May 5, 2009

Deputy Director of Policy and Programs
CDFI Fund
U.S. Department of the Treasury
601 13th Street, NW
Suite 200 South
Washington, DC 20005

VIA: Email

RE: Request for Comment on Capital Magnet Fund Program

The Community Builders, Inc.

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Patrick E. Clancy
President & Chief Executive Officer

Dear Mr. Josephs:

The Community Builders, Inc., is one of the nation's most accomplished developers of affordable, mixed-income housing and a leader in HOPE VI implementation and comprehensive neighborhood revitalization. Since its founding in 1964, TCB has developed over 22,000 units of mixed-income, special needs, and senior housing and built a property management portfolio consisting of 99 developments housing over 16,000 residents.

We believe that we are the type of nonprofit affordable housing developer that the Capital Magnet Fund (CMF) authorizing legislation was intended to support. We are confident that Community Development Institutions Fund (the Fund) can turn the legislation into a significant new funding program by seeking to complement and address the limitations of the current affordable housing and community development funding system.

Today's funding system provides through multiple tiers of government and allocation processes an array of highly-targeted funding resources to *discrete projects.* For the most part, a few federal agencies—HUD, Treasury, USDA—annually promulgate these resources through states and local government, which then allocate them to individual projects on a competitive basis in limited amounts. As a result, developers of affordable housing are forced to assemble and layer multiple sources of funds, many of which have inconsistent if not conflicting objectives and requirements, just to develop a single project.

What's more, the limited amounts of these resources work against the development of large-scale developments and more than one project at a time by the same developer in a locality. Projects much over 100 units typically must be broken into multiple phases so as not to outstrip resources available in any one funding round. And developers pursuing multiple projects in the same jurisdiction are put in the position of effectively competing against themselves for limited resources. Varied federal, state and local funding cycles and processes add to financial packaging and build-out timelines.

A further constraint of the current system is that little if any of the available resources can be revolved and re-applied to subsequent projects. This limitation applies even if a funding source was used for temporary predevelopment, acquisition and/or construction purposes then replaced or taken-out with permanent sources of financing, or if a subsequent project is identical in structure to the initial project and ready-to-go. An entirely new set of financing resources must be assembled for a subsequent project.

All told, the current affordable housing delivery system necessarily forces developers to pursue small scale, discrete projects one at a time over long build-out periods. As a consequence, the capacity of most affordable housing developers is significantly under-utilized, effecting not only inefficiencies but also more costly housing under today's system.

Yet affordable housing developers could produce substantially more housing at a faster pace if they had access to a pool of appropriately sized, flexible working capital at the enterprise level that they could reapply to a continuous pipeline of projects. Ensuring that CMF resources are made readily available for this purpose would address the constraints of the current affordable housing delivery system and offer the greatest value-added to affordable housing developers.

With a sufficient allocation of working capital, a developer could provide 100% of the needed funding for a single project—including both the housing and any companion community facilities—at the outset of project development. While constructing the project, the developer could assemble over the next 12-18 months needed layers of permanent financing from the established federal-state/local-project funding system, be that in the form of Low Income Housing Tax Credit (LIHTC) or New Markets Tax Credit equity, HUD-provided public housing capital, CDBG, HOME or new National Housing Trust funds, and/or conventional debt and mortgage insurance. A portion of the CMF resources could be invested permanently in the project to fill critical project gaps or to expedite the project. Yet most or all of the working capital funds would be replaced with permanent funding sources, allowing the developer to revolve and apply these funds to the next project in its pipeline.

Although CMF resources could be potentially applied in any number of helpful ways by CDFIs and mission-oriented nonprofit developers in producing affordable housing and concerted community revitalization—from providing gap or "first-in" seed funding to short-term revolving loan funds, loan loss reserves or other forms of credit enhancement—some basic principles of the working capital application described above could possibly guide other applications of CMF resources. These principles include:

