September 6, 2016

Kristen Grifka
Rural Housing Service
U.S. Department of Agriculture
1400 Independence Avenue SW
Washington, DC 20250–3225

Re: RIN 0575–AD05

Dear Ms. Grifka:

Opportunity Finance Network (OFN) appreciates the opportunity to comment on RIN 0575–AD05, Community Facilities Relending Program Interim Rule, published in the Federal Register on July 6, 2016. OFN is a national network of community development financial institutions (CDFIs) investing in opportunities that benefit low-income, low-wealth, and other underserved communities across America. OFN Members are performance-oriented, responsible investors that finance community businesses, sparking job growth in the areas that need it most, and delivering both sound financial returns and real changes for people and communities.

Our Network has originated more than $42 billion in financing in urban, rural, and Native communities through 2014. With cumulative net charge-off rates of less than 1 percent, we have demonstrated our ability to lend prudently and productively in unconventional markets often overlooked by conventional financial institutions.

OFN commends the U.S. Department of Agriculture (USDA) for opening the Communities Facilitates direct loan program to mission-driven re-lenders and creating this important public-private partnership that facilitate the flow of capital into rural communities. CDFIs are important partners for USDA and provide financing for community facilities, housing, and businesses in rural markets that are often challenging for conventional lenders. Organizations in our network have a proven track record of developing solutions to address rural poverty with expertise in reaching high poverty and persistent poverty rural areas.

CDFIs currently participate as non-regulated lenders in a number of USDA programs, including the Business and Industry (B&I) Guaranteed Loan program, Intermediary Relending Program (IRP), and Rural Microenterprise Assistance Program (RMAP). Access to the Community Facilities program has the potential to catalyze investments in distressed rural communities, offering an opportunity for CDFIs to access low-cost, long-term capital needed to address challenges.

OFN looks forward to a continued partnership with the USDA to provide access to much needed resources and capital in rural communities. Our CDFI Members expressed great appreciation for the USDA's thoughtful approach to the program application and interim

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rule, and have identified a few changes to the program that will allow CDFIs participants to employ flexible strategies to meet the specific needs of the communities in which they work. OFN would like to comment on several aspects of the interim rule:

§1942.30 (a) Re-lender Eligibility

The re-lender eligibility requirements create a high threshold for potential applicants, some of which were challenging or unclear for CDFI applicants: portfolio requirements, collateral, letter of intent or performance guarantee, financial strength and performance and membership in a national organization:

- **Portfolio Requirements**

  CDFIs in our network expressed concern about the portfolio requirements for re-lender applicants. The aforementioned requires an applicant to demonstrate a percentage of projects are located in, or serving, Persistent Poverty Counties or High Poverty Areas; or, that the Re-lender has a minimum amount of experience making loans for projects located in, or serving, Persistent Poverty Counties or High Poverty Areas.

  The annual Federal Register notice specifies the percentage. This year that percentage was set forth as: at least 30 percent of projects in high poverty areas or a minimum of three years of experience. OFN is concerned that setting this threshold too high could prevent organizations with limited organizational capacity from qualifying for re-lender status, even if those organizations are working in certain communities – like in tribal reservations or colonias – and even if they are serving the high-need populations the program is trying to reach.

  The format of the data requested was also problematic for our Members, who indicated that providing census-level tract information could be burdensome as many CDFIs track their activity at the zip code or county level.

- **Collateral**

  Another requirement is that the re-lender must provide adequate collateral that is acceptable to the Agency to secure the loans, but the interim regulations lack clarity on this issue. Member CDFIs indicated they already review and take collateral on the end borrower loans, and is duplicative for the USDA to review the collateral a second time.

- **Letter of Intent or Performance Guarantee**

  OFN understands the need to minimize losses in the program; however, we are concerned that some of the risk management efforts of the Community Facilities program are burdensome and unnecessary. The USDA has a long history of working with CDFIs through the B&I, IRP, and RMAP programs, and should recognize that CDFIs are prudent, responsible lenders with extremely low loan losses.

Requiring re-lenders to secure a letter of intent or performance guarantee from a bank partner will increase the financial burden on the re-lender, and reduce the capacity and capital available to finance projects. Securing the letter of intent is of particular burden to smaller CDFIs that may not have strong existing relationships with traditional financial institutions needed to secure such a letter, especially given the compressed application period. OFN Members suggested allowing CDFIs some additional flexibility in meeting this requirement, such as demonstrating a track record of performance in USDA programs.

- **Financial Strength and Performance**

  For non-regulated entities like loan funds, the regulations state the re-lender must have a Financial Strength and Performance Rating indicating financial strength, performance, and risk management practices defined in this year's Federal Register notice as an Aeris rating of 1 or 2.

