

FREQUENTLY ASKED QUESTIONS

Capital Magnet Fund

Affordability

Q 1. What are the affordability requirements for the Capital Magnet Fund (CMF)?

A: The affordability qualifications are set forth in detail in Part 1807.400 of the Interim Rule (<http://www.cdfifund.gov/docs/2010/cmf/CapitalMagnetFundInterimRule.pdf>). The CDFI Fund urges Applicants to review the Interim Rule. The Interim Rule requires that all units subject to the affordability qualifications must remain so for 10 years from the time of Project Completion.

Q 2. What is required if a CMF-funded property is sold to a new owner who does not meet the Affordability requirements during the ten-year Affordability period? If CMF funds are no longer in the project, what is there to recoup if a CMF-funded housing unit is sold before the end of the 10-year affordability period?

A: An Awardee would recoup the amount of the CMF award it used for the Affordable Housing Activity. So if the CMF funds make up 10% of the Affordable Housing Activity which results in housing that is sold to a qualifying family and the initial qualifying family sells the property to another family that doesn't meet the affordability qualifications set forth in 12 CFR 1807.400, the amount of the CMF award used to finance the Affordable Housing Activity (10%) must be recouped and redeployed to a qualifying family for affordable housing homeownership in the manner set forth in 12 CFR 1807.402 for the remaining affordability period. There are a variety of ways to do this. An Awardee could use a deed restriction on the property to prevent a transfer to a non-qualified family, or provide the subsidy as a soft second loan that would be repaid in the event of sale of the property. The Interim Rule gives Awardees flexibility on how to meet the requirement, but the amount of the CMF funds used for the initial Affordable Housing Activity must continuously be used for an Affordable Housing Activity to support a qualifying family throughout the 10-year affordability period.

Q 3. Where is the data to determine who is qualified as a Low-Income, Very Low-Income, and Extremely Low-Income Family?

A: HUD provides an annual Area Median Income (AMI) for every Metropolitan Area and county, which is the basis for determining income eligibility. A Family whose income is not in excess of 80% of the applicable AMI is considered Low-Income. A Family whose income is not in excess of 50% of the applicable AMI is considered Very Low-Income and a Family whose income is not in excess of 30% of the applicable AMI is considered Extremely Low-Income. In the case of rental housing units, the above income restrictions are adjusted for smaller and larger families, as determined by HUD. This information can be found at: <http://www.huduser.org/portal/datasets/il.html> under "HUD Program Income Limits" for the most recent fiscal year.

Q 4. With respect to monitoring compliance for meeting the affordability requirements (e.g., that greater than 50% of Eligible Project Costs are attributable to housing for Low-Income Families), will this analysis be undertaken on a project-by-project basis, or on an aggregate basis for all projects funded?

A: This analysis will be done on an aggregate basis for all projects for which the Awardee uses its CMF award dollars, rather than on a project-by-project basis. For example, suppose an Awardee receives a \$2 million CMF award. It invests \$1 million in each of two different projects that have total Eligible Project Costs of \$10 million each. In Project A, \$4 million of the \$10 million (40%) was used to finance housing for Low-Income families; and at Project B, \$8 million of the \$10 million (80%) was used to finance housing for Low-Income families. This Awardee will have satisfied the requirement that greater than 50% of the Eligible Project Costs be attributable to housing units for Low-Income persons, since collectively \$12 million (60%) of the \$20 million supported such Low-Income housing.

Q 5. Must all of the units in a development or project, for which the CMF award was used, serve Eligible-Income Families?

A: No, but 100% of Eligible Project Costs must be attributable to housing units that meet the affordability qualifications for Eligible-Income Families. It is possible to use CMF funds on a project that has units which serve higher-income families, but those costs cannot be counted towards Leveraged Costs or Eligible Project Costs. In addition, in any given Multi-family rental housing project for which CMF award dollars are used, a minimum of 20% of the total units in that project (including those that were not directly CMF-funded) must be affordable to Low-, Very Low-, or Extremely Low-Income Families and must comply with the rent limitations set forth in the Interim Rule.

Q 6. If an Awardee makes loans that are typically early stage and are repaid before they are completed, do occupancy and affordability tracking requirements still apply?

