



# Capital Magnet Fund Recipient Training

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## Rental Housing

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND

[www.cdfifund.gov](http://www.cdfifund.gov)

# Training Goals



At the conclusion of the webinar, Recipients will understand the basic information related to financing Rental Affordable Housing using the Capital Magnet Fund Award:

- Typical Rental Housing Project Lifecycle under the CMF Program
- Environmental Review
- Commitment
- Disbursement
- Recording Affordability Restrictions
- Project Completion and Placing Projects into Service
- Occupancy and Affordability

# Assistance Agreement is Your Contract



- The Assistance Agreement is a binding legal contract.
- By signing the Assistance Agreement, you agree to its terms and conditions and the requirements of the CMF Interim Rule (12 C.F.R. 1807).
- The specific Performance Goals in the Assistance Agreement may be different than what was proposed in your Application.
- **Caution:** Do not assume that everything proposed in your Application is permissible under the Program rules. Not sure?...Please ask us for guidance!
- 2020 Assistance Agreement ≠ 2019 Assistance Agreement
- This presentation is NOT a substitute for reviewing the Assistance Agreement.
- The order of the presentation slides follows the typical Project lifecycle.

\*\* Capitalized terms in the presentation are defined in the CMF Interim Rule and/or the Assistance Agreement

# Rental Housing Lifecycle



# Environmental Review Notification Report



- For each Project be sure to complete and keep on file a copy of the Environmental Review Notification Report.
  - If the Recipient determines that no “Categorical Exclusion” applies, the CDFI Fund must conduct an Environmental Assessment (EA). (Notify the CMF Program as soon as possible and prior to investment – EAs can take many months to complete.)
  - Categorical Exclusion or CDFI Fund EA determination is required prior to disbursement of the CMF Award in each Project.
  - Recipients must complete assessment for Categorical Exclusion prior to issuance of a commitment.

# Commitment



Commitments have four key elements:

1. Written;
2. Executed;
3. Legally-binding; and
4. Made to a third-party developer or project sponsor

Associated Requirements:

- 100% of CMF Award must be Committed for use by the two year commitment date!
- Retain an executed copy of the commitment agreement for possible CDFI Fund review.
- Assistance Agreement requires a written agreement expressly authorizing the CMF grant to only be used for Eligible Project Costs. Commitment agreement can be used for this purpose.

# Commitment (Continued)



- A valid Commitment requires that the Recipient be able to demonstrate for each project that:
  - It expects construction to start within 12 months, or
  - Property title transfer within 6 months, or
  - Project Completion within 5 years of Assistance Agreement Effective Date.
- If there is no counterparty, the Recipient may use the guidance on alternative forms of commitment. See Section 4.2 of the Assistance Agreement and the [Guidance on Commitment Counterparty Waiver](#) under the Compliance Resources section for the CMF Program on the CDFI Fund website.

# Commitment Best Practices



1. Explicitly state that CMF dollars are being Committed.
2. Include statement that CMF assistance requires 10-year Affordability Period & Recipient access to records for reporting purposes.
3. State any planned restrictions on affordability of units in the commitment – e.g. 10 units restricted at Very Low-Income (VLI).
4. Clearly identify the Project being financed (XYZ Project located at 123 Main Street, Manchester, VT 05253)
5. Include the date of the commitment.
6. If not using the counterparty waiver, have the commitment counter-signed.



# Disbursement



See Section 3.2(i) & 4.4 of the Assistance Agreement:

- Recipients must disburse at least a portion of the CMF Award (not Leveraged Costs) to at least one Project within 3 years of the Effective Date.
  - Disbursements to every individual Project are not required by this date.
  - Recipients have until the Project Completion date to fully disburse the CMF Award (100%) into the CMF Projects.
  
- When CMF Award is used for Loan Loss Reserve or Loan Guarantee, initial disbursement occurs when the loan or associated loan is closed and the associated Loan Loss Reserve or guaranty funds are designated for that purpose within a system of record (accounting system).

# Project Completion



See 12 CFR 1807.503 and Assistance Agreement Section 3.2(j)

- Project Completion occurs for each Project on the date when:
  - Necessary titles are transferred and all construction work is complete, and
  - Property standards are met (see CMF Interim Rule), and
  - The final drawdown of CMF Award to the Project has occurred.
  
- For a Preservation Project (i.e. Refinancing or acquisition w/o Rehabilitation), if above requirements are met initially, the Project Completion date is the same as the closing date of the financing.