  Member CDFIs expressed support in general for the use of a third party rating system to determine CDFI financial strength and performance. This will reduce the burden on USDA underwriters and staff, and could streamline the review process for CDFI applicants with Aeris ratings. However, there was concern that the USDA is only considering ratings of 1 or 2 as strong financial performance, as Aeris currently considers a rating of 3 or better to be an "investment grade".[1] OFN recommends CDFIs with an Aeris rating of 3 be granted a similar status to that granted to 1- or 2-rated CDFIs.

  OFN also recognizes that most CDFI applicants can meet the financial strength and performance requirement without an Aeris rating by submitting financial documentation to the USDA, leaving flexibility for applicants to offer proof of financial soundness and capacity. However, the interim rule does not make it clear which information the USDA would request from the re-lender. OFN recommends providing potential applicants with more detail about how they will be evaluated and the criteria the USDA will use to underwrite non-regulated re-lenders.

- **Membership in a National Organization**

  OFN was initially concerned about the requirement of membership in a national organization, as the language around this provision was unclear. However, we were pleased to see the USDA update its FAQs to identify approved membership organizations, including OFN, National Federation of Community Development Credit Unions and NeighborWorks. We encourage the USDA to continue to update that list with other appropriately vetted and approved entities.

[1] http://www.aerisinsight.com/about-aeris-ratings/

§1942.30 (c) Application Submission Requirements
OFN commends the USDA for its hard work ensuring the program regulations and application materials were made available to re-lenders during Fiscal Year 2016. However, CDFIs in our network expressed concern about the compressed application timeline. Potential applicants were asked to prepare application materials to submit to the USDA, secure a letter of credit from a bank partner, and apply for grant funds from philanthropic sources all within a one-month time period – a feat even for high-performing, high-capacity CDFIs and a nearly insurmountable challenge for smaller organizations.

OFN encourages the USDA to provide adequate time in future funding rounds for organizations to prepare the application materials for such a complex program. USDA should also consider automating some aspects of the application in future rounds to reduce the burden on potential applicants and facilitate the application process.

§1942.30 (d) Evaluation Criteria
OFN appreciates the USDA's efforts to ensure participating lenders have experience lending in rural communities and that they have the organizational and financial capacity to deploy the funds. Although there is limited detail in the interim rule about the evaluation criteria, applications are scored based on criteria detailed in the Federal Register and can change from year to year. This flexibility allows for adjustments in scoring to address changing policy priorities.

OFN agrees with this approach and understands the USDA's scoring during this funding round prioritizes lending experience and ability to reach high poverty and persistent poverty in rural communities. However, we are concerned some of the evaluation criteria could create barriers for mission-driven lenders seeking to deploy this capital into the most distressed communities, especially in tribal communities, border regions, and communities of color:

Below are issues of particular concern with this year's scoring:

- **Lending Experience and Strength of the Re-lender**
  OFN appreciates the USDA's focus on performance as part of the application evaluation criteria, as our own membership criterion requires lending experience and a commitment to performance. We also understand the importance of working with partners who have the financial and technical acumen to facilitate large, complex community facilities projects. However, this focus on high-capacity, high-performance re-lenders may limit the program's ability to reach deeply under-resourced rural communities, where there are fewer potential partner organizations, and limited capacity.

  OFN is concerned that organizations with the deepest reach in tribal and colonia communities will be overlooked in the evaluation process because they fail to indicate adequate lending experience and strength. Nearly all of the Native CDFIs in our Network indicated they did not apply for the Community Facilities program due to onerous and burdensome requirements despite a pressing need for these types of community infrastructure projects on tribal lands. The USDA should consider additional flexibility in the scoring for re-lenders working on tribal lands or border regions to ensure this capital is able to flow to where it is needed most, and not just where it is easiest to deploy.

- **Poverty and Project Service Area**
  Re-lenders who demonstrate that they have a lending history in Persistent Poverty Counties or High Poverty Areas score higher on their applications, with all high poverty areas being weighted equally. However, this ignores the reality that not all high and persistent poverty areas have the same needs and challenges. Persistent poverty counties are concentrated in certain parts of the country: Native American reservations, Appalachia, the Lower Mississippi Delta and the Southern Black Belt, and the colonias along the US-Mexico border. Differences in organizational capacity, funder and investor relationships, and physical proximity to traditional financial services and institutions can result in some persistent poverty areas being better positioned to access resources than others.

