LISC
LOCAL INITIATIVES
SUPPORT CORPORATION

March 1, 2021

Mr. Dan Aiello
Program Manager, Capital Magnet Fund
Community Development Financial Institutions (CDFI) Fund
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, D.C. 20220

RE: Capital Magnet Fund Program Application and Performance Report - Request for Public Comments (OMB Number 1559-0036)

Dear Mr. Aiello:

The Local Initiatives Support Corporation (LISC) thanks the CDFI Fund for the opportunity to provide feedback on proposed changes to the Capital Magnet Fund (CMF) application and performance report.

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 36 cities. In 2020, LISC invested approximately $2 billion 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.

<u>I) General Comments</u>
Before we address specific questions posed in the Federal Register Notice, we have some general comments about the Capital Magnet Fund.

We generally believe the CMF program works well and appreciate the time and effort Treasury has put into administering and improving the program over time. The key component of the CMF's program success, and what makes it distinct from other federal affordable housing programs, is the enterprise level nature of the funds. This structure allows the deep leveraging and flexibility to respond to local housing market needs. CMF funds have been utilized throughout the country, leveraging public and private funds to develop, preserve, rehabilitate, or purchase affordable housing, as well as related economic development activities such as day care centers, community health clinics, and workforce development centers. As the CDFI Fund works to improve the program, we encourage Treasury to keep the funding as flexible as possible, while ensuring awards are utilized as proposed by Applicants. Imposing excessive administrative and compliance requirements on a program which is often a small but crucial component of total affordable housing development costs will ultimately make the program less viable and decrease its impact.

We believe that the current complexity of the CMF program often leads it to being utilized by higher capacity and larger CDFIs and nonprofit housing organizations. To ensure that all organizations are able to compete for funding, we suggest that the CDFI Fund create a separate application category for smaller applicants and allocate no less than 10 percent of that year's assessment for these groups. There's precedent for this activity since the CDFI Program has included a smaller applicant set-aside for many years, which helps ensure award funds reach these organizations. Applicants under this set-aside should still have to meet all programmatic requirements although would importantly compete against each other versus larger organizations.

To further support CMF award recipients, including smaller organizations, we recommend that the CDFI Fund utilize appropriations for its Capacity Building Initiative to provide training and technical assistance on the CMF Program. HUD regularly provides such assistance on its federal housing programs, which allows award recipients to build their understanding of program requirements and ultimately achieve greater impact in their community. Dedicated and ongoing CMF training and technical assistance may also grow the application pool since potential award Recipients will know there will be support provided as program and compliance questions arise.

II) Specific Comments

LISC offers the following specific recommendations on the CMF Application and Performance Report.

Reporting of Impact Data

1. **Align application data with reporting data.** The CMF Application includes a standard set of metrics for Recipients to report award impact. The metrics proposed are primarily output oriented, which we believe is the right approach since Recipients are generally able to collect that data within the CMF Investment Period. LISC notes that the standard set of impact metrics listed in the CMF Application Template differ from those listed in the CMF Performance Report. *We recommend the CDFI Fund ensure that those are aligned when finalized so Applicants understand what data they will need to provide for compliance reporting.*

2. **Eliminate the requirement to report customers/clients served under the Economic Development Activities (EDA) metric**. Recipients can use up to 30 percent of their CMF award for EDA. EDA means "the development, preservation, acquisition and/or rehabilitation of Community Service Facilities and/or other physical structures in which neighborhood-based businesses operate which, In Conjunction With Affordable Housing Activities, implements a Concerted Strategy to stabilize or revitalize a Low-Income Area or Underserved Rural Area.[1]" One of the proposed impact metrics asks for the "square footage and number of Low-Income residents served from commercial EDAs finance/supported with CMF (e.g. grocery stores, retail establishments).

   LISC recommends that this metric only collect square footage data since it can be difficult to report the number of low-income residents served from a commercial business. For instance, grocery store operators wouldn't be able to report low-income residents served, nor would other retail establishments. We recommend the CDFI Fund collect square footage and consider allowing sub-fields on the type of commercial EDA being financed. LISC recommends the Fund align this with Healthy Food Financing Initiative – Financial Assistance Transaction Level Reporting, which asks Recipients to report square footage and healthy food retail type.[2] We recommend that the Fund also develop project type sub-fields for the type of community and educational facilities financed in the

[1] 12 CFR § 1807.104

[2] https://www.cdfifund.gov/Documents/8.%20CDFI%20TLR%20Guidance%20Sept%202020.pdf

"number of clients/students served by CMF-supported community and educational facilities" EDA impact metric.

