July 16, 2021

Ms. Marcea Barringer
Senior Policy Analyst
Federal Housing Finance Agency
400 Seventh Street, S.W., Eighth Floor
Washington, D.C. 20219

RE: Duty to Serve 2022-2024 Request for Information

Dear Ms. Barringer:

The Local Initiatives Support Corporation (LISC) appreciates the opportunity to provide comments on the Federal Housing Finance Agency's (FHFA) request for information on Fannie Mae and Freddie Mac's 2022-2024 Duty to Serve (DTS) plans.

Established in 1979, LISC is a national nonprofit housing and community development organization dedicated to helping community residents transform distressed neighborhoods into healthy and sustainable communities of choice and opportunity. LISC mobilizes corporate, government, and philanthropic support to provide local community development organizations with loans, grants, and equity investments; as well as technical and management assistance. Our organization has a nationwide footprint, with local offices in 37 cities. LISC invests approximately $2 billion each year in these communities. Our work covers a wide range of activities, including housing, economic development, building family wealth and incomes, education, and creating healthy communities.

I) General Comments

LISC strongly supports the efforts of Congress and FHFA to expand the mission and regulation of the Government Sponsored Enterprises (GSEs) beyond the affordable housing goals that have been in place since 1992. LISC provided comments in 2020 on Duty to Serve plan modifications and extensions; in 2017 on the GSE's proposed Underserved Market Plans; in 2016 on the DTS Notice of Proposed Rulemaking; in addition to comments in 2009 and 2010. We applaud the thoughtful and creative work which has been done to date, particularly with affordable housing preservation programs.

LISC believes that the Duty to Serve effort should focus primarily on supporting and expanding transactions that improve affordable housing opportunities in underserved geographies and for low-income populations. The efforts of the GSEs pursuant to their Duty to Serve should be evaluated by the extent to which they facilitate *more* transactions to create or preserve these types of housing opportunities, particularly for households at the lowest end of the income spectrum. Unfortunately, many of the activities in the GSE's proposed plans fall short of that standard since they provide *less* support than the previous three year cycle.

DTS requires the GSEs to develop loan purchase pilot programs, which are the essence of the DTS mandate to create new markets. *We are concerned though that it won't be possible for the Enterprises to* *create DTS pilot programs under FHFA's proposed New Products rulemaking, which was initiated under the previous FHFA Director. LISC encourages FHFA to not finalize this regulation without substantial changes that encourages the GSEs to reach underserved markets through pilots, which post minimal safety and soundness risks.*

The outreach of the GSEs and FHFA in developing the DTS plans has been commendable, and LISC believes the types of transactions that will expand choice and opportunity for underserved areas and low-income households are often smaller, more labor-intensive, and have different risk profiles than is typical in conventional mortgage underwriting. Community development financial institutions (CDFIs) have worked in underserved communities for many years and have first-hand knowledge of local markets and partners. We are adept at mitigating the risks that are often inherent in investing in them. With our strong loan portfolios, CDFIs are natural partners for leveraging the GSEs liquidity and expanding responsible investment in these markets. *Beyond working with CDFIs for loan purchase and technical assistance activities, LISC recommends FHFA determine whether the GSEs can make equity or equity like investments in CDFIs through their DTS authority*. *Equity capital is critically important for CDFIs to be able to tackle some of the most challenging affordable housing problems in our nation. A plain reading of the authorizing statute for DTS indicates the GSEs have such authority and LISC encourages FHFA release to the public a legal determination on this issue. LISC recommends that the GSEs update their DTS plans to include additional CDFI investment activity if FHFA determines it's eligible.*

Investment activities are currently a small portion of DTS activities although since 2017, FHFA has allowed each GSE to invest $500 million annually in LIHTC projects. Any investments above $300 million in a given year are required to be in areas that have been identified by FHFA as markets that have difficulty attracting investors. These investments are designed to preserve affordable housing, support mixed-income housing, provide supportive housing, or meet other affordable housing objectives. *LISC recommends that FHFA adjust the current GSE LIHTC cap by at least an inflationary factor and that a portion of this extra investment authority be dedicated to underserved LIHTC markets, such as rural projects. These investments should also be eligible for DTS credit. This will allow the GSEs to increase their investment activity for projects difficult to finance and is especially important as Congress has recently expanded the LIHTC through the establishment of a 4 percent floor for bond financed deals and provided $2 billion in disaster Housing Credits. In addition, Congress is currently considering a further expansion of the program, which will increase the need for additional investment capital.*