- *Enterprise or entity awards:* making grants to an affordable housig developer, which in turn could lend or invest funds to multiple projects on a revolving basis as described above.
- *Sufficient grant size:* making grants of sufficient size so they can be used as working capital, loan funds, credit enhancement at the enterprise level, etc., that facilitate large-scale, expedited housing/community facilities development on a continuous basis.
- *Alignment to existing funding requirements:* structuring CMF targeting, income and other requirements in such a way that they can be readily aligned to established forms of public and private capital for affordable housing/community facilities development. As a general rule, allow CMF resources to

follow the primary or dominant form of funding in an enterprise activity or when applied at the project level. For example, if LIHTC proceeds comprise the largest source of funds in a project, the targeting, income and use restrictions of CMF allocation to the project would be aligned to the maximum extent feasible with those required by the LIHTC program. Many states do this now when allocating tax credit, loan and/or grant proceeds to a single project from multiple state funding streams. Underwriting is typically performed by the credit-allocating agency; commitment and loan or grant documents are codified; reporting and compliance requirements are integrated.

- *Flexibility:* given the range of incompatible restrictions and requirements of the current array of affordable housing and community development funding resources that inordinately complicate development activities, structuring CMF grants with maximum flexibility would be make them a catalytic complement to the current system, rather than just another limited program.

- *Simplicity*: although CMF's authorizing legislation sets forth many objectives for the program, whenever a simple accommodation of these objectives can be developed into program regulations over a more complex approach, the simple accommodation will greatly facilitate on-the-ground implementation and overall program results.

These principles guide our responses to the specific questions posed by the Fund below.

Eligible Uses of Funds

(a) What definition should the CDFI Fund use to assess what constitutes ''affordable housing?'' What affordability thresholds or restrictions (if any) should the Fund require, and for how long a period should these be in place?

(b) How should ''primarily'' be defined, as such term is used in Section 1339(c)(l)? What are the appropriate minimum levels of targeting that each project should be required to achieve (e.g., 50 percent of housing units are affordable to low-income persons, 20 percent of housing units are available to extremely low-income persons, etc.)?

The Fund should generally align its definition of affordable housing to encompass the range of income parameters used in HUD programs (Section 8, Public Housing, CDBG, HOME), Rural Housing programs and Treasury guidelines for the LIHTC program and the many state and local programs oriented to workforce housing. For the most part, the upper limit of the "affordability" range is now recognized as 120% of Area Median Income (AMI), which HUD's new Neighborhood Stabilization Program also uses.

Although the authorizing statute directs that CMF resources support housing and facilities development primarily for Extremely Low Income (ELI), Very Low Income (VLI) and Low Income (LI) segments of the marketplace, the Fund should avoid prescribing affordability thresholds or minimum targeting requirements for each of these income segments, particularly at the project level. Rather, it should generally define these segments as a range of affordability objectives to be met, and ask a developer or CDFIF to describe how it will meet the range of objectives in its overall program.

Equally important, the Fund should define "primarily" as the fundamental focus of the enterprise activity or project and allow some flexibility to that focus relative to the type of activity or project. Recent affordable housing development practice encouraged by HUD and most state and local jurisdictions seeks to achieve affordability targets in the context of mixed-income housing developments that often offer both rental and for sale tenure options to a range of incomes. CMF resources should be used to further this practice.

More specifically, if the range of affordability is defined as being up to 120% of AMI, a developer or CDFI would demonstrate how its program will primarily serve and be affordable to residents within this range (i.e., residents earning up 120% of AMI would not pay more than 30% of their income). In this case, “primarily” could be defined as primarily serving and being affordable to at least 51% of the residents served by the enterprise activity. Other sources of funding tapped in the larger program, such as Section 8 assistance, LIHTC investments and/or potentially National Housing Trust Funds, will dictate more specific income thresholds that must be achieved (e.g., Section 8 assistance would be limited to those with incomes at 80% of AMI and below; LIHTC to 60% of AMI and below: and Housing Trust Funds to 30% of AMI and below). In any event, income targeting objectives should not be imposed at the project level. Rather, a developer or CDFI should only have to demonstrate how such objectives will be met across its programs or projects at the entity level.

Finally, to the extent that CMF resources are used at the enterprise level or for non-permanent sources of project financing (working, acquisition, predevelopment, construction capital or revolving funding), no use restrictions should required. If a portion of CMF resources are committed as permanent financing at the project level, use restrictions should be flexible, aligned to and not in any way exceed the primary or dominant form of permanent equity or debt capital. For example, if CMF resources are combined with LIHTC proceeds at the project level, the state allocating agency that administers tax credits will prescribe a use restriction; the Fund should accept that restriction as the best means for ensuring that its funds are used as intended over the long term.

