

# San Carlos Housing Authority

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September 1, 2020

## Via Email

Treasury Tribal Advisory Committee  
Department of the Treasury  
1500 Pennsylvania Avenue NW, Room 14260  
Washington, DC 20220  
[tribal.consult@treasury.gov](mailto:tribal.consult@treasury.gov); [TTAC@treasury.gov](mailto:TTAC@treasury.gov)

## Re: Public Comment to the Treasury Tribal Technical Advisory Committee

The San Carlos Housing Authority (SCHA) submits this public comment to the Treasury Tribal Advisory Committee (TTAC) to update you regarding the challenging situation that SCHA faces as our successful partnership with the Community Development Financial Institutions Fund (CDFI Fund) is now in jeopardy. We request the TTAC's assistance in helping facilitate a dialogue between SCHA and the CDFI Fund so that we may restore our partnership, which has had a significant positive impact on the San Carlos Apache community.

As I reported in my oral statement on March 31 and our written comments (attached), SCHA received a \$1.0 million award from the CDFI Capital Magnet Fund (CMF) in 2010. We used that award to leverage nearly \$13 million in Low Income Housing Tax Credits (LIHTC) and investor equity. Through that effort, SCHA built 31 new affordable housing units and renovated 50 existing units for low-income and very low-income San Carlos Apache citizens residing on San Carlos Apache Reservation lands. In addition to these 81 low-income housing units, the projects also constructed two community buildings and a basketball court.

SCHA fully utilized the funding made available by CMF and investors in project planning, design and construction, project administration, and program activity in order to establish the families residing in these housing units as part of the San Carlos Apache community. In 2014, the CDFI Fund recognized the significant, lasting improvements these projects offered San Carlos Apache community citizens. It featured our housing project as a "Success Story" in the CMF Impact Assessment the CDFI Fund published in March 2014. SCHA is honored by the success of our

partnership with the CDFI Fund in bringing vitally needed affordable housing to our community. We are proud to have been a responsible steward of federal and private funds.

Today, however, six years after CMF highlighted SCHA as a success story and years after we completed all construction and established residents in those housing units, SCHA's relationship with the CDFI Fund is at a crisis point. Due to staffing and technological challenges beyond SCHA's control, SCHA missed several reporting deadlines and the CDFI Fund issued two Confirmation of Default letters in 2019. In response, SCHA requested an extension to cure in late 2019. While the CDFI Fund provided us with an extension until January 31, 2020, SCHA did not have the capacity to meet this deadline because it continued to face substantial staffing challenges and the CDFI Fund had not granted SCHA access to its online CMF reporting portal, the Awards Management Information System (AMIS). The CDFI Fund subsequently issued a Confirmation of Default and Notice of Intent to Collect Indebtedness of \$1.0 million from SCHA on February 28, 2020, which cautioned that, without repayment, the CDFI Fund would impose other penalties.

When I presented SCHA's serious concerns about the status of this situation during the TTAC's March 2020 meeting, I remained optimistic that through dialogue with the CDFI Fund, we would reach an accommodation that would enable us to resolve any reporting deficiencies and restore our positive partnership. At that time, we had just submitted a letter (dated March 27, 2020) that provided the CDFI Fund with details explaining the circumstances that caused those delinquencies, reported on SCHA's efforts to gather the remaining documentation to cure its reporting delinquencies, and requested access to the CDFI Fund's online report portal, AMIS. We requested a telephone or video conference to discuss our request prior to any CDFI Fund final determination on Default and Collection.

SCHA believed that by opening this line of clear and necessary communication, we might be able to engage with CDFI Fund officials to establish a process that would lead to mutually beneficial results. Such a pathway would permit SCHA additional time to cure as well as provide access to AMIS, which we had not had for over a year. This would enable SCHA and CMF to come into full compliance with the program reporting obligations. Such a collaborative effort would also enable SCHA and the CDFI Fund to reestablish the SCHA low-income housing projects as an illustration of a successful CDFI Fund partnership with a tribal housing authority.