LISC notes that it is challenging to review and make recommendations to FHFA on the GSE's DTS plans due to a lack of information on how activities are counted, a lack of standardized reporting between the GSEs, and insufficient public information on appropriate baselines. For instance, many LIHTC properties also have Section 8 subsidy, soft sources from state and local housing trust funds, and include inclusionary zoning units. This is due to how affordable housing is financed, since projects often require multiple capital and operating subsidies. For DTS purposes, it's unclear if a project would meet multiple activities if it met numerous DTS requirements or if only one activity is counted based on a GSE or FHFA determination. Related, stakeholders are not able to discern if FHFA only counts units supported by relevant programs (inclusionary zoning, Section 8, etc.) or if a whole building is counted if a portion of the units include relevant DTS activities.

The DTS plans for the GSEs do not include standardized methodologies for their goals since some use unit counts while others count loans for their quantitative goals. In addition, it's difficult to understand what appropriate baselines for each goal should be since public stakeholders aren't able to discern the overall market for many of the proposed activities. *LISC recommends that FHFA explain to the public how DTS activity is accounted for in public reporting and standardize goals between the GSEs as much as possible. In addition, we recommend that plans include information on the current market for each activity, so stakeholders are better able to discern the appropriateness of proposed baselines. Lastly, we* *encourage FHFA to release its ratings of the GSE's previous DTS plan activity since this information is not currently available.*

We note that some activities from the first DTS plan cycle are not included in the proposed three year plan. This includes manufactured housing chattel loans, small multifamily loan purchases in rural areas, and others. *FHFA should require the GSEs to publicly state in their DTS reporting why activities from previous cycles are not included in future plans, so the public has an understanding of the challenges and can work to address them. FHFA should also mandate the GSEs address how they will continue to support these underserved markets outside of the DTS program.*

Finally, LISC notes that many, if not all of the DTS activities, disproportionately impact racial and ethnic minority households. *While the authorizing statute for DTS does not require FHFA or the GSEs to address such issues, LISC encourages FHFA to explicitly incorporate racial equity components in all relevant DTS activities and reporting. This should include providing the public with disaggregated reporting and supporting research that shows how the DTS activity affected racial and ethnic minorities.*

II) Specific Comments

LISC's specific comments focus primarily on affordable housing preservation, which is a critical component of our broader strategy for community revitalization and economic mobility. LISC supports affordable housing preservation activities through technical assistance activities in our national footprint and through our financing activities and those of the National Equity Fund (NEF), our nonprofit LIHTC syndicator affiliate.

A) Fannie Mae

1) USDA Section 515 Rural Rental Housing Program

Fannie Mae has proposed both investment and technical assistance goals for preserving properties financed under the USDA Section 515 Rural Rental Housing Program (**FN_AHP_Sec 515_1: Promote Greater Preservation of USDA Section 515 Properties through Loan Purchases**). The proposal sets a goal of purchasing at least six loans secured by Section 515 properties in fiscal year 2022 with a 15 percent adjustment factor for the remaining two years.

We appreciate Fannie Mae's focus on preserving Section 515 properties since these are critical housing resources in rural communities. However, their commitment of six loan purchases represents just a very small portion of the Section 515 portfolio. There are over 13,000 Section 515 properties, providing over 415,000 units of affordable homes to low-income residents in rural areas. These resident populations include some of our nation's most vulnerable citizens, with the majority of units occupied by low-income older adults and person with disabilities. Many of these properties are old, with nearly 90 percent over 20 years old, and half over 30 years old[1]. Many of the at risk properties have large capital needs and limited ability to access debt due to cash flow challenges.

LISC is concerned about the current loss of Section 515 properties and the coming wave as mortgages mature. For instance, there are over 5,000 properties under the program that are becoming eligible for prepayment each year during the next 10 years, with a significant increase in annual prepayment eligibility beginning in 2028. LISC testified before the House Financial Services Committee on legislation that would provide USDA new authorities and resources to help preserve this housing and we actively work on preservation financing through NEF and our Rural LISC team[2].

