

## **Capital Magnet Fund (CMF) Draft Assistance Agreement Template: Companion Document**

### **Overview:**

The purpose of this document is to provide a basic outline of the critical elements that will be contained in each CMF Awardee's Assistance Agreement. CMF Awardees should review this document in conjunction with the draft Assistance Agreement Template in order to get an understanding of the elements that will be contained in the final Assistance Agreements. Notwithstanding the fact that this document is being provided to CMF Awardees as a guidance tool, it is incumbent upon all CMF Awardees to review the entirety of the draft Assistance Agreement Template carefully, as there are many provisions in that document that are not addressed in this companion document.

The CDFI Fund anticipates that the final Assistance Agreements, which will contain customized provisions for each award, will be prepared and delivered to CMF Awardees by March 30, 2011. In the meantime, if you have questions about the contents of the draft Assistance Agreement Template, you should direct them to David Dworkin at [ddworkin@cdfi.treas.gov](mailto:ddworkin@cdfi.treas.gov)

The remainder of this document highlights some key provisions in each of the major sections of the Assistance Agreement.

### **Schedule 1**

The purpose of Schedule 1 is to capture, in one specific location in the Assistance Agreement, certain award provisions that will be customized for each award, based upon commitments that the Awardee made as part of its CMF Application. The specific commitments will be placed in Schedule 1, so that they may be cross-referenced to the relevant sections in Schedule 2 of the Assistance Agreement. The customized provisions that will appear in Schedule 1 are as follows:

*1. Service Area* – The data point populated here will correspond with the Awardee's responses under Questions 5c and 5d of the Application. If an Awardee indicated in Question 5c that it would serve a national service area, this item will populate with the word "National." If the Awardee indicated in its response to Question 5c that it will serve a multi-state, statewide or local service area, this item will populate with the state(s) the Awardee identified in its response to Question 5d.

*2. Non-Metropolitan Area* – If an Awardee indicated a figure of greater than "0%" in its response to Question 23b of the Application, then this item will be marked "Applicable," and the Awardee will be required to meet a Non-Metropolitan Area percentage that will

be the maximum percentage indicated by the Awardee in Question 23a and 23b of the Application.

3. Concerted Strategy – If an Awardee responded “yes” to Question 20b of the Application, then this item will be marked “Applicable”.

4. Leveraging Multiplier – The data point populated here will correspond with the “minimum leveraging commitment” provided by the Awardee in its response to Question 12f of the Application

5. Total Minimum Cost Commitment – If the Awardee responded “yes” to Question 16a of the Application, then this item will be marked “Applicable.”

6. Commitment -- As detailed in Article IV of the Award Agreement, Awardees will be required to demonstrate that the CMF funds are committed for use within two years of the effective date of the Award Agreement.

7. Disbursement -- As detailed in Article IV of the Assistance Agreement, Awardees will be required to demonstrate that initial disbursements of CMF funds are made within three years of the Effective Date of the Assistance Agreement.

8. Project Completion -- As detailed in Article IV of the Assistance Agreement, Awardees will be required to demonstrate that all CMF projects are completed and placed into service within five years of the Effective Date of the Assistance Agreement.

9. Targeted Incomes and Geographies – This item will correspond to the responses provided by the Awardee under Question 18 of the Application. In order to provide maximum flexibility for Awardees, the CDFI Fund will consolidate the commitments made by the Awardee in Question 18 into a set of “either-or” commitments. The following is a sample of what may appear in Schedule 1 of an Awardee’s Assistance Agreement:

*The Awardee must ensure that the following percentage commitments are met with respect to the financing of housing units with CMF award dollars: (i) that at least 100% of financed units are located in areas of High Housing need; or (ii) that at least 70% of the total Eligible Project Costs associated with the financing of housing units are attributable to housing units that meet CMF affordability qualification for Low-Income Families; or (iii) that at least 50% of the total Eligible Project Costs associated with the financing of housing units are attributable to housing units that meet CMF affordability qualification for Very Low-Income Families; or (iv) that at least 30% of the total Eligible Project Costs associated with the financing of housing units are attributable to housing units that meet CMF affordability qualification for Extremely Low-Income Families.*

As detailed in Section 5.1 of the Assistance Agreement, these commitments are in addition to certain minimal, baseline affordability requirements that are set forth in the CMF program regulations.

