

# Comments on the Capital Magnet Fund (In Response to March 6, 2009 Federal Register Notice requesting comments – closing May 5, 2009)

## Definition of Rural

- (1) The Housing Act of 1949 provides a definition of Rural as areas under 20,000 in population. Currently Rural Development / Rural Housing Services operates 20+ programs within rural America, the private firms with whom we partner are familiar with this definition and they have developed their operations to conform to this definition. The definition of rural is codified within the housing act statute. Congress specifically mentioned rural, it didn't mention "non-metro" or "metro" areas, therefore the Capital Magnet Fund should address its focus to rural areas.
- (2) The use of non-metropolitan areas as the definition is causing extreme confusion within the rural communities and within the providers of services to rural communities. The primary reason for these concerns are that small communities that are rural in nature could be "annexed" into a statistical metropolitan area for other purposes, however they still are rural in nature. If we use non metro areas and metro areas as the dividing line for rural, the vast majority of rural communities will be excluded from the definition despite having numerous characteristics that make them rural.
- (3) Because development of rural areas has been the expertise of Rural Development within the Department of Agriculture, the definition should refer back to § 520 of the Housing Act ( 42 USC 1490), which states, "As used in this subchapter, the terms "rural" and "rural area" mean any open country, or an place, town, village, or city which not ... part of or associated with an urban area and which (1) has a population not in excess of 2,500 inhabitants, or (2) has a population in excess of 2,500 but not in excess of 10,000 if it is rural in character, or (3) has a population in excess of 10,000 but not in excess of 20,000 and (A) is not contained within a standard metropolitan statistical area, and (B) has a serious lack of mortgage credit for lower and moderate income families, as determined by the Secretary and the Secretary of housing and Urban Development."
- (4) One could argue that Congressional intent was to use this definition when creating the law that created the Capital Magnet Fund.
- (5) Grandfathering – at the time a Rural Housing Service loan, grant or guarantee was made to build, repair, preserve or transfer a housing project the property was in a rural area. As long as the loan, grant or guarantee or other financial assistance provided by Rural Housing Service is still being provided, the property remains "rural" for purposes of the Capital Magnet Fund despite the fact that currently it may not fit the definition of "rural".

## Other

- (1) Preference for community development, workforce development, and other community development should be given to areas that currently have adequate affordable rental housing in rural areas. Given the flexibility of many of the 10,000 units of affordable housing build and to be built using the Guaranteed Rural Rental Housing program, the Capital Magnet Fund should provide an additional incentive to these properties especially since the Section 538 allows for workforce / family tenancy without any tenant based assistance.

- (2) Unlike other affordable housing programs, the Section 538 program does not provide a tenant based subsidy. Despite this lack of tenant based subsidy, the Guaranteed Rural Rental Housing program still has, on average about 50 to 60% of its tenants in the very low or low income range (50% or 80% of area median income). The Capital Magnet Fund should prioritize its funding towards projects that have guaranteed financing because those programs operate on a capitalized assistance level and not an annual tenant subsidy. The Section 538 is the only rural guarantee program to operate in rural America without a tenant subsidy, which means the properties are in greater need of “up-front” funding to build and repair affordable housing.
- (3) Over the past 60 years, Rural Housing Service has directed its programs to address the continuing affordable housing needs of rural communities. Over time these rural communities expand and contract due to employment opportunities migrating and population shifts. The Capital Magnet Fund should be used to provide community development opportunities in areas where affordable housing currently exists. The overall cost to develop a rural area is lower when affordable housing is already in place. Furthermore, these affordable rental projects provide the area with a ready labor force for any community development expansion that may occur due to the increased economic activity from the Capital Magnet Fund.
- (4) Preference for economic development activity in a rural area should be given when there is an existing Section 538 project build or planned to be built in an area. With economic activity comes a need for labor. The Section 538 program provides affordable rental housing for individuals and families that do not initially make more than 115% of the Area Median Income. While the program initially restricts the income level to 115% of Area Median Income (well within most rural working family income levels), once in the rental units, the individual or family income restriction is not recertified.
- (5) These low income rural areas are in desperate need of economic activity. One of the biggest concerns economic development planners have is access to a labor pool that can fit into the economic development. The Section 538 Guaranteed Rural Rental Housing program financed projects have family units that provide market rate quality units at an affordable rental price. In addition, these Guaranteed Rural Rental Housing program financed projects are located in close proximity to business activity.
- (6) Properties financed using the Section 538 program (Guaranteed Rural Rental Housing program) have the flexibility to provide community rooms, daycares, and other tenant services. The Section 538 program does not have the capability of financing tenant services at these properties, therefore the Capital Magnet Fund would be a good compliment to this housing program. The Guaranteed Rural Rental Housing program has the capability of providing incentives for projects that provide additional services through the Capital Magnet Fund program. The RD national office staff should be included in the design of this program.