Areas of Economic Distress and High Opportunity Areas

The CMF statute directs the CDFI Fund to fund activities in geographically diverse areas of Economic Distress, and further defines what may be included in that definition. One of the criteria includes "projects that target extremely low-, very low-, and low-income families in or outside a designated Economic Distress area" or "any other criteria designated by the Secretary of the Treasury." The statute provides the CDFI Fund flexibility in ensuring that both low-income areas and low-income people living outside of low-income areas receive preference.

Recent CMF NOFAs have provided scoring prioritization if Applicants commit to: Financing and/or supporting Economic Development Activities in Low-Income Areas only (if proposing to use CMF for Economic Developments Activities), and financing and/or supporting a higher percentage of units located in Areas of Economic Distress. Areas of Economic Distress are census tracts: (a) Where at least 20 percent of households that are Very Low-Income (50 percent of AMI or below) spend more than half of their income on housing; or (b) where the unemployment rate is at least 1.5 times the national average; or (c) that are Low-Income Housing Tax Credit Qualified Census Tracts; or (d) where greater than 20 percent of households have incomes below the poverty rate and the rental vacancy rate is at least 10 percent; or (e) where greater than 20 percent of the households have incomes below the poverty rate and the homeownership vacancy rate is at least 10 percent; or (f) are Underserved Rural Areas as defined in the CMF Interim Rule.

The statute and regulations provide the CDFI Fund discretion to determine what constitutes Economic Distress, although recent NOFAs have provided greater weighting to distressed areas versus low-income persons living in higher opportunity areas. This emphasis towards disinvested places may frustrate efforts to provide affordable housing in higher opportunity areas, and is generally not consistent with fair housing regulation. LISC appreciates that the CDFI Fund is proposing to include High Opportunity Areas as a priority and believes utilizing the Federal Housing Finance Agency's (FHFA) Duty to Serve (DTS) regulation is an appropriate definition for affordable rental housing since it includes both the federal Difficult to Develop Area classification and allows High Opportunity Area standards in state Low-Income Housing Tax Credit Qualified Allocation Plans.

LISC recommends that the CDFI Fund provide equal application preference for projects serving low-income households in high opportunity areas as those taking place in low-income communities. We also recommend the Fund utilize the proposed FHFA DTS regulation definition since it includes both a federal and state developed standard.

Rental and Homeownership Housing

One of the strengths of the CMF is that it can serve all types of affordable housing, including rental and homeownership, in addition to related EDAs. The CDFI Funds asks if the current targeted income level for homeownership (80% of AMI) and rental housing (50% of AMI) is appropriate and if there should be other approaches to evaluating CMF homeownership and rental housing proposals. LISC believes the current income targeting is generally sufficient for rental housing, but would encourage the CDFI Fund to consider more flexibility for applicants to fund homeownership housing up to the regulatory ceiling of 120% of AMI. In addition, we also have concerns about the ability of affordable homeownership proposals to compete for funding. The CDFI Fund has released very little data to date on the program's impact although around 90 percent of CMF Recipients have committed to using their awards for rental housing.

CMF proposals for rental housing and homeownership are distinctly different from one another and it's not clear how the CDFI Fund currently evaluates and scores different uses of funding. For instance, leverage expectations would differ greatly for an Applicant requesting CMF resources for home mortgage lending versus using it as a gap financing source in an affordable rental housing project. In addition, there are differences in the viability of using CMF subsidy for affordable homeownership in High Opportunity Areas versus areas of Economic Distress. Lastly, while we generally support the current income targeting at 80 percent of area median income (AMI) for homeownership, we note that the CDFI Fund should contextually review applicants proposing to utilize the subsidy for households up to 120 percent AMI. Some CMF applicants may be proposing to utilize resources to support workforce affordable homeownership efforts in areas of Economic Distress to help revitalize lower income communities and these proposals shouldn't be negatively impacted by blanket AMI targeting, and instead be reviewed by the applicant's overall goals and strategy.

The lack of publicly available information on CMF evaluation criteria coupled with a low percentage of Recipients receiving awards for affordable homeownership makes it challenging to know if the current evaluation framework is treating all proposals fairly.

LISC recommends that the CDFI Fund release a report to the public which provides application summary statistics so stakeholders can understand if homeownership proposals are being funded in proportion to their representation in the application pool. In addition, we recommend the CDFI Fund release impact data from all previous CMF funding rounds, and release such data on an annual basis, similar to other CDFI Fund administered programs. Lastly, LISC recommends that CMF applications are evaluated on the entirety of their goals and strategies so all eligible uses are fairly treated.