(c) How should ‘‘preservation’’ be defined, as such term is used in Section 1339(c)(1)? Should it include the refinancing of single- or multi-family mortgages as eligible activities?

We urge that the definition of “preservation” be aligned to how it is defined in major HUD, Rural Housing and other established affordable housing programs concerned with preservation. Generally these definitions equate preservation with any number of activities that help prevent the housing from being lost from the affordable inventory. Such a definition would embrace the refinancing of mortgages if done to keep the housing affordable over time.

(d) How should ‘‘rehabilitation’’ be defined, as such term is used in Section 1339(c)(1)?

As above, the definition of “rehabilitation” should be aligned to how it is defined in major HUD, Rural Housing and Treasury programs concerned with the rehabilitation of affordable housing. Generally, these definitions accommodate a range of capital improvement activities from repairs and retrofits to substantial rehabilitation. Also, demolition and site improvement costs should be allowable expenditures in programs involving new construction and/or replacement of housing.

(e) Capital Magnet Fund grants may be used to finance economic development activities and/or community service facilities ‘‘in conjunction with affordable housing activities.’’

(i) What restrictions (if any) should the CDFI Fund place on the percentage of award dollars that an awardee may apply towards economic development activities and/or community service facilities (e.g., no more than 20 percent of a total award)?

The Fund should allow considerable flexibility in the application of CMF resources to non-housing, economic development and community development *facilities* undertaken in conjunction with affordable housing developments, as capital for these uses is often limited and difficult to secure. So long as the affordable housing component has sufficient funding, we urge that no percentage limitation be applied to the amount of CMF resources that can be allocated to non-housing uses at the enterprise or project level. Although the CMF authorizing statute states that funds can be used to support "economic development activities" in conjunction with affordable housing activities, we urge that the Fund interpret this to mean *facilities* in which economic development activities are conducted. Allowing funds to be applied to economic development *activities* could reduce resources for CMF's principal purpose of producing affordable housing. There are plenty of other non-housing small business and economic development programs that could be used to support such activities.

(ii) Should the CDFI Fund support economic development activities/community service facilities in conjunction with affordable housing activities financed by sources other than Capital Magnet Fund grants (e.g., Low-Income Housing Tax Credits; Hope VI; or private sources) or solely in conjunction with Capital Magnet Fund grants?

Yes, the former, as CMF resources are not intended to be the sole source of funding at either the enterprise or project level. Furthermore, we would urge that no such "in conjunction with" restrictions apply to maximize the flexibility and leverage of CMF resources.

(iii) How should the CDFI Fund define ''in conjunction with''? For example, does this mean on the same premises, in a separate property adjoining the premises, contiguous to or within the census tract where the premises is located, or within a certain distance from the premises?

We advise that the Fund not construe "in conjunction with" in geographic terms or parameters when funds are applied at the project level. Any limitations could work against realizing optimal development plans. Rather, we urge that the Fund allow maximum flexibility in defining "in conjunction with" so that a program or project's overall objectives can be achieved in most effective way possible. For example, if a day care center is to be constructed in conjunction with an affordable housing development partly using CMF resources so that working parents of the development will have ready access to high-quality day care, the day care center should be located where it can optimally provided its services to the development's families rather than in some defined geographic radius. This might involve locating the center in nearby area close to public transportation for convenience purposes, or in an area with zoning that allows the construction and operation of a larger facility than could be accommodated by building the center immediately proximate to the housing site.

(iv) How should the CDFI Fund define ''concerted strategy''?

We urge that the Fund define "concerted strategy" in a way that aligns to or recognizes already-determined strategies in generally-accepted community planning activities, such as a neighborhood redevelopment plan or HUD-prescribed consolidated planning process required for accessing many of its funding programs (e.g., CDBG, HOME, McKinney-Vento). The Fund could merely review such plans for elements suggesting a concerted strategy relative to an entity's program or project goals, such as comprehensiveness (including physical and human development activities), measurable impact (being of significant scale, able to catalyze opportunities, help reposition a neighborhood market), the ability to engage needed partners, etc.

