COMMENTS OF ROC USA™

Capital Magnet Fund

Housing and Economic Recovery Act of 2008

The following comments of ROC USA pertain to preservation of this nation's 3.5 million manufactured homes in land-lease communities which currently make up the largest source of UNSUBSIDIZED AFFORDABLE HOUSING.

(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?

> Affordability - a reasonable standard for ensuring funds are used to serve primarily lower-income populations is to require that at least 75% of the homes financed by a grant recipient serve households with annual incomes of 80% or less of the area median income, or that the recipient demonstrate that the communities in which the projects financed or developed are located meet one.
>
> But, regardless of what definition the CDFI Fund should adopt, it should include:
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> "with regard to funds used for preservation of existing affordable housing, the existing housing and housing stock in which persons of low and moderate income currently reside and find affordable and may be preserved long term and improved in quality and affordability by such program, without, in the case of multi-family properties, significant benefit to persons not falling within such definition"

The period of the restrictions should be for as long as legally feasible, but only apply to the person, property or interest in an entity that is the direct recipient of the loan. For example, when a cooperative entity of homeowners in a manufactured home community form a cooperative to borrow funds to buy their MH community to preserve the land beneath their homes, their interest in the cooperative should be capped and their ability to gain from any sale of the assets and dissolution of the entity capped as well. The home which they previously owned without subsidy, should not. Therefore, homeowners may form a limited or zero equity cooperative with enforceable dissolution constraints, to acquire but they will not be forced to restrict equity of their homes.

(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.)?

A reasonable restriction would be that there be no more than 25% of the housing units are occupied by persons who do not qualify as low to moderate income, or an enforceable plan to achieve a reduction in incidental benefit to non-qualifying individuals within a reasonable time frame. This would allow homeowners in a manufactured home community to sell vacant homes or units previously used by the community owner to qualifying individuals to reduce their overall percentage of incidental benefit.

(c) How should ``preservation'' be defined, as such term is used in Section 1339(c)(1)? Should it include the refinancing of single or multifamily mortgages as eligible activities?

<u>Preservation</u> –should be defined to include refinancing of single-family or multifamily mortgages, as well as mortgage loans on resident-owned manufactured home communities, to the extent that such refinancing results in maintaining or extending the term of any affordability covenants on the properties financed.

Refinancing is a legitimate method by which to achieve affordability SO LONG AS the affordability achieved can be reliably maintained, or if it has a demonstrable or historical effect of preventing the gentrification or loss of the current use of the property as affordable to low and moderate income property. It should include the refinancing and the acquisition by former "tenant" and tenant homeowners.

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

"Any repairs and or capital improvement that contribute to the long-term preservation, current building code compliance, habitability, sustainability, energy efficiency or suitability of the housing to the particular needs of the current or intended residential population."

(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)?

Economic and community services which are:

1. Essential to the development and ongoing support of the housing, such as technical assistance and management support, or
2. Incidental to but inseparable from the affordable housing, such as a laundry facility which is also open to and essential to the greater community, open to the public and income generating, or
3. Is a key marketing element of the housing and or community or provides important "point=of-service" convenience or which add to overall quality of life or reduction of the income burdens to the low-income homeowners, such as clinical health facilities, or collective-group buying of essential consumer goods and services,

(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?

(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?

See answer to (i) above.

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

"Principle purpose" should be defined as being one of the purposes for which the entity received its 501© 3 recognition or one of the program areas listed in its 990, part _____, or a program at least 20% percent of their resources have been dedicated or from which its revenues have been derived in the last 5-years of it operation, or since formation if in operation for less than 5-years.

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?

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(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)?

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

Bi-annual

(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?

The applicant should show evidence of past performance which would indicate ability in each area and in the program area for which it has currently applied or show appropriate partnership with a group who can show such history of performance.

(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?

Since these areas are mandated in the statute they should be weighed more heavily.

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-incomee 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)?

It is time to broaden the definition of “economic distress” beyond a single economic factor of income and look at:

the economic factors placing pressures on particular sections of the housing sector which are vital to low-income persons and prioritize efforts to reform and or preserve the housing stock for low-income persons,

look at where low-income persons who have assets and how and when those housing assets are placed at risk of loss or subject to predation.

look at proven methods of achieving sustainable, long-term preservation of affordable housing.

These priorities will necessarily lead to a focus on the preservation and improvement of manufactured housing in MH communities.

(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)?

[see above at A(1), this factor should be evaluated in the context of the housing sector]

(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)?

[see above at A(1), this factor should be evaluated in the context of the housing sector]

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

[see above at A(1), this factor should be evaluated in the context of the housing sector]

(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)?

[see above at A(1), this factor should be evaluated in the context of the housing sector]

(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.

An extremely important focus for the fund should be preserving the homes that the vast majority of low-income homeowners already own but are in risk of loosing. A focus on preserving and improving the 50,000 manufactured home communities across the country that are home to over 3.5 million American families. These communities are predominantly located in rural areas, and are almost by definition "distressed" communities because the homeowners who live in MHCs do not control the land on which their homes sit. Rather, the land is owned by third party investors. These homeowners lack access to conventional fixed-rate home mortgage loans because their tenure on the land on which their homes sit is governed by a short-term lot lease. Personal property or "chattel" loans are used to finance these homes at high interest rates and often with balloon payment terms. These homes depreciate in value because homeowners have no security of tenure and no control over the delivery of essential services to support a healthy and vibrant community. A rash of recent high-profile closure of MHCs has brought to light the particular economic distress homeowners in land-lease communities face as the land on which their homes sit have been converted to other uses.