<u>Multi-State Service Areas</u>

The CDFI Fund has changed the amount of states Applicants can commit to serving in recent years from a national Service Area, to up to ten states, and now currently 15. If an Applicant is selected for a CMF Award and has a multi-state Service Area, it may be held to financing/developing at least one project in any specific state(s) within that Service Area.

LISC recommends that the CDFI Fund provide Applicants the most flexibility possible with structuring their Service Area. For Recipients, this is necessary since housing markets change over time and awarded organizations need flexibility to respond to market conditions and affordable housing opportunities.

LISC recommends that the CDFI Fund allow a national Service Area of up to 50 states and annually evaluate where CMF resources are utilized. As is current practice, the CDFI Fund should continue to incentivize the use of CMF resources in states with limited CMF projects by providing preference points in the CMF Notice of Funding Availability. Applicants should be held to their commitments in their AA to ensure CMF resources are being utilized in areas with less CMF activity. For those CMF awardees that choose large multi-state or national Service Areas, the CDFI Fund could also consider instituting a cap on the total amount of CMF awards that can be deployed in any single state (e.g., a an organization with a national Service Area cannot expend more than 20% of its award in any single state).

<u>Rural Areas</u>

CMF Applicants can commit a percentage of their award for projects in rural communities. If awarded, Recipients are currently held to serving rural areas in their Service Area. The CDFI Fund asks if Recipients should be allowed to serve any rural census tracts in any state, regardless of Service Area, in order to meet rural commitments under an award.

LISC recommends the CDFI Fund allow a national rural Service Area, as proposed in the Notice. A national Rural Service would allow for the use of CMF subsidy in any rural defined place, allowing awardees additional flexibility. This is important since it's difficult for applicants to know at the time of application where they will get rural deals years down the road. And for groups with large rural footprints, this would spur more rural lending since those applicants would be more confident in serving broader geographies instead of winnowing rural activity to the current subset of a 15 state Service Area.

Leverage

As the CDFI Fund notes, leveraging the CMF Award is a statutory requirement and key part of the program. Applicants are asked to categorize the amount of leveraged funds into three categories: (i) Enterprise-Level Leverage, (ii) Re-investment Leverage, and (iii) Project-Level Leverage. The CDFI Fund, when scoring applications, gives greater weight to Enterprise-Level and Reinvestment leverage, presumably to dissuade applicants from simply satisfying the 10:1 leveraging requirement at the project levels. However, giving too much weight to Enterprise-Level and Reinvestment Leverage can have a detrimental impact on the actual product being offered, to the extent CMF subsidy is not being utilized to subsidize the loan product. For example, an entity that commits to using $1 million of CMF award as a loan loss reserve against $10 million in private financing would likely be scored outstanding in the leverage section of the application. But in this scenario, none of the CMF subsidy is being blended into the loan product, so presumably the organization is not being able to transfer any value to the project-level financing. By contrast, another applicant may propose to use a $300,000 of a $1 million CMF award as loan loss reserves to secure $3 million in private capital, and the other $700,000 of the CMF award to blend down the rate of the loans. This strategy may be even more impactful for the community, but the applicant may not even make it through a preliminary application review because it failed to meet an Enterprise-Level Leveraging metric.

The CDFI Fund states that it is considering requesting that Applicants provide more documentation about the leverage they have secured at the time of the Application and asks what types of documentation should be collected, if this is required. It's not clear from the Federal Register Notice why additional documentation is needed although presumably it's for Treasury to strengthen their evaluation of the Applicant's likely success of meeting proposed leverage commitments. LISC notes that there is a large time lag between applying, award, and compliance. It typically takes the CDFI Fund around nine months to make CMF awards, which is then followed by a five year compliance period. This long time period can result in market changes that can impact the ability of an Applicant to receive outside capitalization sources.

LISC supports a balanced approach to leverage considerations in the application scoring, and while we have no issues with the CDFI Fund expressing a preference for Enterprise-Level Leveraging or Re-investment Leveraging, it is vital that the leveraging strategy be viewed holistically in the context of the lending product and that applicants be provided with ample opportunities to justify their specific strategy. We recommend that the CDFI Fund provide as much guidance to Applicants on how each leverage component is evaluated and scored. In addition, LISC recommends that if the CDFI Fund requests leverage commitment documentation, that it do so for the only top few sources listed in the Application to minimize burden and since it may not be useful to provide every source due to uncertainty with securing them. LISC also recommends that the CDFI Fund utilize its compliance data for current CMF award Recipients to evaluate an Applicant's ability to meet previous private leverage multiplier commitments.