A: Yes, they do. In that circumstance, Awardees will have to establish an ongoing relationship or mechanism with the borrower or project owner to ensure that the units remain affordable and are rented or owner-occupied by an applicable qualifying family for the 10-year affordability period.

Q 7. What happens if a project does not realize the affordability expected or is not completed?

A: The CDFI Fund will assess these outcomes on a case-by-case basis and may pursue any of the remedies set forth in the Awardee's Assistance Agreement. The Awardee must notify the CDFI Fund as soon as the Awardee becomes aware that the requirements of the Assistance Agreement may not be met.

Q 8. The Assistance Agreement states that the Awardee shall "designate a certain number of housing units attributable to that project for which it is responsible for tracking during the

Affordability Period.” Does that mean that the Awardee may limit its tracking obligations to a smaller sample size?

A: No. All of the units included in Eligible Project Costs must meet the requirement for Eligible Income Families, which is 120 percent of Area Median Income. In addition, the Awardee must ensure that its total Eligible Project Costs are attributable to housing units that meet the requirements of Sections 5.1(b) and (c) of the Assistance Agreement, which cover the commitments made in the Application for targeted incomes and geographies. In order to document this, the Awardee must specify the number of units in each project that the Awardee is using to meet these requirements. For example, if the Awardee invests \$1 million of CMF funds into a project with Eligible Project Costs of \$10 million and each housing unit costs \$500,000, the Awardee would designate at least 11 housing units (totaling \$5.5 million) in that project as Affordable at least to Low-Income families in order to satisfy the requirement in Section 5.1(b) of the Assistance Agreement that more than 50% of the Eligible Project Costs are attributable to such affordable units. The Awardee is then required to demonstrate that at least 11 units in the project remain affordable to Low-Income families for the duration of the 10-year period, and that all of the units included in the \$10 million Eligible Project Costs (in this case the remaining 11 units) are affordable to those below 120 percent of Area Median Income.

Audits and Certifications

Q 9. Can the legal opinion be made by in-house counsel or do we have to hire outside counsel?

A: The legal opinion may be made by in-house counsel so long as that counsel is licensed in all of the required state jurisdictions. The scope of the opinion is dictated by whether the Awardee has a single-state or multi-state service area. Please review the template legal opinion (Schedule 2-A of the Assistance Agreement) for further guidance.

Q 10. Are A-133 audits required for CMF Awardees?

A: In general, if an Awardee is a non-profit organization that expended at least \$500,000 in Federal awards in any one fiscal year, the Awardee is required to submit a single audit reporting package pursuant to OMB Circular No. A-133. For each year of reporting, the Awardee must complete and submit the A-133 Narrative Report notifying the CDFI Fund if it is required to submit an A-133 for that fiscal year.

Q 11. When are CMF awards considered “expended”?

A: CMF Awards are considered expended once the Awardee allocates the funds towards one of the eligible uses of Assistance, as outlined in the Assistance Agreement. Prior to the time the Awardee designates the entire award amount into the eligible use(s), any remaining amount of funds not designated are deemed to be “Advances” as defined in the

Assistance Agreement and should be kept in interest-bearing accounts with interest remitted in compliance with the OMB Circular No. A-122 and 2 C.F.R. Part 215.

Disbursements

Q 12. Does the Awardee get to choose the bank where the funds are wired?

A: Yes. The Awardee can choose the bank where the CMF funds are wired. The Awardee is required to submit an Automated Clearinghouse (ACH) form to identify the bank account into which the Awardee wants the award proceeds deposited via wire transfer.

Q 13. The Assistance Agreement mentions subsequent closings. What would be an example of a subsequent closing?

A: The CDFI Fund anticipates disbursing the full amount of the CMF award at the initial closing once the Awardee has fulfilled all of the requirements of the Assistance Agreement. However, the CDFI Fund reserves the right to make a partial disbursement of the CMF award at the initial closing and one or more subsequent disbursements in certain circumstances.

Environmental Requirements

Q 14. What are the environmental requirements under CMF?