[1] http://www.ruralhome.org/storage/documents/publications/rrreports/A_Platform_For_Preservation_EXECUTIVE%20SUMMARY.pdf

[2] https://www.lisc.org/media/filer_public/1a/95/1a950dc4-6612-485b-9c69-77bb856c518c/040219_policy_comments_rural_housing_hfsc_testimony.pdf

While we understand the difficulties of creating a new Section 515 loan purchase product, we encourage USDA and Fannie Mae to continue working through implementation challenges. Previous DTS plans have indicated that USDA's first lien requirement on Section 515 properties to retain the Section 521 Rental Assistance have prevented Fannie Mae from finalizing a loan purchase product. *If Fannie Mae and USDA can work out an agreement, LISC recommends that Fannie Mae revisit its relatively modest Section 515 purchase goals in accordance with the overall amount of properties at risk of losing their affordability restrictions. Fannie Mae should also bring attention of this market opportunity to its lender network.*

Fannie Mae has proposed technical assistance (TA) activities for preserving Section 515 properties (**FN_AHP_Sec 515_2: Support Technical Assistance Programs that Facilitate the Preservation of Section 515 Properties**). Fannie Mae previously partnered with two national nonprofit organizations to deliver TA directly to Section 515 owners and buyers with an affordable mission and preservation focus, including housing authorities, state housing finance agencies, and nonprofit developers. These partnerships resulted in two successful Preservation Academies and two Buyer-Seller Conferences, as well as direct TA to over 30 recipients. *LISC supports Fannie Mae's proposal to continue TA activities and recommends utilizing the results from these efforts when designing their loan purchase product and other assistance activities.*

<u>2) Financing Small Multifamily Rental Properties</u>
Fannie Mae proposes to discontinue their previous DTS goal around purchasing loans for small multifamily rental housing properties in rural areas. The justification provided states that too many factors remain outside of their control, including less experienced property owners, fewer conventional debt sources, and economic fluctuations. Small multifamily properties tend to be older and more affordable and do pose financing challenges due to smaller mortgage sizes, which aren't often profitable for lenders. *LISC therefore recommends that Fannie Mae purchase small multifamily loans from CDFIs financing such properties, especially since many are currently at financial risk due to higher operating expenses and decreased rent collections as a result of the Covid-19 pandemic. Outside of the DTS goal, we recommend that FHFA and Fannie Mae proactively reach out to the CDFI industry to develop a streamlined process for approving CDFIs as DUS lenders so more mission-based lenders participate in Fannie Mae financing*.

<u>3) Preserving Section 8 Properties</u>
LISC supports Fannie Mae's continued role in providing liquidity to preserve Section 8 properties (**FN_AHP_Sec 8_1: Provide a Steady Source of Capital and Liquidity through the Purchase of Loans Secured by Project-Based Section 8 Properties**). Affordable rental housing properties with Section 8 contracts house some of our nation's most low-income and vulnerable residents and are critically important to preserve. Fannie Mae has supported Section 8 capital and liquidity needs since the first year of the DTS plan and proposes to continue this activity, although only at 153 properties each year. *LISC encourages Fannie Mae to revisit the baseline over time since Congress has increased the amount of tenant-based rental assistance due to the Covid-19 pandemic. Many of these sources cannot be project-based although it's possible that future legislation will provide new project-based rental assistance resources, presenting an opportunity for Fannie to scale loan purchase activity. In addition, interest in Section 8 properties has grown since the pandemic due to the strong performance of properties with guaranteed rent revenue.*

<u>4) Low-Income Housing Tax Credit Properties</u>
Fannie Mae has provided LIHTC investments for projects in rural communities since the beginning of the DTS plan cycle and partnered with syndicators to invest in 42 rural properties in 2018, 98 in 2019, and 65 in 2020. Yet Fannie Mae is only proposing to invest in 42 rural properties for each year of the new three

year plan cycle, stating that it is constrained by FHFA multifamily investment cap limits (**FN_R_LIHTC (Rural)_1: Invest in LIHTC Properties in Rural Areas**). The DTS plan notes that the carryover investment cap from 2018 allowed Fannie to invest in 98 properties in 2019 although it's unclear why there's a proposed reduction to only 42 properties going forward. LISC notes that Fannie was able to support 65 projects without using rollover cap authority so would appear able to at least meet that threshold in their new commitments. *LISC recommends that Fannie invest the maximum amount possible in LIHTC properties in rural areas, and this is especially important as Congress considers legislation to expand the program's reach, including in smaller communities.*