Program Income

One of the biggest burdens imposed by the CMF program is the CDFI Fund's treatment of Program Income (PI). PI earned in the form of principal and equity payments must be currently used by the Recipient for the approved, eligible CMF award uses as set forth in the Assistance Agreement (AA) during the Investment Period. The requirements are triggered when the cumulative balance of PI earned equals $100,000 or greater. The CDFI Fund increased the compliance requirement's burden in fiscal year 2018 by imposing it for five years instead of four. LISC believes requiring reinvestment requirements consistent with statutorily allowable uses is appropriate. However, the CDFI Fund currently requires that reinvested funds must also meet certain specific requirements contained in the AA, which we believe is burdensome and poor policy if an award Recipient has already met all leveraging and performance requirements. Currently, Program Income requirements include:

1. with limited exceptions, any Program Income earned in the form of equity or principal repayments of the CMF award during the first five years of the award agreement must be reinvested in other eligible affordable housing activities, and to a limited extent in economic development activities (unless a recipient has already used 30% of its CMF award for economic development activities);
2. the reinvested proceeds must be invested in activities that also meet each of the specific requirements specified in Section 3.8 of the AA (e.g., with respect to targeting low, very low, and extremely low income families; serving areas of high housing need; serving rural communities; and achieving minimal levels of private sector leveraging); and
3. projects funded with the reinvested Program Income must satisfy affordability requirements for an additional 10 years after such projects are placed in service.

LISC has no objection with item #1 above. We appreciate the flexibility that the CMF award dollars offer, and recognize that with this flexibility, there is also an obligation to ensure that returned funds flow to additional eligible housing or economic development activities. This is consistent with the leveraging concepts inherent in the CMF statute, and also with other federal community development programs. However, we believe that, in instances where the awardee has already satisfied through its initial investments the requirements contained in the AAs, the obligations imposed through items #2 and #3 above are not only unnecessary from a programmatic standpoint, but:

1. are excessive in their scope when compared with other CDFI Fund programs, as well as with OMB requirements and community development programs at other federal agencies;
2. may unduly heighten incidences of non-compliance, since the awardee will be: (1) required to line up the perfect mix of projects (with respect to geography, income targeting, leveraging, etc.) in a compressed reinvestment period, and (2) subjected to an extended compliance period of ten years beyond the placed in service date of the newly financed projects, which could in theory extend the life of the award agreement by an additional nine years; and
3. may cause awardees to modify investment behavior in a non-productive manner in order to minimize risks of non-compliance (e.g., by artificially lengthening the term of initial investments; or by selecting projects based on readiness more than subsidy need).

The compliance concerns for many awardees extend beyond the CMF program. Many CMF awardees are CDFIs that are also applicants for CDFI Program awards, NMTC allocations, and CDFI Bond Guarantee financing. Because non-compliance in any one CDFI Fund award program can disqualify an applicant from receiving funding under another program, it is quite possible that an issue as simple as the timing of a CMF reinvestment could prevent a CDFI from receiving other awards from the CDFI Fund.

In the Federal Register Notice, the CDFI Fund is only proposing to change current Program Income requirements by allowing Recipients to reinvest PI anywhere in the country instead of just in a Recipient's Service Area.

LISC supports this flexibility and also recommends the CDFI Fund remove items #2 and #3 for award Recipients who have met their Schedule 1 performance goals in their AA. While OMB requires Program

Income requirements as a part of its Uniform Administrative Guidance regulation, Treasury has discretion on how it's implemented programmatically. This is evident by how the CDFI Fund utilizes a PI definition for the CMF Program that is different than the OMB 2 CFR 200 regulation.

Tracking Interest Payments

CMF award Recipients are required to track three forms of interest – 1) interest earned on Advance Payments; 2) interest payments on loans; and 3) interest earned on the account holding the repayments of CMF principal until reinvestment. LISC has no objections to #1 and #3 above since these are standard compliance practices and relatively easy for Recipients to track and administer. We do believe #2 is overly burdensome since CMF dollars are often used by CDFIs as a blended source with other lending capital. Tracking interest earned on just the CMF portion of a loan can be relatively complex depending on the structure and status of the loan (interest-only, amortizing, and whether the loan is disbursing) and often yields very small amounts of interest. For instance, it requires Recipients to break out the following data from a single monthly payment: 1) interest earned on CMF portion of the loan; 2) interest earned on non-CMF funded portion of the loan; 3) principal repayment of CMF; and 4) principal repayment of non-CMF portion. Each of those have to currently be tracked separately for reporting, but only number 4 has to go to a separate account to meet PI rules.