A: The CDFI Fund's environmental regulations are set forth in 12 CFR 1815. The Awardee must, at the time of closing and as applicable each time it identifies a new project for which it would like to use CMF award funds, determine whether any categorical exclusions are applicable to the proposed project and whether the proposed project involves actions that require an Environmental Impact Statement (EIS). Each time the Awardee identifies a new project for which it would like to use the Assistance but cannot make the above stated determination; the Awardee must complete and submit to the CDFI Fund the Environmental Review Notification Report (ERNR) as set forth in Section 6.12 of the Assistance Agreement. For CMF projects requiring Environmental Review, the Awardee may not disburse any assistance toward the proposed project until it has received approval from the CDFI Fund to proceed.

Leverage

Q 15. What is "leveraging" and how do I calculate it?

A: Leveraging refers to the ratio of the CMF award amount to the total aggregate Eligible Project Costs of all Affordable Housing Activities, Economic Development Activities, and Community Service Facilities financed with those award dollars.

Suppose an organization receives a \$1 million CMF Award with a Leverage Commitment of 15. The Awardee is allowed to keep five percent of its award for operational expenses, and puts \$950,000 into a \$5 million Affordable Housing Fund. The Awardee's

affordable housing fund makes initial investments in two projects. The Awardee's CMF portion of the investment in Project A is \$600,000, which has \$7.5 million in total Eligible Project Costs. An additional \$350,000 in CMF funds are invested in Project B with \$5 million in total Eligible Project Costs (these investments may be either debt or equity, however the following costs are not to be used as part of an Awardee's leveraging calculation: (i) CMF award dollars used to fund the organization's Operations; (ii) prohibited uses identified in 12 CFR 1807.302(a); and (iii) costs not attributable to Affordable Housing Activities for housing units that qualify as Affordable Housing under 12 CFR 1807.401 or 1807.402 for Eligible-Income Families).

Project Leverage is calculated by dividing the total of the Eligible Project Costs by the CMF Funds invested in the Project. Even though the Awardee has blended its funds with other sources, only the CMF Award dollars are used in the denominator. The non-CMF funds are calculated along with the CMF Award dollars and other debt or equity in the numerator as part of the Eligible Project Costs.

[Eligible Project Costs divided by the CMF Award funds = Project Leverage]

Upon completion of Project A, the leverage achieved is 12.5 times.

$$[7,500,000 / 600,000 = 12.5]$$

Upon completion of Project B, the leverage achieved is 14.2 times.

$$[5,000,000 / 350,000 = 14.29]$$

The cumulative leverage for the CMF Award at this point is 13.1.

$$[(7,500,000 + 5,000,000) / 950,000 = 13.16]$$

While both projects have leverage above the statutory requirement of 10, the Awardee's commitment of 15 has not yet been reached. In year 3, \$350,000 has been returned from Project B, and those funds are reinvested in a third project, Project C, with a total of \$4 million in Eligible Project Costs. The leverage achieved upon completion of Project C would be 11.43 times.

$$[4,000,000 / 350,000 = 11.43]$$

With the investment in Project 3, the cumulative leverage of the entire CMF award would now be 17.37. As you can see, the denominator will never be greater than 950,000 in this example, so the leverage number will grow significantly with each reinvestment.

$$[(7,500,000 + 5,000,000 + 4,000,000) / 950,000 = 17.37]$$

As a result, the Awardee's Leverage Commitment of 15 has been met and exceeded.

Q 16. How and when will an Awardee present this information to the CDFI Fund?

A: Evidence of Leveraged Costs is to be included in an Awardee's annual compliance reporting – it shall not be required in advance of closing an Awardee's Assistance Agreement.

As part of the Awardee's CMF Activities Report (see Q.23 below), an Awardee will be required to identify the portion of its CMF Award that it used to finance its Operations; and to identify each project for which CMF award dollars have been either Committed or disbursed. The Awardee will indicate the Eligible Project Costs for each project identified, as well as the portion of the Eligible Project Costs that were financed either directly or indirectly (e.g., in the case of loan guarantees or loan reserves) by CMF award dollars, including CMF award dollars that may have been reinvested (e.g., in the case of CMF award dollars placed in a revolving loan pool). In the case of Committed funds, the Awardee will indicate the anticipated Eligible Project Costs for each project.

For the purpose of determining an Awardee's compliance with Section 3.5 of the CMF Assistance Agreement, the CDFI Fund will aggregate the Eligible Project Costs of each CMF-funded project once the Awardee has achieved Project Completion for all CMF-funded projects. This will become the numerator of the leverage ratio. The denominator of the leverage ratio shall be the CMF award amount, less the funds identified by the Awardee as being used for Operating Expenses.