Eligible Grantees

Section 1339(e) of the Act states that Capital Magnet Fund grants may only be made to: (a) A CDFI that has been certified by the CDFI Fund; or (b) a nonprofit organization having as one of its principal purposes the development or management of affordable housing.

How should the CDFI Fund define ''principal purpose,'' with respect to determining whether one of an entity's principal purposes is the development or management of affordable housing?

Such a determination could be readily evidenced in nonprofit's incorporation materials, 501(c)(3) determination letter or other charter documents. However, given that hundreds if not thousands of nonprofit organizations could evidence such a purpose in this way, the Fund should consider some threshold capacity of a nonprofit to produce and/or manage affordable housing at a reasonably high level. This would involve consideration of at least the following factors at the enterprise level:

- *Capacity:* both for proper financial management of funds, including the ability to attract substantial additional capital and manage it an enterprise program level, <u>and</u> for development implementation, reflected in a demonstrated track record.

- *Mixed Income/Tenure:* experience in developing and/or managing multiple forms of affordable housing accessible to a range of incomes.

- *Scale:* the ability to execute a large-scale program or set of projects on a continuous basis as opposed to a record of producing smaller-scale, discrete projects.

- *Comprehensiveness:* that as a complement to its principal housing development activities, such a developer is able to facilitate broader human, facilities and/or economic development activities requisite to concerted community development.

- *Partnering:* the ability to assemble needed partners requisite to comprehensive development.

- *Impact:* which should follow from the above factors, but must be intentional/strategic and ultimately measurable.

Applications

The CDFI Fund welcomes comments pertaining to the content of the application materials, the timing of award rounds, and the application scoring and review protocols particularly with respect to the following questions:

(a) Are there other competitive award programs, Federal or otherwise, upon which the CDFI Fund should model the Capital Magnet Fund's application scoring and review protocols?

Most if not all public programs that provide funding for affordable housing do so at the project level, and significantly constrain the affordable housing delivery system as described above. As the Fund administers other programs that support enterprise-level activities, it might adapt those requirements to the CMF program.

(b) Should the CDFI Fund divide applicants among different pools so that they compete only among organizations at the same capacity level (similar to the Core and SECA designations for the CDFI Program)?

No. As suggested above, CMF resources should be awarded to high-capacity organizations that are able to best respond to CMF's purpose and goals and ensure that substantial amounts of additional affordable housing are produced. As indicated above, there are few if any flexible resources specifically available to affordable housing developers enabling them to carry-out enterprise-level programs and/or a continuous pipeline of large-scale projects. Moreover, in addition to other Fund programs, the HUD Section 4 program and certain Rural Housing programs are oriented to supporting organizations with varying capacities.

(c) Should the CDFI Fund accept applications on an annual basis or more often (e.g., twice a year)?

In as much as CMF is intended to support enterprise-level programs, nearly all qualified applicants should be able to propose their programs at any time during the fiscal year. Moreover, it may prove beneficial for the Fund to see, assess and make appropriate awards from a single pool of applicants rather than having to anticipate the quality of applicants and appropriate award amounts across multiple rounds of funding.

(d) Section 1339(j)(2)(D)(ii) requires ''a prioritization of funding based upon: (1) The ability to use such funds to generate additional investments; (2) Affordable housing need (taking into account the distinct needs of different regions of the country); and (3) Ability to obligate amounts and undertake activities so funded in a timely manner.'' With respect to this particular requirement:

> *(i) How should the CDFI Fund quantify each of the three priority factors? For each of the three factors, what should applicants be required to present and/or address as part of their application materials?*
> *(ii) Should this prioritization be incorporated into the standard scoring of the application (e.g., by weighting certain questions more heavily) or should there be separate ''priority points'' specific to each of the three criteria?*

We recommend that the priority factors be treated as threshold requirements rather than quantified in some way (by weighting or priority points); applications not meeting the thresholds should be rejected. To satisfy threshold requirements, applicants should be encouraged to present documentation related to generating additional investments, housing need and timely action at the enterprise (as opposed to project) level, consistent with documentation that may be applicable and currently available through other means and processes..