LISC appreciates that interest repayments are exempt from the Program Income requirements and can be used flexibly to further a group's mission. That said, Recipients must report interest earned on the CMF Performance Report and we believe this requirement is overly burdensome and excessive compared to similar CDFI Fund and federal award programs.

LISC recommends that the CDFI Fund not require CMF recipients to track interest payments in their CMF Performance Report.

Alignment with other Housing Programs

The Low-Income Housing Tax Credit is the nation's largest subsidy source for the development of affordable multifamily housing. Current CMF program regulations and administrative practices generally mirror those established for HUD's HOME Investment Partnership Program.

LISC recommends that wherever practicable, the CDFI Fund should provide safe harbors with respect to compliance practices for investments in properties that are financed with, or will be taken out by LIHTC investments. These projects are already heavily regulated and monitored by state housing finance agencies, and in all circumstances, have a much longer extended use period than is required under the CMF Program. In addition, we recommend that the CDFI Fund ensure that the recently enacted LIHTC income averaging occupancy standard is incorporated into compliance reporting.

CMF Performance Report

Data Collection Changes

The CDFI Fund is proposing new compliance data collections to further its understanding of CMF award impacts. LISC generally supports these proposals although we are concerned about the viability of collecting some of the new information being proposed, including the Rental Housing Waiting List, Average Retention Rate, Number of Families with Access to Health Services, Units in Disaster Areas, and the EDA data discussed previously. The Rental Housing Waiting List and Average Retention Rate data would have to be collected from our affordable housing sponsor partners, which would be difficult administratively since CMF awards typically support multiple projects. Many of these organizations may not be currently collecting this information and this would impose additional burden on them and potentially lessen their interest in receiving a CMF blended loan.

Other new data collection, including Number of Families with Access to Health Services also pose challenges. For instance, what are the distance thresholds being utilized for CMF supported affordable rental housing in urban and rural communities? Related, what specific health care facilities does the CDFI Fund want Recipients to include and how will the Fund make a determination if tenants are able to utilize such facilities? For Units in Disaster Areas, we would note that due to COVID-19, the entire country has been classified as a federally declared disaster, and we would recommend that the CDFI Fund internally calculate this based on CMF compliance data and other public datasets, including Federal Emergency Management Agency data.

LISC recommends that the CDFI Fund make the Rental Housing Waiting List and Average Retention Rate as optional reporting fields for award Recipients. This will allow CMF stakeholders to better understand the ability to consistently collect this data before making it a required compliance requirement. We don't recommend the CDFI Fund collect the Number of Families with Access to Health Services without improvements in the Guidance language and further consideration on the ability of Recipients to accurately report this data. In addition, we don't recommend Recipients report on Units in Disaster Areas or other fields where the CDFI Fund itself can utilize internal compliance data, in addition to public secondary datasets to further understanding of award impacts. Lastly, LISC recommends that impact information not be utilized for application evaluation or award determinations since many Recipients may struggle to receive this information from sponsors and report to Treasury.

<u>Bulk Upload of Data</u>
The CMF Performance Report does not currently allow Recipients to use a bulk upload process to create new Project Records in the reporting system. The CDFI Fund notes that a Project Record is a unique record that is created through the entry of basic data about an investment, such as the location of the investment, the amount of the CMF Award Committed, and other information that typically is entered when an investment is made; data in the Project Record typically does not have to be revised or changed. The CDFI Fund is current exploring the feasibility of allowing Recipients to upload and create multiple Project Records, such as by uploading a spreadsheet.

LISC recommends that the CDFI Fund allow bulk upload of CMF Performance Report Project Records and use a similar process for current Transaction Level Report reporting for CDFI Program award Recipients. Treasury should work with a diverse group of CMF stakeholders utilizing the program for different purposes to test out the process to before finalizing technical requirements. This will help ensure any changes are successful and minimize public burden.

We thank the CDFI Fund for the opportunity to offer suggestions and welcome opportunities to explore these and other possible improvements to the CMF application and compliance reporting. Please contact Mark Kudlowitz (mkudlowitz@lisc.org), LISC Policy Director, if you need additional clarification or follow up on any of the recommendations provided in this letter.

Sincerely,

Matt d. Jos

Matt Josephs
Senior Vice President for Policy