  Persistent poverty is also especially pronounced in rural communities of color: minorities are the majority in five of these six regions and populations (Appalachia being the exception).[2] Poverty in Appalachia looks different than poverty in Indian Country, which looks different than poverty in the Deep South, therefore successful economic development strategies must be targeted, flexible, and provide culturally competent and culturally relevant financial and technical assistance.

  However, as mentioned above, organizations providing those interventions may not be high-capacity enough to meet the re-lender requirements as stated, impeding their ability to prepare a competitive application. The USDA should consider additional flexibility in the scoring for re-lenders working on tribal reservations or border regions, or proposing strategies focused on communities of color. The USDA should also consider providing additional training and capacity-building opportunities for mission-driven lenders serving these markets.

- **Administrator's Discretionary Points**
  OFN supports awarding discretionary points to address geographic distribution of funds, emergency conditions caused by economic problems, natural disasters, and other initiatives that support the Agency's strategic plan. We encourage the USDA to provide guidance during the award process to explain how those discretionary points were allocated.

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[2] Housing Assistance Council, "Rural Voices", http://www.ruralhome.org/sct-information/rural-voices/1022-rvwinter2014

§1942.30(f): Loan Origination and Servicing

CDFIs in our network expressed significant concerns that the program, as currently structured, will generate significant costs for re-lenders during the application process, the originating, processing, and servicing of loans to applicants, and, during compliance and reporting to USDA. Re-lenders are expected to use their own policies and procedures for loan origination and servicing for all loans but must adhere to the numerous federal compliance and reporting requirements, present documentation that demonstrates that both the applicant and the project meet the eligibility requirements of the Community Facilities direct loan regulation, and submit any additional requirements that may be included in the Notice of Funding Availability (NOFA).

This will create a financial burden as well as a burden on loan officers, and will be especially problematic for small organizations with limited resources and staff capacity. For most CDFIs, these costs will either have to be absorbed and paid for with grant and equity funds, or passed on to the end borrower. One OFN Member estimated that once all of the additional costs and fees are added in, the cost of capital to the end borrower will be double the 2.75% interest rate the USDA is offering the re-lender.

To further complicate matters, CDFIs may be competing directly with the USDA to make these loans. The USDA acknowledges that for the end borrower, they may incur additional upfront costs working with a re-lender versus obtaining a loan directly from the Agency. This could have an impact on pipeline prospects if eligible borrowers decide to apply directly to the USDA for the community facilities loan rather than working with a re-lender.

OFN understands the expectations that re-lenders will leverage the federal funds with other private and philanthropic funding in the form of grants or guarantees to reduce the cost of structuring the transaction, providing technical assistance to the borrowers, and servicing the loan. However, CDFIs indicated this model may not be sustainable as there is no guarantee of the continued availability of new grant dollars to pay for the costs of the program, and it is an economically unfeasible long-term strategy to expend existing subsidy to cover these costs.

Additional Recommendations

OFN has additional recommendations related to the Community Facilities Relending program:

- **Continued Outreach and Training**
  OFN appreciates the USDA's efforts to provide underwriting training to the Community Facilities program staff to improve the understanding of CDFI business models. The USDA has a roadmap for working with CDFIs through the Intermediary Relending Program and Rural Microenterprise Assistance Program. We encourage the USDA to continue to work to understand the challenges associated with underwriting

financial institutions like CDFIs and to share best practices with program staff at other USDA programs.

- **Expanded Grant Support**
  The Uplift America fund is an innovative public-private partnership designed to fill in those gaps and provide grant support or equity and strengthen the balance sheet of applicants. This program brought together the philanthropic, public, and nonprofit sectors, and once fully funded, can potentially serve as a model to other federal programs. However, CDFIs indicated that the Uplift America Fund was not fully capitalized in time for this funding round, limiting its effectiveness for applicants who need that critical grant funding and operating support to make the program economically viable. In addition, changing philanthropic priorities could jeopardize the long term solvency of the Uplift America fund should foundation partners begin to withdraw their support in future rounds. OFN encourages the USDA to continue to develop new sources of grant capital to subsidize the costs of participation in this program, with a focus on providing grant funds for technical assistance and capacity building of smaller re-lenders, as well as those working in communities of color.

OFN applauds the USDA's commitment to increasing economic opportunity and improving the quality of life in rural communities through its programs and we look forward to continuing to partner with you. OFN appreciates your consideration of our comments. If you have any questions, please feel free to contact me at dwilliams@ofn.org or 215.320.4318.

Thank you,

Dafina Williams

Dafina Williams
Vice President, Public Policy

cc: Liz Lopez, Executive Vice President, Public Policy
Nancy Santiago Negron, Chief External Affairs Officer