The preliminary response we received from the CDFI Fund by email on April 21, 2020, confirmed receipt of our request and stated that it was under review. The email also said the CDFI Fund expected to make a determination "over the next several weeks" and that representatives would "arrange a conference call" with us once a decision was made. The next communication we received from the CDFI Fund came on June 12, 2020, through an email that included a formal Confirmation of Default and Notice of Intent to Collect Indebtedness. The CDFI Fund's email response also provided the option to discuss its decision in a conference call.

On June 23, 2020, we sent a letter and email to the CDFI Fund that supplemented our previous correspondence and repeated our request for access to AMIS, which would make it possible for SCHA to complete the delinquent CMF Activities Reports and the Certification of Material Events. Without access to AMIS, SCHA transmitted additional documentation in our June 23 email including audited financial statements for the limited partnerships for the housing projects and for SCHA for the years requested by the CDFI Fund. SCHA also reaffirmed our request for a conference call.

The CDFI Fund, on July 6, 2020, sent SCHA an email message confirming receipt of our June 23 letter. As an attachment, the CDFI Fund issued a Confirmation of Default letter. The CDFI Fund's demand for return of the full amount of the CMF award, which SCHA expended properly to leverage financing for low-income housing construction, administration and program implementation, is disproportionate to SCHA's delinquency in reporting. SCHA regrets its reporting delinquencies, but remains hopeful that the CDFI Fund will work with SCHA to establish an open line of communication to pursue a mutually beneficial resolution of these issues.

Given our grave concern that the CDFI has determined to pursue collection, SCHA has submitted two additional letters to the CDFI Fund, to which we have not received a response.

SCHA submitted a letter to the CDFI Fund on August 11, 2020, containing four discreet requests. First, SCHA asked that the CDFI Fund waive its declaration of default and intent to collect \$1.0 million pursuant to the agency's broad discretion under law. Second, SCHA informed the CDFI Fund that it wishes to exercise its right to review records related to the collection action. Third, in the event that the CDFI Fund does not waive its declaration of default and intent to collect, SCHA requested that the CDFI Fund provide SCHA with a review of the determination of the \$1.0 million through an *oral hearing*, wherein representatives from SCHA and its legal counsel would present evidence relevant to the CDFI Fund's review of the \$1.0 million. Fourth, SCHA requested that the CDFI Fund issue a waiver of any interest, penalties, and administrative costs pending the agency's decisions with respect to these matters.

On August 19, 2020, SCHA wrote to the CDFI Fund to request confirmation of receipt of our August 11 letter and to schedule a conference call between the CDFI Fund and SCHA to serve as a status review prior to the CDFI Fund's determination regarding its declaration of default and intent to collect \$1.0 million. In the August 19 letter, we informed the CDFI Fund that we are inviting staff from the offices of Senators McSally, Sinema and Representative O'Halleran to join that call. To date, the SCHA has not received a response to its request.

SCHA is committed to its partnership with the CDFI Fund. SCHA's CMF award made it possible to expand affordable housing on the San Carlos Apache Indian Reservation. These housing projects have had significant and positive impacts for the San Carlos community. This fact cannot be overstated, especially amidst the tremendous challenges and uncertainties brought on by the COVID-19 pandemic.

We welcome the TTAC's assistance in helping facilitate a dialogue between SCHA and the CDFI Fund, so that we can move forward to cure the deficiencies and restore our positive partnership that has benefited the San Carlos Apache community. Thank you.

Respectfully,

A handwritten signature in blue ink that reads "Charles Hill".