### **Article III**

Article III of the Assistance Agreement outlines the requirements for use of Assistance, including specific eligible and ineligible uses of the funds. Of particular note are:

Section 3.3 -- This section lists the eligible uses of the Assistance, and also states that no more than 5% of the Assistance may be used for the Awardee's Operations, and that no more than 30% of the Assistance may be used to capitalize a fund to support Economic Development Activities or Community Service Facilities.

Section 3.5 – This section identifies which project costs are eligible to be calculated into an Awardee's leverage ratio.

Sections 3.6 and 3.10 – These sections identify the restrictions on use of Assistance and on use of Program Income, respectively.

Sections 3.7 and 3.8 – These sections identify the conditions necessary in order for an Awardee to close its Assistance Agreement and receive disbursements of Assistance from the CDFI Fund.

### **Article IV**

Article IV of the Assistance Agreement specifies the dates by which the Awardee is required to Commit its funds for use (2-years from the Effective Date of the Assistance Agreement), begin to disburse funds to projects, (3-years from the Effective Date of the Assistance Agreement), and complete project financing (5-years from the Effective Date of the Assistance Agreement).

The CDFI Fund anticipates that the Effective Date for the Assistance Agreements will be in late April or early May of 2011.

### **Article V**

Article V of the Assistance Agreement includes some of the key requirements that all Awardees are required to meet with respect to ensuring that the housing financed with CMF award dollars is affordable to Low-Income, Very Low-Income, and Extremely Low-Income persons. There are many references here to the CMF program regulations, so it is critical that each Awardee become familiar with these regulations.

### **Article VI**

Article VI of the Assistance Agreement outlines the representations and warranties that Awardees are required to make as a condition of closing the Assistance Agreement. Of particular note are:

Section 6.11 – This Section requires the Awardee to confirm that its status as a CMF eligible institution (i.e., as either a Certified CDFI or a Nonprofit Organization) has not changed.

Section 6.12 – This Section requires the Awardee to certify that it has identified one or more proposed projects for CMF financing that do not require a further environmental review. Each time the Awardee would like to finance a project, for which it cannot make such a certification, the Awardee shall be required to submit an Environmental Review Notification Report (ERNR) to the CDFI Fund.

### **Article VII**

Article VII of the Assistance Agreement outlines certain other covenants and agreements that Awardee must make to receive disbursement of its CMF award and maintain compliance. Of particular note are:

Section 7.7 – This Section requires the Awardee to maintain its status as a CMF eligible institution (i.e., as either a Certified CDFI or a Nonprofit Organization) for the life of the Assistance Agreement.

Section 7.8 – This Section requires the Awardee to notify the CDFI Fund in the case that certain Material Events have affected the Awardee's operations. The CDFI Fund has created a Material Events Form, which can be found on the Fund's website at: <http://www.cdfifund.gov/docs/2010/cmf/Certification-of-Material-Event-Form.doc>.

### **Schedule 2-A**

Each Awardee is required to secure this Opinion of Counsel as a condition of closing their CMF Award Agreement.

### **Schedules 6-A and 6-B**

Schedules 6-A and 6-B identify CMF Awardee reporting requirements and report due dates, respectively. Of particular note are:

1. CMF Activities Report – CMF Awardees will be required to submit an annual report detailing their use of Assistance and Leveraged Costs. The Report has not yet been developed, but the underlying data points have been posted to the Fund's website. Please refer to the Request for Public Comments for CMF Reporting: [http://www.cdfifund.gov/news\\_events/CDFI-2010-44-CDFI-Fund-Seeks-Public-Comment-on-Reporting-Requirements-for-CMF.asp](http://www.cdfifund.gov/news_events/CDFI-2010-44-CDFI-Fund-Seeks-Public-Comment-on-Reporting-Requirements-for-CMF.asp).

In addition, refer to the provisional list of possible data points for reporting:  
[http://www.cdfifund.gov/docs/2010/cmf/Updated\\_Data\\_Points\\_Memo\\_083110.pdf](http://www.cdfifund.gov/docs/2010/cmf/Updated_Data_Points_Memo_083110.pdf)

All CMF Awardees are encouraged to review these data points.

2. *Environmental Review Notification Report (ERNR)* – As stated in Section 6.12 of the Assistance Agreement, this Report must be completed each time an Awardee identifies a project that it proposes to fund with CMF award dollars where such project does not satisfy certain categorical exclusions outlined in the CDFI Fund’s Environmental regulations at 12 CFR Section 1815 or involves actions that normally require an Environmental Impact Statement (EIS). In accordance with the Paperwork Reduction Act requirements, the CDFI Fund will release a draft version of the ERNR for review and public comment, likely in mid February.