For example, an entity applying for CMF resources could present evidence of its ability to generate a threshold level of additional investments and to obligate such resources based on its record of doing so in the previous year; and it could readily present current, available data demonstrating a threshold level of housing need from consolidated or local planning processes in the locales in which it intends to develop housing.

Geographic Diversity

Section 1339(h)(2)(A) of the Act states: ''The Secretary of the Treasury shall seek to fund activities in geographically diverse areas of economic distress, including metropolitan and undeserved rural areas in every State.'' Section 1 339(h)(2)(B) provides that objective criteria of economic distress may include: (1) The percentage of low-income families or the extent of poverty; (2) The rate of unemployment or *underemployment; (3) The extent of blight and disinvestment; (4) Projects that target extremely low-, very low-, and low-income families in or outside a designated economic distress area; or (5) Any other criteria designated by the Secretary of the Treasury.*

The CDFI Fund welcomes comments on issues relating to geographic diversity, particularly with respect to the following questions:

(a) What objective criteria of economic distress should the CDFI Fund adopt?

(1) If the percentage of low-income families is selected as an objective criterion of economic distress, what is the appropriate minimum level (e.g., census tracts where the median family income is at or below 80 percent of the applicable area median family income)?

(2) If poverty rate is selected as an objective criterion of economic distress, what is the appropriate minimum level (e.g., census tracts with at least a 20 percent poverty rate)?

When considering criteria of economic distress, we recommend that the Fund carefully review recent HUD policies and programs and court-imposed consent decrees designed to de-concentrate poverty. Such initiatives suggest that limiting additional affordable housing development to areas with high-poverty may be counterproductive to larger social goals of racial and economic desegregation. Additionally, in defining economic distress, we urge the Fund to align its requirements to similar requirements in other CDFIF, HUD, Treasury and Rural Housing programs and/or current Administration initiatives, such as HUD's new Neighborhood Stabilization Program. It seems particularly important to also consider the variability of distress factors in urban versus rural areas. For example, poverty indicators at the census tract level generally are a more useful indicator of distress in urban areas than in rural areas.

(3) If unemployment or underemployment is selected as an objective criterion of economic distress, what is the appropriate minimum level (e.g., census tracts with an unemployment rate at least 1.5 times the national average)?

With unemployment at 8.5% and projected to rise to as high as 10%, a minimum unemployment number that is 1.5 times the national average seems inordinately high in current economic circumstances. It may also be more critical to assess under-employment in the current environment. In either case, assessing distress relative to area or state (more applicable in rural areas) median income would likely be more useful than poverty or unemployment figures.

(4) If ''blight'' or ''disinvestment'' is selected as an objective criterion of economic distress, how should they be defined?

(5) Are there additional criteria of distress, other than those specifically listed in Section 1339(h)(2)(B), that the CDFI Fund should consider? For example, is there a measure specific to housing that should be considered (e.g., the ratio of renters to homeowners in a community; percentage of vacant properties in a community; or percentage of substandard properties in a community)?

As above, we urge the Fund to align these requirements to existing programs. In the urban context, the CDBG program rules offer a generally-accepted definition of blight [see 24 CFR 570.208(b)()(A)(B)]. In the current economic climate, unusually high and/or rapid decreases in housing values, defaults, foreclosures, abandonment and/or vacancies also may merit consideration as "upstream" indicators of blight. Also, the Fund might consider more comprehensive definitions of distress such as low high school graduation rates, poorly-rated schools under No Child Left Behind criteria, family asset-accumulation measures, small business formation-retention rates, etc. In any event, it remains important not to require more or different information than is necessary, and to rely on readily available data.

(6) Are there special populations facing economic distress or with high housing needs that the Fund should consider? Are there particular measures that should not be used because they may inadvertently disadvantage certain populations? If so, provide examples of particular households or communities that would not qualify under specific definitions.

Although there will always be special populations confronting greater economic distress or with high housing needs, many of these populations are served by larger, more focused programs such as the McKinney-Vento umbrella of programs for the homeless and other special needs populations, or the new National Housing Trust Fund that is dedicated to providing housing for those with Extremely Low Incomes.