# Project Completion - Things to Know



- Achieving Project Completion starts the clock for ensuring the property is Placed into Service and achieves Initial Occupancy in the required timeframes.
- Be sure that all parties are aware of regulatory property standards. Overlooked requirements could be costly to fix!
- If you finance the acquisition of a rental property for which there is no current data on tenant income or that will potentially have over-income tenants, you will need to manage tenancy so that Initial Occupancy is achieved on time. Ask for technical assistance early as you consider these investments.
- As a general rule, Recipients will typically use the date an occupancy permit was issued or date of final construction inspection as the reported Project Completion date.

# Initial Occupancy



- When does Initial Occupancy Start?
  - When at least ninety percent (90%) of all CMF-financed and/or supported units within the property are occupied.
  - Must occur within 12 months of the Project Completion date.
  - Often simultaneous with Project being Placed into Service.
  
- The Initial Occupancy date starts the 10-year Affordability Period.

# Affordability Period



See 12 CFR 1807.400-401 and Sections 5.1, 5.2, 5.5 in the Assistance Agreement:

- Each Project has its own 10-year Affordability Period.
- Once the number of units for each income category are designated for a Project, these numbers cannot be changed.
  - Units in each specific Project may have fixed or floating affordability.
  - Recipients must ensure that qualified Families occupy designated units – e.g., Very Low-Income Families occupy Very Low-Income designated units.
  - Be familiar with occupancy rules regarding increases in Family income.
  - Seek technical assistance when there are questions!
- CMF Project owners cannot refuse to rent to Section 8 voucher holders.

# Affordability Period (Continued)



- Tenant Family incomes must be verified for eligibility annually.
  - Recipients must use a validation process to verify a Family's income meets the requirements of 12 CFR 1807.401(f).
  - The CDFI Fund requires your process to include assessment of Family income based on written documentation from "third-party" sources (e.g. tax returns, benefit statements, pay stubs, etc.)
  - It is your responsibility to ensure that property owners and agents adhere to the CMF rules regarding over-income tenants.
  - See CMF Program Compliance webpage resources and ask for technical assistance regarding income qualification as needed.

# Placed into Service



See Section 2.20 and 3.2(k) of the Assistance Agreement.

- Placed Into Service - Each rental Project must have a certificate of occupancy (or equivalent) and be otherwise ready for occupancy within 6 months of the Project Completion date.
- Placed into Service date may be the same as the Project Completion date, but in other cases there may be a delay (e.g. getting a new construction project leased up).

**Tip:** Use the Placed into Service milestone to ensure tenant income data collection procedures are in place, rents meet income limits, and other standards related to tenancy are established.

# Recorded Mechanisms for Affordability Period



See 12 CFR 1807.401(d) & Section 5.2(g) of the Assistance Agreement.

- A recorded deed restriction, land covenant, or other recordable mechanism must be in place prior to the Initial Occupancy date for each rental Project.
- This recordable mechanism shall impose the affordability restrictions outlined in 12 CFR 1807.401 and Assistance Agreement for at least 10 years.
- Restrictions cannot be removed due to a change in property ownership, loan repayment, etc.
- The CDFI Fund may request an opinion regarding enforceability of the recordable mechanism.

Why does the CDFI Fund require recorded restrictions? Affordability restrictions protect Recipient/CMF Program interests in the event of a sale or refinancing and promote market transparency.



# Best Practices for Recorded Mechanisms



- Consider detailing # of units restricted by income category and all affordability requirements in Section 5.1 & 5.2 that apply at the project level – e.g. utility allowances, non-discrimination, over-income management.
- Include provision to require annual collection of tenant income data – by property owner and/or agents.
- Consider mechanisms for managing disputes/affordability standards and enforcement in this document. Loan agreements and contracts that impose standards may not survive a sale or refinancing.
- Affordability requirements are not required to survive in the event of foreclosure.

# Contact Info & Support



## Help and Resources

- **AMIS User Guide:** A step-by-step AMIS User Guide can be found on the AMIS homepage at <https://amis.cdfifund.gov/s/AMISHome>

For the best service, the CDFI Fund recommends submitting a Service Request in AMIS. Select “Capital Magnet Fund” for Program and clearly indicate the issue in the subject line.

Contact Information		
Type of Question	Telephone	Email
Award Support	202-653-0421	<a href="mailto:CMF@cdfi.treas.gov">CMF@cdfi.treas.gov</a>
AMIS Support	202-653-0422	<a href="mailto:AMIS@cdfi.treas.gov">AMIS@cdfi.treas.gov</a>