The CDFI Fund recognizes that, in many cases, Eligible Project Costs will fluctuate between the time of Commitment and the time that that project is ultimately financed and placed into service. Awardees are not required to submit updated reports each time these costs change. Rather, for projects which have not yet been placed into service, an Awardee will be required to report the anticipated Eligible Project Costs as of the date the annual report is submitted.

Performance Goals

Q 17. What measures will be utilized to evaluate a CMF Awardee's performance?

A: An Awardee's compliance with Schedule 1 will be the primary indicator of its performance.

Q 18. What is an area of "high housing need"?

A: High housing need areas are those census tracts that have a score of at least 18 (out of 20) on the vacancy index or foreclosure index in HUD's Neighborhood Stabilization Data (NSP). Census tracts identified under any NSP program valid as of the date of the Application may be used.

A list of census tracts and their scores by state can be found here:
http://www.huduser.org/nspgis/nsp_map_by_state.html.

A mapping tool, which can provide scores by address, zip code, or census tract, is available here: <http://www.huduser.org/nspgis/map.aspx>.

Q 19. Will the requirements for meeting the Non-Metropolitan Area commitment change when OMB Bulletin No. 99-04 is updated in 2013?

A: Any new Non-Metropolitan Area counties added in future updates of OMB Bulletin No. 99-04 may be included, however counties that lose their Non-Metropolitan Area designation will continue to count towards completion of this measurement.

Program Costs and Income

Q 20. How long do the restrictions on the use of Program Income last before the funds may be considered unrestricted assets?

A: Once CMF funds are designated for an Eligible Use, any income earned by an Awardee that is directly generated by a supported activity is considered "Program Income" and must be used by the Awardee solely to further the objectives of its mission as a Certified CDFI or Nonprofit Organization. Thus, payments of interest earned on loans made using the CMF award as an eligible use are deemed "Program Income." At the end of the Investment Period, which generally speaking is the fifth anniversary of the Effective Date, any income received on CMF funds would no longer be considered Program Income and thus can be used by the Awardee as unrestricted net assets.

Q 21. Would the developers that an Awardee finances for the construction of Affordable Housing be considered sub-Awardees?

A: A loan to a developer for Affordable Housing Activities, Economic Development Activities or Community Facilities under an Eligible Use does not create a sub-award relationship.

Records Retention

Q 22. What particular documents must CMF Awardees maintain on-site for site reviews?

A: All Awardees are required to maintain on-site and be prepared to furnish to the CDFI Fund, if requested, documentation demonstrating program compliance with includes, but is not limited to, the following documents:

- Documentation that demonstrates compliance with and maintenance of the affordability requirements. Such documentation may include: records restrictions or covenants in the title or deed of the property in question that stipulate that it be used solely for the purposes of Affordable Housing, rental agreements that establish rents charged to tenants, and any other relevant written agreements that demonstrate affordability restrictions on the property. Such documentation must also confirm the incomes of all tenants living in rental housing units that are designated as affordable.

- Documentation that establishes adherence to all relevant environmental regulations pertaining to CMF-funded projects.
- Documentation that establishes homeowners' family income.
- Loan Guarantee agreements.
- Risk-Sharing Loan agreements.
- Documentation that establishes the CMF-funded housing meets the property standards requirements set forth in 12 CFR 1807.503.
- Documentation that establishes Commitment for use, an initial disbursement for Affordable Housing Activities, and Project Completion.
- Documentation evidencing Eligible Project Costs and that the CMF-funded housing meets the targeted incomes and geographies set forth in Section 5.1(c) of the Assistance Agreement.
- Any documentation not listed above that supports the data submitted in the Awardee's annual reports.

Reporting Requirements

Q 23. Will the CDFI Fund develop standardized reporting forms for Awardees to submit as annual reports?

A: Yes. The CDFI Fund will develop a standardized CMF Activities Report that each Awardee will submit to the CDFI Fund, in accordance with Schedule 6-A of the Assistance Agreement. The report is under development and a draft of the underlying data points has been posted to the CDFI Fund's website (<http://www.cdfifund.gov>). Awardees will also complete and submit the A-133 Narrative Report through their myCDFI Fund account.

