CMF Coalition
Capital Magnet Fund Coalition

November 4, 2022

Mr. Noel Poyo
Deputy Assistant Secretary
Community and Economic Development
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Deputy Assistant Secretary Poyo:

On behalf of the Capital Magnet Fund (CMF) Coalition, we want to thank the Community Development Financial Institution (CDFI) Fund for its ongoing commitment to administering and improving the CMF program. Specifically, we appreciate recent changes our Coalition recommended and discussed with the CDFI Fund, including: broadening the Service Area definition to include up to 15 states; allowing 15 percent of the award to be outside 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 are all productive steps to ensure that affordable housing funds are used to the greatest effect, although much more should be done to improve the CMF Program.

As you are aware, 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. 139 organizations have received CMF awards and 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.

While the CMF program has produced incredible results, there has 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. In 2019, the CMF Coalition was formed by 55 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.

As outlined further below, the CMF Coalition strongly believes that the CDFI Fund should significantly overhaul its guidance documents to encourage more flexibility, innovation and usage. The administrative complexity of the program lowers application demand and is inconsistent with the 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 CDFI Fund can address the challenges we describe below unilaterally, since they are a mixture of regulatory - although primarily sub-regulatory - practices. For each issue, we offer recommendations on how the Fund can address the problem, and we look forward to working with you and the CDFI Fund in partnership on these programmatic improvements.

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, in line with the Administration's focus on coordinating federal funds, to reduce transaction costs and duplications, and accelerate development. We are concerned that the CMF Program receives fewer total applications compared to similarly funded CDFI Fund programs and that the CDFI Fund chose to not award over $43 million in funding from the fiscal year 2021 CMF funding round, even though the program was oversubscribed by a nearly 3:1 ratio. Unfortunately, we have not received any explanation as to the reason the full amount was not awarded. President Biden and Secretary Yellen have consistently stated that additional resources are sorely needed to finance affordable housing projects for low-income families.

I) General Comment

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, and workforce development centers. As the CDFI Fund works to improve the program, we encourage Treasury 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 costs, 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 to administration.

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 included a smaller applicant set-aside for many years, which helps ensure award funds reach these organizations. Applicants under this set-aside should still have to meet all programmatic requirements but would importantly compete against each other, rather than against larger organizations.

To further support CMF award recipients, including smaller organizations, we recommend that the CDFI Fund utilize appropriations 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.

II) Specific Comments

We offer the following specific recommendations on reforming the CMF Program:

A) Affordable Homeownership and Rental Housing

1. **Eliminate the Single Family Price Limits -** We recommend 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 at 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 this proposal, 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. **Differentiate Homeownership and Rental Housing Applications** – 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.

B) Leverage and Program Income

1. **Reform Program Income (PI) Requirements –** 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. **Leverage Requirements –** The CMF Coalition supports a balanced approach to leverage considerations in the application scoring, including through the use of public sector capital. 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 CMF program is strengthened by simplifying leveraging requirements as much as possible and allowing for post-award compliance amendments where there are strong justifications. Further, we believe it is important to differentiate leveraging expectations for single family activity where projects cannot be reasonably expected to leverage as high as other types.

3. **Interest Requirements** – We request that the CDFI Fund end the requirement that recipients must track interest payments in their CMF Performance Report on the portion of the loan that includes CMF funds. Since CMF dollars are often used by CDFIs as a blended source with other lending capital, tracking interest earned on only the CMF portion of a loan can be complex depending on the structure and

status of the loan (interest-only, amortizing, and whether the loan is disbursing) and often yields very 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, the CMF Coalition believes this requirement is overly burdensome and excessive compared to similar CDFI Fund and federal award programs.

C) Placed-in-Service and Project Completion

1. **Placed in Service.** The current CMF regulations require Recipients to commit funds within 2 years; have an initial disbursement within 3 years; complete projects within 5 years; and place projects into service no later than six months after project completion, with initial occupancy within 12 months of completion. This structure, specifically the project completion and placed-in-service requirements, make using CMF for early-stage predevelopment and acquisition lending difficult, especially in areas where LIHTC is oversubscribed, and it can take years to secure all necessary project funding.

   The CMF Coalition recommends that the CDFI Fund update these requirements so 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.

D) Service Area

1. **National Service Area –** The CMF Coalition recommends that the CDFI Fund allow applicants the most flexibility possible to structure their Service Area. While the current 15-state maximum in a multi-state Service Area is an improvement on the previous 10 state allowance, the CDFI Fund can still provide additional flexibility. This expansion is necessary for awardees because housing markets change over time and organizations need flexibility to respond to market conditions and affordable housing opportunities. We recommend that the CDFI Fund allow applicants to utilize a National Service Area of up to 50 states, while annually evaluating where CMF resources are utilized. As is current practice, the CDFI Fund should continue to incentivize the use of CMF resources in states with limited investment by providing preference points in the annual CMF Notice of Funding Availability. For those CMF awardees that choose large multi-state or National Service Areas, the CDFI Fund should also consider instituting a cap on the total amount of CMF awards that can be deployed in any single state (e.g., an organization

with a National Service Area cannot expend more than 20% of its award in any single state).

2. **National Rural Service Area.** CMF applicants can commit a percentage of their award for projects in rural communities. If awarded, recipients are currently held to serving rural areas in their Service Area. The CDFI Fund asked in their previous CMF Paperwork Reduction Act Notice if recipients should be allowed to serve any rural census tracts in any state, regardless of Service Area, in order to assist rural projects.

   In the event the CDFI Fund does not implement a National Service Area, we recommend allowing a National Rural Service Area, as proposed in the previous Notice. A National Rural Service Area would allow for the use of CMF subsidy in any rural-defined place, providing awardees additional flexibility. This is important because it is difficult for applicants to know at the time of application where they will get rural agreements several years in the future. Additionally, for groups with large rural footprints, this would spur more rural lending because those applicants would be more confident in serving broader geographies instead of winnowing rural activity to the current subset of a 15-state Service Area.

<u>E) CMF Administration</u>

1. **Regular Timeline for Issuance of Annual Application and Award Functions –** While the CMF Coalition recognizes that the ongoing COVID 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 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.

4. **Wavier Requests** - Create and publish timing standards for making determinations on waiver requests. This will allow award recipients to plan more effectively when attempting to use CMF dollars for non-regulatory activities. During the onset of the COVID pandemic, the CDFI Fund worked to determine waiver requests on a case-by-case basis, which led to confusion. The inability to develop and articulate a policy in the face of such an event that caused wide-spread disruption to project development was concerning.

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 award 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 by providing guidance on areas of application and project improvement.

Thank you for the opportunity to provide these comments, and we welcome 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 would request a meeting with you at your earliest convenience to discuss the current state of the CMF program, and to provide further details on our adminsitrative requests. Please contact Towner French (tfrench@capitolcounsel.com) if you need additional clarification or follow up on any of the recommendations provided in this letter.

Sincerely,

The Capital Magnet Fund Coalition

CC: Jodie Harris, Director, Community Development Financial Institutions Fund
Ellen Lurie Hoffman, Senior Policy Adviser, Department of the Treasury
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