Although not often thought of as a population having high housing needs, rental households with incomes between 60 and 120 percent of AMI have become a figurative doughnut hole in the range of available housing subsidy programs. As the upper range of the LIHTC program is 60% of AMI, and many HUD programs push to serve ELI and VLI households while home ownership is more accessible to households with incomes in excess of 120% of AMI, renter households with incomes between 60-120% of AMI have few dedicated resources. The Fund might help address this need by encouraging—without limiting—that mixed-income housing be produced for income groups in this range.

(b) How should the CDFI Fund define ''rural areas''? For example, is a rural area any census tract that is not located in a metropolitan statistical area (MSA)? Respondents should discuss how a particular definition would enable the program to best ensure funding to people in rural areas, and discuss whether there are particular measures that should not be used because they may inadvertently disadvantage certain populations (i.e., provide examples of particular households or communities that would not qualify under specific definitions).

As with other definitions, we urge the Fund to align its definition to other relevant rural programs. In this case, the USDA rural housing definition in Section 520 of the Housing Act of 1949 may still be the most applicable.

(c) Should the CDFI Fund ensure that, in any given award round, there is a project located in every state? Should the CDFI Fund ''skip over'' otherwise higher rated applicants to ensure that this geographic diversity goal is met?

(d) Section 1339(j)(2)(D)(i) of the Act requires that ''funds be fairly distributed to urban, suburban, and rural areas.'' How can the CDFI Fund best achieve this outcome?

As CMF's authorizing legislation encourages the Secretary of the Treasury to "seek to fund *activities*" in…"metropolitan and underserved rural areas in every state"—a design suggesting the enterprise-level orientation of the program—and CMF resources are very likely to be well below that anticipated by its authorizing statue in the program's initial years, it seems impracticable if not counter-productive to expect that every state should have a CMF-supported project. So long as marketing and outreach is available to urban, suburban and rural areas in all states, we would urge the Fund to make awards to the most capable, highly-rated applicants based on the quality of their CMF proposals. We would also urge that the Fund assess the ability of an applicant to serve a wide geographic area rather than to just consider the location of its headquarters when determining geographic diversity.

Leverage of Funds

Section 1339(h)(3) of the Act states: ''Each grant from the Capital Magnet Fund awarded under this section shall be reasonably expected to result in eligible housing, or economic and community development projects that support or sustain an affordable housing project funded by a grant under this section whose aggregate costs total at least 10 times the grant amount.''

The CDFI Fund welcomes comments regarding how applicants would be able to demonstrate a leveraging ratio of 10:1 of ''total aggregate costs,'' particularly with respect to the following questions:

(a) What documentation should be required to demonstrate a leveraging ratio of 10:1 of ''total aggregate costs''?

(b) How should this 10:1 standard be measured (e.g., on a project-by-project basis for each project funded, or on a collective basis for all projects financed)?

Although CMF's authorizing legislation requires demonstration of a leveraging ratio of 10:1, the Fund might consider seeking appropriations language that temporarily supplants the 10:1 ratio with a lower ratio oriented to supporting recovery from the current economic crisis. A ratio in the range of 3:1 to 5:1 would reduce capital assembly tasks in favor of more quickly deploying sufficient, available resources for faster construction starts. Doing so would advance construction timelines, creating more jobs more quickly in construction-related activities while advancing the multiplier effects of completed housing developments in the local economy.

Regardless of the leverage ratio level, leverage should be broadly construed as additional capital attracted to an enterprise-level program, i.e., leverage should be not be determined at the project level, but rather in aggregate across all activities and projects in which CMF resources are deployed. For example, if CMF resources were used partly or wholly as an affordable housing developer's working capital at the enterprise level, any and all of the additional capital assembled for the affordable housing program *and* other community development components undertaken in conjunction with the housing program over time, should be acknowledged as leverage. While project level data would be needed to determine overall leverage, these data should be aggregated on a collective basis over time.