Q 24. How often are CMF Awardees required to submit reporting documentation to the CDFI Fund and particular documents must CMF Awardees submit?

A: To properly monitor CMF Awardees, the CDFI Fund will collect an Annual Report consisting of the Financial Report, the A-133 Narrative Report, the A-133 Audit Report (if applicable), and the CMF Activities Report to be designed by the CDFI Fund. Reporting requirements are listed in Schedule 6-A of the Assistance Agreement and report due dates are listed in Schedule 6-B of the Assistance Agreement. In addition, Awardees are required to retain for audit documentation that the CMF funds have been Committed for use within two years of the Effective Date. Evidence of Commitment includes a written, legally binding agreement under which CMF assistance will be provided to the developer or project sponsor for an identifiable project.

Each CMF Awardee must submit all reports (except the A-133 Report, if applicable), six months after the end of its fiscal year. For example, Awardees with a fiscal year ending 12/31/2011 are required to submit the reports by 06/30/2012. If Awardees determine that it must submit an A-133 Report to the CDFI Fund, then it is due nine months after the end of its fiscal year. For example, Awardees with a fiscal year ending 12/31/11 will be required to submit the A-133 Report by 9/30/12.

Q 25. Would an Awardee be fulfilling its obligations under Section 5.4 if it obtained a certification from the borrower/developer **on an annual basis** that the developer/borrower has examined tenant(s) income, that the housing adheres to the applicable jurisdiction's maximum monthly allowances for utilities and services, and that any increase in rents adheres to the rent limitations and notice requirements set forth in 12 CFR Section 1807.401(a) and (e)? What supporting documentation is acceptable to the CDFI Fund?

A: You may delegate collection of tenant or homeowner compliance information to a third party, such as a property manager; however, the Awardee remains responsible for submitting to the CDFI Fund evidence of compliance with the requirements of the Assistance Agreement and CMF Regulations.

Q 26. What is the Transparency Act and what does it require of CMF Awardees?

A: Open Government is an initiative to increase the availability of information related to Federal spending by increasing transparency and improving access to Federal government information. As required by the Federal Funding Accountability and Transparency Act of 2006 (the "Transparency Act" or "FFATA") and its 2008 amendments, all Federal agencies must report their financial assistance activities on a public website, USASpending.gov, in order to provide the public with greater access to information about Federal spending. USASpending.gov displays data about prime awards, including contracts, grants, loans, awards, cooperative agreements, and other forms of Federal financial assistance reported by agencies, including the CDFI Fund. Federal grant awardees have requirements to report first-tier subaward and executive compensation information, as prescribed below:

- **Executive Compensation Reporting:** Report on the compensation of the five most highly paid people within the Awardee's organization if:
 - the total Federal funding authorized under this award is \$25,000 or more;
 - in the preceding fiscal year, the Awardee received:
 1. 80 percent or more of annual gross revenues from Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320; and
 2. \$25 million or more in annual gross revenues from Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320; and
 - the public does not have access to information about the compensation of executives through periodic report filings.
- **Subaward Reporting:** Per the terms and conditions of the Assistance Agreement, CMF Awardees are prohibited from subawarding their awards, so this reporting requirement is not applicable.

Q 27. On the Transparency Act Executive Compensation requirements, can we use the same information filed with our Form 990, if we have one?

A: Yes. If the information is publicly available through the 990, then Awardees do not have to provide additional information under the Transparency Act.

Q 28. Where and when do I report executive compensation?

A: Awardees must report executive compensation as part of their registration profile at <http://www.ccr.gov>. This information must be reported by the end of the month following the month in which the award is made, and annually thereafter

Restrictions and Requirements

Q 29. Are Awardees bound to the targeted states designated in their application?

A: If an Awardee in its Application designated itself as a national entity and it listed its top seven states, it is not bound to those states and can use the CMF award in any state in the U.S. However, if an Awardee designated itself as a regional or local entity, then its use of CMF award dollars is restricted to the states that it listed in the application, which will also be identified in Section 3.2(a) of the Assistance Agreement.

Q 30. Are there any limitations with respect to using CMF awards in conjunction with other CDFI Fund program awards?

A: Limitations with respect to use of CMF awards with other CDFI Fund program awards are described in the applicable Notices of Funds Availability (NOFAs) and/or Notices of Allocation Availability (NOAAs) related to those programs.