#### Affordable Housing

- (1) The definition of affordable housing should be the definition that is used by Rural Housing Services. Affordable housing should be defined as housing that can be purchased / maintained or rented by tenants that make no more than 50% of the area median income (very low); 80% of the area median income (low income); and 110% of the area median income (moderate income). The area median income is adjusted for family size, and the affordable housing standard for tenant eligibility has been that a tenant should not pay more than 30% of their income for housing.

- (2) The Guaranteed Rural Rental Housing Program (Section 538) program has the capability of building rental units for families or individuals up to 115% of AMI. The section 538 program has the ability to provide affordable housing units for a substantial amount of moderately priced working families. As an economic development tool, the Capital Magnet Fund, should focus on areas that currently have or will have developments financed using the section 538 program.
- (3) The Section 538 program is the one program that has the ability to provide affordable housing for working families that make too much for deep subsidized projects, yet not enough to rent market rate units. Workforce housing has been a focus of many community development groups. The Multi-family housing national office staff have worked with community development groups to design a product that would assist them with the creation of rental housing that can be used by working families near businesses that are in need of affordable housing for their employees.
- (4) The Guaranteed Rural Rental Housing Program has regulations in place that govern the operation of the program. I would like to see the Capital Magnet Fund reference 7 CFR 3565 for eligible uses and amenities. Whenever possible the Capital Magnet Fund should refer to the Guaranteed Rural Rental Housing Program's regulations because the affordable housing providers (builders, management agents, and lenders) understand the standards.
- (5) The Guaranteed Rural Rental Housing Program has the capability of providing loan guarantees to acquire existing affordable housing as long as repairs are needed. The Capital Magnet Fund should grant additional consideration for projects that are seeking the Section 538 program financing.
- (6) Rural Development has in place a state office and field office network of personnel that concentrate exclusively on delivering affordable housing to their respective areas. These individuals are extremely knowledgeable of their communities, areas and states. They understand the rents needed to make a project work and they understand the financing structures that are needed to make a project work. Any project that is in a rural area, as defined by Rural Housing Service / Rural Development, and has a notice response AND an acceptable application for Section 538 financing should be given extra consideration.

#### Community Services / Affordable Housing amenities

- (1) The Section 538 program (Guaranteed Rural Rental Housing program) has provided financing to acquire and repair exiting affordable housing in rural America. Sometimes newer rental units in an area have more amenities and features. Therefore to stay competitive, the Section 538 program has enabled owners to add community rooms, and other amenities and features to stay competitive in the rental market place. The Capital Magnet Fund should prioritize it's funding towards existing projects in need of repair and rehabilitation. The Section 538 program through its Rural Development state and area offices, have staff that know the rural markets and can access the rural market's needs, etc.
- (2) Rural Development's Multi-family housing's Office of Preservation has a process in place to screen all transfers of existing RD financed projects. Since the market knows this process and is comfortable with the process, CDFI should utilize the existing screening and approval process. Through the Rural Development programs, RD has created, repaired, rehabilitated and preserved more than 500,000 units. Any existing RD financed project should be deemed an eligible project for purposes of the Capital Magnet Fund.

- (3) The Agency also has the only National program financing affordable farm labor housing through the Section 514 and Section 516 programs. These projects are built and repaired for the use of families who have at least one family member who receives the majority of their income from farm activities. Many of these projects have day care facilities, community rooms and educational / language related programming designed to assist the residents. Any existing RD financed project should be deemed automatically eligible for purposes of the Capital Magnet Fund.