The CDFI Fund has recognized this issue and resident ownership as a viable preservation model , having published in 2008 the report entitled: The Experience of New Hampshire Community Loan Fund in Mainstreaming Acquisition Loans for Cooperative Manufactured Home Communities. Among this report's key findings from interviews of bankers who had made loans to resident-owned MHCs was that bankers would continue to make these loans because MHCs generate strong cash flow and the resident ownership model in New Hampshire had built in strong long-term support for borrowers.

(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).

Rural Areas - There are several definitions of "rural areas" in HUD and USDA housing programs. We recommend a flexible definition that recognizes that many "urban" counties include rural communities of much smaller size than the metropolitan area that defines the county as "urban" or "metropolitan". Thus, we believe any definition of rural should include communities within "urban" counties or MSA's that have less than 20,000 people and are more than 20 miles from the city or cities that make the county "urban".

(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?

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''?

A. Leverage of Funds - The 10:1 leverage ratio of "total aggregate costs" should be measured on a collective basis, rather than on a project-by-project basis, both for CDFIs making financial investments in projects sponsored by others and for direct development organizations sponsoring their own projects. We believe this to be prudent for the simple reason that both CDFIs, as lenders, and developers of affordable housing and other economic development projects in underserved communities often take on small projects that require 100% financing from a single source to be feasible. The leverage test of the Capital Magnet Fund should be focused on the entire business to which the grant is awarded. CDFIs, and many affordable housing development organizations, are well known for achieving strong leverage across their portfolios. So, perhaps a two-part test is in order. If a recipient of a Capital Magnet Fund grant proposes to use the grant to fund a project, or financial investment, for which the grant will represent more than 10% of the "total aggregate cost", then the recipient should be required to demonstrate on a portfolio-wide basis that the 10:1 leverage ratio is being met.

   As one of the fundamental purposes of the Capital "Magnet" Fund is to attract private investment capital to underserved areas through the activities of CDFIs and other nonprofit organizations, the leverage test is critical to the program's success. The 10:1 leverage requirement is not too onerous for most CDFIs and seasoned affordable housing and community facility developers. However, it may be too restrictive to require a recipient to demonstrate the 10:1 leverage ratio on a project-specific basis.

   The funds leveraged, however, should represent new capital secured no earlier than 18 months before approval of the Capital Magnet Fund grant and no later than 12 months after approval of the Capital Magnet Fund grant. We don't believe the purpose of the Capital Magnet Fund is served by CDFIs or others using longstanding capital assets as sources of demonstrating that the grant from the Capital Magnet Fund is attracting new private investment.

(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)?

(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)?

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 CDFJ Fund welcomes comments regarding how the term ``committed'' should be defined, and how it can be verified, for the purposes of this requirement.

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 CDFJ 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/end users?

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?

(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?

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

(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?

General Comments

The Fund is interested in comments regarding the types of affordable housing projects or activities for which applicants anticipate applying under the Capital Magnet Fund. Please detail the specific activity (development, preservation, rehabilitation, purchase, etc.), the populations served by this activity, the applicant's role in the activity, the sources of finance used to complete each activity, and the preferred time frame of grants received under the Capital Magnet Fund.

ROC USA, LLC is a national social enterprise focused on preserving and improving the 50,000 manufactured home communities across the country that are home to over 3.5 million American families. These communities are predominantly located in rural areas, and are almost by definition “distressed” communities because the homeowners who live in MHCs do not control the land on which their homes sit. Rather, the land is owned by third party investors. These homeowners lack access to conventional fixed-rate home mortgage loans because their tenure on the land on which their homes sit is governed by a short-term lot lease. Personal property or “chattel” loans are used to finance these homes at high interest rates and often with balloon payment terms. These homes depreciate in value because homeowners have no security of tenure and no control over the delivery of essential services to support a healthy and vibrant community. A rash of recent high-profile closure of MHCs has brought to light the particular economic distress homeowners in land-lease communities face as the land on which their homes sit have been converted to other uses.

At ROC USA, LLC, we believe homeowners living in manufactured home communities truly represent a special population facing ongoing economic distress. However, we also believe a straightforward solution exists to preserve and improve these communities --- resident ownership. ROC USA is leading a coordinated national effort to transform the MHC sector through resident ownership [again, see CDFI

Fund 2008 the report entitled: The Experience of New Hampshire Community Loan Fund in Mainstreaming Acquisition Loans for Cooperative Manufactured Home Communities.] ROC USA is the national social enterprise developed by The New Hampshire Community Loan Fund, CFED, NCB Capital Impact and NeighborWorks America to bring to scale across the country the solutions that have been demonstrated through resident-owned MHCs in New Hampshire.

ROC USA Capital is the lending arm of ROC USA, LLC and is seeking certification as a CDFI through the Fund. We believe ROC USA Capital will be a strong candidate for funding through the Capital Magnet Fund for the following reasons:

a) Our loan products achieve the 10:1 leverage goals established for the Fund;
b) Our work is focused in distressed communities in underserved rural areas;
c) Affordable housing preservation is at the heart of ROC USA's mission and lending activity and
d) Our work addresses a population facing significant economic distress as land tenure and homeownership become aligned through resident ownership of MHCs, enabling the full benefits of homeownership to be delivered including the potential for wealth creation.

For these reasons, we believe preservation of manufactured home communities should be a priority for the Capital Magnet Fund as both a large source of unsubsidized affordable housing in rural areas and a solution to economic distress for a particularly disadvantaged population of lower-income homeowners.

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Donna J. Gambrell.
Director, Community Development Financial Institutions Fund. [FR Doc. E94648 Filed 3509; 8:45 am]
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FOR FURTHER INFORMATION CONTACT

Information regarding the CDFI Fund and the Capital Magnet Fund may be downloaded from the CDFI Fund's Web site at http://www.cdfifundgov.