Charles Hill  
Executive Director

cc: Heather Hunt, Associate Program Manager, Office of Certification, Compliance  
Monitoring and Evaluation  
Tanya McInnis, Program Manager, Office of Certification, Compliance Monitoring and  
Evaluation  
Amber Kuchar-Bell, CDFI Program and Native Initiatives Program Manager  
Daniel Aiello, Program Manager, Capital Magnet Fund  
Senator Martha McSally  
Senator Kyrsten Sinema  
Congressman Tom O'Halleran  
Vince Lujan, Esq., Titla & Parsi, PLLC





March 31, 2020

Via Email

Treasury Tribal Advisory Committee  
Department of the Treasury  
1500 Pennsylvania Avenue NW, Room 14260  
Washington, DC 20220  
[tribal.consult@treasury.gov](mailto:tribal.consult@treasury.gov)

Re: Public Comment to the Treasury Tribal Technical Advisory Committee

On behalf of the San Carlos Housing Authority (SCHA), I am writing to inform you of a challenging situation that we are facing with respect to our successful partnership with the CDFI Fund. Several years ago, SCHA built and rehabilitated a total of 81 housing units for low-income and very low-income San Carlos Apache citizens residing on San Carlos Apache Reservation lands through a \$1.0 million Capital Magnet Fund (CMF) award. For many years, SCHA met its reporting requirements and maintained compliance. However, staffing and technological challenges beyond SCHA's control eventually resulted in delinquent reporting and the CDFI Fund's subsequent issuance of a Notice of Intent to Collect the \$1.0 million CMF award, along with other penalties. Because the Treasury Tribal Advisory Committee (TTAC) plays a vital role in shaping U.S. Department of Treasury policy, we ask for your consideration in this matter.

#### ***SCHA's CMF Award and Its Impact***

In 2010, the CDFI Fund's CMF provided SCHA with an award of \$1.0 million. SCHA used that funding to leverage nearly \$13 million in Low Income Housing Tax Credits (LIHTC) and investor equity to complete the building of 31 new affordable housing units and the renovation of 50 existing units. The projects also included two community buildings and a basketball court.

In creating this important lasting change for community members residing on San Carlos Apache Indian Reservation lands, CMF featured our project as a "Success Story" in CMF's March 2014 Impact Assessment (Impact Assessment), which is attached for your reference. These SCHA affordable housing projects made possible by the CMF award are outstanding accomplishments in the CDFI Fund's experiences partnering with tribal governments and tribal housing authorities. As highlighted in the CDFI Fund's Impact Assessment, pursuant to this award, our SCHA Leverage Debt Fund, LLC, made two loans. The first loan of \$459,308 leveraged \$6.44 million in equity from LIHTC, and the second loan of \$401,458 leveraged \$6.55 million in equity investments. The CDFI Fund acknowledged the significance of these loans in its Impact Assessment, pointing out that "traditional borrowing and lending of money is virtually nonexistent on tribal trust land" while the need for housing is immense.

SCHA is honored by the success of our partnership with the CDFI Fund in bringing vitally needed affordable housing to our community. We are also proud to have been a responsible steward of federal and private funds. SCH A fully utilized the funding made available by CMF and investors in project planning, design and construction, project administration, and program activity to establish the families residing in these housing units as part of the community. Further, SCH A completed the reporting process on the expenditure of those funds in the proper timeframes.

Yet, today, six years after the CDFI Fund highlighted SCH A as a success story in its Impact Assessment, and years after completed construction and the secure establishment of residents in those housing units, SCH A's relationship with the CDFI Fund is in jeopardy. SCH A has faced significant staff transitions that have caused breaks in CDFI Fund-SCH A communications, including a period in 2019 in which the SCH A was unable to timely cure several reporting delinquencies. In response, the CDFI Fund issued a Notice of Intent to Collect Indebtedness, which requires SCH A to return the entire \$1.0 million CMF award and discusses other penalties such as a 30% administrative fee and the reduction of federal and state payments due to us.