#### Preservation of existing Multi-Family Housing properties (and non RD properties)

- (1) Rehabilitation in rural areas should be the definition used by the Guaranteed Rural Rental Housing program, which is \$6,500 per unit. The Section 538 program has state office personnel and area office personnel that have used this definition and the rural market place has adopted this definition, not to mention the State Housing Authorities use this definition. The Capital Magnet Fund should award financing to owners of rural properties that have submitted a notice response and an acceptable application for Section 538 financing.
- (2) The Section 538 has preserved both existing RD financed debt and non-RD financed debt. One overriding fact exists in all existing affordable housing properties, the lack of funds to perform preventative maintenance. While all affordable housing programs have reserve requirements, the Section 538 program requires a minimum amount of \$1,000 per unit in reserves. As any affordable housing expert will tell you these reserves are not enough to perform preventative maintenance. Because the Section 538 already has a process in place for preservation of affordable housing rural housing AND it has standards for those repairs, etc. the Capital Magnet Fund should rely on the expertise of the RD staff when making financing selections to owners of rural properties. The RD staff has spreadsheets, Capital Needs Assessment worksheets, and other tools used to review, modify and approve (reject) applications for funds.

#### Capital Magnet Fund used to generate additional investment

- (1) The Section 538 (Guaranteed Rural Rental Housing) program utilizes criteria to attract additional investment. Through a scoring process, on average, the projects financed using the Section 538 program have additional funding sources that are 4 or 5 times the level of guarantees in place. With the recent tax credit market issues, increased financial pressure is being placed on those rural affordable housing projects that are and have relied on tax credit equity. The funds from the Capital Magnet Fund should be used to fund items include in a project worksheet (sources and uses statement) and approved by the affordable housing staff at Rural Development.
- (2) The affordable housing staff at Rural Development knows what items need to be included in a project in order maximize the number of points and thus maximize the amount of funding for project. For example, tax credit projects in one state may give preference for 3 bedroom units while another state may not. One state may give a preference for exercise rooms or play areas, both of which may be funded using the Capital Magnet Fund. If maximizing the impact of the Fund's resources is important working with the Rural Development / Multi-family housing national office staff during the design phase of this program is crucial.
- (3) Other funding sources such as the HOME funds and AHP program have their own criteria. The Rural Development / Multi-family housing national office staff have a good understanding of these programs and can assist the CDFI group designing this program.

- (4) With the recent credit market (secondary market) issues, the Section 538, which has been a “gap” financing tool has experienced increased pressure to provide an ever increase portion of the building costs. Having Capital Magnet Funds available to offset the loss of some of this tax credit equity typically used in Section 538 deals could be the missing component that makes these deals work.
- (5) Guarantee programs are more cost effective and generally are market driven the Section 538 program is no different. The Guaranteed Rural Rental Housing program is a market driven program which means that properties using the guarantee can have amenities that are dictated by the market. For example if properties in the general area, affordable or market rate properties, have community rooms, gazebos or other amenities the Section 538 program permits those amenities to be competitive in the marketplace. The Capital Magnet Fund should be used to provide capital resources to fund those amenities dictated by the market.

#### Consultation with Rural Development

- (1) Since the Multi-family housing area within Rural Development has been financing affordable housing for years, I would suggest that Multi-family Housing provide consultative advice to the Deputy Director and the Director of Policy and Programs, CDFI Fund so that the Capital Magnet Fund is designed to meet the needs of the rural population Congress intended.
- (2) The Multi-family housing staff has experience with affordable housing funds nationally, on the state level and on a local level. The Multi-family housing staff has helped establish the criteria for these affordable housing funds. The Multi-family housing programs provide more than 500,000 affordable housing units, all of which have restrictive use provisions. Meeting the needs of the very low and low income tenants has been the mission of the Multi-family housing staff they know what works and what does not work. I suggest that the Multi-family housing staff be included in the design of the Capital Magnet Fund program.
- (3) With state and area offices in every state, the Multi-family housing staff has worked with every State Housing Finance Agency, with every State’s Low Income Housing Tax Credit program, and financed affordable housing in each state.

Respectfully submitted by  
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