Fannie Mae proposes to continue their role in providing liquidity, stability and affordability in the LIHTC market through a focus on loan purchases (**FN_AHP_LIHTC_1: Increase Liquidity to the LIHTC Debt Market by Purchasing Loans Secured by LIHTC Properties**). Fannie though only proposes modest increases over the previous three year baseline and cites a need to take into account risk and market conditions. The LIHTC program is our nation's most important affordable rental housing subsidy source and Housing Credit projects have fared well during the Covid-19 pandemic. *LISC recommends that Fannie Mae revisit their proposed purchase activity so it reflects anticipated market volume, especially as additional LIHTC resources have been provided recently.*

<u>5) Rental Assistance Demonstration</u>
Fannie Mae proposes to continue purchasing loans for Rental Assistance Demonstration (RAD) properties converting to the Section 8 platform (**FN_AHP_RAD _1: Purchase Loans for RAD Properties**). HUD has significantly scaled the number of RAD conversions in recent years, for both public housing conversions and for other legacy federal affordable housing programs such as Rent Supplement/Rental Assistance Program, Section 8 Moderate Rehabilitation (Mod Rehab), and most recently for Section 202 Project Rental Assistance Contract (PRAC) properties. Many RAD properties take on debt as part of their recapitalization efforts and Fannie Mae has slowly built up its relationships with public housing authorities and others and created a small but steady stream of loan purchase activities. Fannie Mae though proposes a three year average that is under their previous DTS plan cycle due to market uncertainties. *LISC notes that HUD has a healthy pipeline of additional conversion opportunities for both public housing properties and other federally supported rental housing such as Section 202 PRAC and Section 8 Mod Rehab properties. In addition, HUD has requested additional RAD authorities from Congress, including expanding the program to Section 811 properties; higher rent setting for Section 202 PRAC properties; and additional Section 18 flexibilities. If enacted, these will allow for more RAD conversion opportunities. Fannie Mae should build on the relationships built during the last three year cycle to increase its RAD loan purchase activity to an amount commensurate with the market opportunities. LISC encourages Fannie to work with HUD to discern the overall market opportunity with RAD conversions during the next three years and set goals according to this data.*

<u>6) Residential Economic Diversity</u>
Within the residential economic diversity activity, Fannie Mae is proposing to support loan purchases on deals that have subsidies from the Section 8 program, LIHTC program, and/or State or Local Affordable programs (**FN_AHP_RED_1: Purchase Affordable Loans to Add Liquidity to the Market in FHFA-Determined, RED-Eligible High Opportunity Areas**). In the previous three year plan, Fannie also included mixed income properties in areas of concentrated poverty. Fannie states it's focusing on preserving properties at risk of converting to market rate housing in higher opportunity communities since these properties provide numerous benefits to lower-income families, including better educational opportunities and access to critical services. Fannie's proposed loan purchase volume is based on their previous three year plan activity and includes modest increases year over year from the baseline. *LISC recommends Fannie Mae revisit these projections during the three year plan due to the increase in affordable housing capital sources from recent legislation and the focus on supporting projects in higher opportunity areas. It's possible that Fannie may be able to significantly exceed the proposed loan*

purchase goals. In addition, LISC recommends Fannie Mae include mixed-income housing properties in areas of concentrated poverty as part of its loan purchase activity goals.

B) Freddie Mac

<u>1) Supporting Single Family Lending in High Needs Rural Regions</u>
LISC supports Freddie Mac's commitment to increasing single family loan volume through CDFIs in high needs rural regions, since many of these areas lack conventional mortgage lenders (**FR_R_HN Reg_B: Develop Product Enhancements to Increase Origination of Conventional Mortgages from Community Development Financial Institutions**). Freddie Mac states it will create a tailored loan purchase production solution to allow at least three CDFIs to sell their loans into the secondary market. The plan states that Freddie Mac will provide technical assistance to help CDFIs implementing this product. *LISC recommends that Freddie Mac expand this offering to other CDFIs and facilitate information sharing if the product is successful in providing liquidity to CDFIs originating mortgage loans in high needs rural areas*.