#### ***CDFI Fund's Intent to Collect the \$1.0 CMF Award and SCH A's Challenges to CMF Award Reporting***

In May 2019, the CDFI Fund and SCH A agreed to a compliance site visit scheduled to occur in July 2019. However, due to missing documentation, the CDFI Fund issued a default notice on June 10, 2019 and canceled the compliance site visit. On November 6, 2019, the CDFI Fund issued a Notice of Default, requesting that SCH A submit the remaining delinquent reports within 30 days. In response, SCH A requested an extension ending January 31, 2020 to submit the missing documentation. As explained below, SCH A was not able to meet the extension deadline and submitted another request on February 28, 2020 for an extension ending March 31, 2020. That same day, the CDFI Fund issued a Notice of Intent to Collect Indebtedness. The notice requested the entire \$1.0 million CMF award and noted that, should SCH A fail to pay the entire amount within 60 days or fail to make payment arrangements, the Treasury Department would impose "additional administrative fees of up to thirty percent (30%)" on the balance owed. The CDFI Fund outlined other penalties, including the reduction of any eligible federal and state payments due to us.

For several years, SCH A satisfied its CMF award reporting requirements. However, SCH A recently experienced a time of significant transition, which led to a breakdown in reporting. From 2016 to 2019, SCH A faced exceptional circumstances, particularly in regard to the staffing of three key positions associated with SCH A's administration and oversight of the project award—Executive Director, Finance Officer, and Housing Management Services Manager. These key officials oversee project reporting and abrupt and repeated staff transitions for these positions were acutely disruptive during the period when the CDFI Fund issued its Notice of Default. The transitions made it exceedingly difficult to respond to the CDFI Fund's Notice of Default issued in November 2019—the notice required SCH A to complete a number of

substantial reports during a period when SCHA was at its most unstable moment, with all three key officials having just assumed or exited their positions.

Technological issues beyond SCHA's control have complicated matters further. When the CDFI Fund issued the Notice of Default in November, CMF's own training on the financial reporting requirements was under construction. In addition, SCHA and our consultants have attempted to obtain access to the online CMF portal for over a year in order to complete the pending reports. However, CMF has not provided the assistance needed to ensure our access to the system. We find this particularly challenging as we have worked diligently to fill the key positions required to ensure stability in reporting. Without access to the CMF portal, our good faith effort to cure the remaining reporting delinquencies and bring SCHA into compliance is significantly hampered.

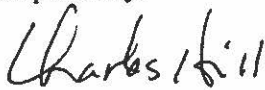
#### ***SCHA's Request to Cure Reporting Deficiencies***

Given SCHA's responsible stewardship and desire to cure any reporting deficiencies, the CDFI Fund's punitive measures are alarming. While the CDFI Fund has discretion to issue such penalties, we believe that doing so would counter the best interest of either party and encumber the overall financial wellbeing of Indian Country.

We want the opportunity to assist the CDFI Fund in meeting its compliance monitoring responsibilities and to display the meaningful, lasting impact that the CMF award has had on our Reservation. Accordingly, SCHA is requesting a telephone or video conference call with the CDFI Fund to discuss access to the CMF portal, request additional opportunities to cure, and rebuild our relationship with the CDFI Fund. If granted access to the CMF portal, we are confident that we can meet these reporting obligations within 45 days. Further, we would like to invite the CDFI Fund to reschedule its compliance site visit for a date later in this fiscal year.

SCHA appreciates your consideration of this written statement and the opportunity to have shared SCHA's concerns with you during the public comments in today's TTAC meeting. Thank you.

Respectfully,



Charles Hill  
Executive Director

cc: Tara McInnis, CDFI Office of Certification, Compliance Monitoring and Evaluation  
Amber Kuchar-Bell, CDFI Program and Native Initiatives Program Manager  
Daniel Aiello, Program Manager, the Capital Magnet Fund  
Ed Goodman, Hobbs Straus Dean & Walker, LLP  
Michael Willis, Hobbs Straus Dean & Walker, LLP