The CDFI Fund wants to ensure that those CMF Awardees, and any of its Subsidiaries or Affiliates, that are prior Awardees/Allocatees under any other CDFI Fund programs don't receive funding for activities that are the same for which the Awardee received an award under another CDFI Fund program. For the FY 2010 funding round, the CDFI Fund has interpreted this prohibition on a project or property basis. This rule is intended to prevent Awardees from using their CMF award on projects, when measured in terms of Eligible Project Costs, which consists of funds from CDFI Fund programs other than the CMF. This restriction is in place to prevent Awardees from receiving double-funding from the CDFI Fund for the same project or property.

Q 31. Are Awardees of CMF funds subject to Davis-Bacon wage requirements?

A: No, CMF Awardees are not subject to Davis-Bacon wage requirements regarding the use of CMF funds. However, other federal program funding contributed to a project may trigger Davis-Bacon requirements for the entire project. Awardees are advised to independently review the requirements for all sources of federal funding.

Q 32. Can we modify our projects and or use of funds as long as it is permissible under the CMF program regulations and the Assistance Agreement?

A: Yes. The description of your pipeline in your Application was not binding and new types of projects can be considered so long as they meet the program requirements in the Interim Rule, authorizing statute and Assistance Agreement. Similarly, you may deploy the CMF awards for any of the eligible uses provided for in the regulations and the Assistance Agreement, even ones that weren't necessarily contemplated or discussed in the Awardee's Application.

Q 33. Can the Awardee use the CMF award directly for the Affordable Housing Activities if it is the project developer?

A. No, the award must be used for an Eligible Use set forth in 12 CFR 1807.301, which must then support Affordable Housing Activities by a separate legal entity (which may include the Awardee or a third-party). For example, if an Awardee is a developer of affordable housing, it may not directly invest CMF award dollars into a project; rather, it must first identify an Eligible Use of such funds (e.g., to capitalize an Affordable Housing Fund), and then may use such funds to invest in one or more qualifying projects.

Q 34. Can CMF awards be used for expenses that pre-date the Effective Date of the Assistance Agreement?

A: Reimbursement of expenditures made with the Awardee's own capital (including repayment of bridge loans) for Eligible Uses is allowed when the costs were incurred after the date of the Notice of Award (NOA). Such expenditures must otherwise meet the requirements of the CMF Regulations and Assistance Agreement. The Awardee may not use CMF funds to pay for any expenses incurred prior to the date that the CDFI Fund issued the NOA.

Timelines

Q 35. What are the key timelines for deploying CMF award dollars and reporting activities to the CDFI Fund?

A: Awardees shall be required to report information to the CDFI Fund on an annual basis for the life of their Assistance Agreement.

As specified in Article IV of the Assistance Agreement, Awardees are required to: (i) Commit the CMF award dollars for eligible uses within two years after the Effective Date of the Assistance Agreement; (ii) begin disbursement of CMF award dollars towards eligible activities within three year after the Effective Date of the Assistance Agreement; and (iii) demonstrate that all projects funded with CMF award dollars have been completed and placed into service within 5 years after the Effective Date of the Assistance Agreement.

In addition, per Section 5.4 of the Assistance Agreement, Awardees are required to ensure that the housing units funded or otherwise supported with CMF award dollars shall be affordable to Eligible Income families for a period of no less than ten years, beginning after Project Completion.

Q 36. 12 CFR 1807.503 states that once a CMF-funded project has been completed, it must be *placed into service* by the date designated in the Agreement. What does “placed into service” mean, particularly with respect to non-housing activities?

A: In the case of Economic Development Activities, a certificate of occupancy and completion of permanent financing meets the requirement of 12 CFR 1807.507 that the project be placed into service by the Project Completion date designated in the Assistance Agreement.

Q 37. Who should I contact if my question is not addressed in this FAQ or in the CMF guidance on the CDFI Fund website?

A: Please direct all questions that are not compliance-related to the CMF Program Manager at dworkind@cdfi.treas.gov / 202-622-9082

Please direct all compliance questions to the CCME helpdesk at ccme@cdfi.treas.gov / 202-622-6330.

All capitalized terms used herein are defined as set forth in the Interim Rule, the NOFA, and/or the Assistance Agreement.