Housing and Mortgage Finance Corporation  
Rural Community Assistance Corporation  
San Luis Obispo County Housing Trust Fund  
Self-Help Federal Credit Union  
Stewards for Affordable Housing for the Future  
Volunteers of America  
Wisconsin Housing and Economic Development