<u>2) Low-Income Housing Tax Credit</u>
Freddie Mac proposes to continue supporting LIHTC projects in high needs rural regions and populations by investing in transactions commensurate with their previous three year average (**FR_R_HN Reg_D: Engage in LIHTC Equity Investment and FR_R_HN Pop_B: Engage in LIHTC Equity Investment**). Freddie Mac notes the challenges of supporting such deals, including lower equity pricing, differences in Qualified Allocation Plan set-asides for rural communities, and more intensive underwriting. *LISC recommends that Freddie Mac build off the relationships it has established with syndicators and others to increase its investment activity for Housing Credit projects in high needs rural areas and serving high needs populations. These projects not only experience lower LIHTC equity pricing, but also are challenged by fewer other affordable housing capital sources, making transactions more difficult to finance. Freddie Mac is a critical investor for such developments and should build off work since 2017 to scale investment activity commensurate with their LIHTC cap and pipeline.*

LISC applauds Freddie Mac for increasing its LIHTC loan purchase activity (**FR_AHP_LIHTC_A: Provide Liquidity and Stability Through LIHTC Loan Purchases**). In fiscal year 2017, Freddie Mac purchased $3.7 billion (41,926 units) of Housing Credit debt and scaled this activity to $6.5 billion (58,259 units) by 2020. This greatly exceeded their previous three year plan DTS activity goals. Freddie is proposing to purchase loans consisting of 45,000 units and cites as constraints their multifamily cap and increasing development costs, which results in less units for every dollar of Housing Credit loan purchases. *LISC recommends Freddie Mac revisit their proposed loan purchase volume if FHFA increases their multifamily loan purchase cap or if the GSEs have room within the cap for a given fiscal year.*

<u>3) Preserving USDA Section 515 Properties</u>
Freddie Mac proposes to purchase one transaction per year of properties with USDA Section 515 mortgages (**FR_R_MF Prop_A: Purchase Loans to Preserve Properties with USDA Section 515 Debt**). As mentioned previously, USDA and the GSEs must come to an agreement before loan purchase activity can start and scaled. *LISC recommends that Freddie Mac revisit its annual Section 515 purchase activity goals if an agreement is reached with USDA so these properties have more preservation financing sources. LISC recommends Freddie's Section 515 loan purchase goals be set in accordance with the overall amount of properties at risk of losing their affordability restrictions. Freddie Mac should also bring attention of this market opportunity to its lender network.*

<u>4) Preserving Section 8 Properties</u>

Freddie Mac has increased its loan purchase activity for properties with Section 8 assistance (**FR_AHP_Sec 8_A: Provide Liquidity and Stability Through Section 8 Loan Purchases**). During the last DTS plan, Freddie averaged around 27,000 units annually and is planning to support roughly 23,000 units going forward. Freddie cites certain constraints from increasing loan purchase activity, including the finite amount of Section 8 assistance; $70 billion multifamily loan purchase cap; and increasing costs which results in less units financed per dollar. *LISC applauds Freddie Mac for its robust support of Section 8 loan purchases and recommends Freddie Mac revisit their DTS annual goals if FHFA increases their multifamily loan cap in future years.*

<u>5) Residential Economic Diversity</u>
Similar to Fannie Mae, Freddie Mac proposes to focus its residential economic diversity activity on properties in high opportunity areas that participate in an affordable housing program such as the LIHTC, state and/or local program, Section 8, or Section 515 (**FR_AHP_RED_A: Purchase Loans on Properties that Support Residential Economic Diversity**). Freddie was able to exceed its previous three year plan goals and is proposing to support 3,575 units in the new plan. This is below the previous three year average of 4,082 units and a lower unit count than any of the previous three years actual loan purchase activity. *LISC recommends Freddie Mac revisit these projections during the three year plan due to the increase in affordable housing capital sources from recent legislation and the focus on supporting projects in higher opportunity areas. It's possible that Freddie Mac may be able to significantly exceed the proposed loan purchase goals. In addition, LISC recommends Freddie Mac include mixed-income housing properties in areas of concentrated poverty as part of its loan purchase activity goals.*

We thank the FHFA for the opportunity to provide suggestions and encourage FHFA and the GSEs to continue their commitment to this sector by increasing their role in preserving affordable housing and creating new markets where there are gaps. Please contact Mark Kudlowitz (mkudlowitz@lisc.org), LISC Senior Policy Director, if you need additional clarification or follow up on any of the recommendations provided in this letter.

Sincerely,

Matt Josephs
Senior Vice President for Policy