Therefore, the Fund should not require that leverage be demonstrated upon award of CMF resources, or that a certain level of leverage be demonstrated in a discrete project at any point in time. Rather, it should require an applicant to project program-level or collective-basis leverage that will be achieved over time, and to periodically report progress in aggregating such leverage. The required documentation for evidencing leverage should rely on available documentation at the enterprise level and/or documentation required by the primary or dominant source of funding available at the project level, which can be aggregated or rolled up to demonstrate overall leverage. At the project level where LIHTC investments are part of the financing, for example, a post-completion audit certifying costs and applications of funds would be available as a source of documentation.

(c) Is there a timing consideration as to when the CDFI Fund should release its award dollars (e.g., not until all other sources of financing have been secured)?

No. CMF resources should be allowed to be applied in the most flexible way possible, including allowing CMF resources to be used as the "first money" in at either the enterprise or project level.

Commitment for Use Deadline

Section 1339(h)(4) of the Act states: ''Amounts made available for grants under this section shall be committed for use within 2 years of the date of such allocation.'' The CDFI Fund welcomes comments regarding how the term ''committed'' should be defined, and how it can be verified, for the purposes of this requirement.

The Fund should align the definition of "committed to use" as it is applied in other CDFIF, HUD, Treasury or USDA programs. For example, in the HUD HOME program, funds are thought to be committed to use when there is a binding agreement with a funding recipient, sub-recipient or a contractor to use a specific amount of funds to produce affordable housing. Copies of fully executed, dated binding commitments could then be used to verify such commitments.

Prohibited Uses

Section 1339(h)(5)–(6) of the Act lists prohibited uses with respect to grants awarded under this program. Are there any additional prohibitions or limitations that should be applied? For example, there are no stated limitations regarding the portions of Capital Magnet Fund grants that may be retained by the awardee to cover operating costs. Should the CDFI Fund permit a set portion of awards to cover operating costs? If so, what percentage of the funds should be allowed? Should awardees be restricted in the level of fees they charge to sub recipients/endusers?

Generally, no additional prohibited uses seem warranted. The Fund might consider collecting otherwise available information on the nature and extent of standard development and management fees associated with affordable housing development and fund administration. Other funding sources set and monitor these fees according to industry standards, freeing the Fund from having to do so.

Accountability of Recipients and Grantees

Section 1339(h)(8) of the Act provides for accountability standards with respect to tracking the use of award dollars, as well as remedies in the event that an awardee misuses funds. The CDFI Fund welcomes comments on how to administer awards and monitor the deployment of funds awarded under the Capital Magnet Fund, particularly with respect to the following questions:

(a) What documentation should be required to demonstrate that funds awarded under the Capital Magnet Fund have been committed?

As suggested above, the Fund could simply accept fully executed, dated binding commitments between a funding recipient, sub-recipient or a contractor as evidence that funds have been committed.

(b) What types of documentation should be required to demonstrate completion of projects?

(c) What types of documentation should be required to demonstrate satisfaction of the affordability requirement related to housing developed, preserved, rehabilitated, or purchased with the support of Capital Magnet Fund awards?

We urge the Fund to align any and all documentation requirements to that of the primary funding source at the project level, which could then be rolled up and reported at the enterprise level. For example, the LIHTC program requires that a project cost-certification be performed on a post-completion audit basis and that income/affordability verifications be produced as a project is leased. Both of these forms of documentation could be readily used to evidence project completion and income/affordability levels at the project level, which could be aggregated and reported on a collective basis at the enterprise level

(d) What support, if any, would applicants and awardees like to see from the CDFI Fund at the post-award stage?

Most experienced affordable housing developers will require little if any technical or management support to carry-out CMF activities. However, they will look to the Fund to quickly provide needed grant documents and a ready ability to negotiate reasonable changes in grant terms if changing program, economic or other factors warrant them.

(e) What specific industry standards for impact measures (units produced, percentage of units affordable to low income persons; time to complete; etc.) should the CDFI Fund adopt for evaluating and monitoring projects funded under the Capital Magnet Fund?

As suggested above relative to other dimensions, the Fund should adopt impact measures consistent with those already required by primary funding sources.

We thank the Fund for the opportunity to offer input on how the Capital Magnet Fund should be designed, implemented and administered. Good luck!

Sincerely,

Patrick E. Clancy

Patrick E. Clancy
President & CEO

cc: Patrick M. Costigan