LISC
LOCAL INITIATIVES
SUPPORT CORPORATION

August 12, 2024

Ms. Marcea Barringer
Supervisory Policy Analyst
Federal Housing Finance Agency
400 Seventh Street, S.W., Eighth Floor
Washington, D.C. 20219

RE: Duty to Serve 2025-2027 Request for Information

Dear Ms. Barringer:

The Local Initiatives Support Corporation (LISC) appreciates the opportunity to provide comments on the Federal Housing Finance Agency's (FHFA) request for information on Fannie Mae and Freddie Mac's 2025-2027 Duty to Serve (DTS) plans.

LISC is a national nonprofit housing and community development organization and certified community development financial institution (CDFI) dedicated to working with residents and partners to forge resilient and inclusive communities of opportunity across America – great places to live, work, visit, do business and raise families. LISC mobilizes corporate, government and philanthropic support to provide local community development organizations, nonprofits, and small businesses with loans, grants, and equity investments, as well as technical and management assistance. Our organization has a nationwide footprint with offices in 37 cities throughout the country, and a rural network encompassing over 140 partners serving 49 different states. In 2023, LISC and its affiliates raised and deployed over $2.8 billion in grants, loans and equity capital into distressed urban and rural communities.

<u>I) General Comments</u>

LISC strongly supports the efforts of Congress and FHFA to expand the mission and regulation of the Government Sponsored Enterprises (GSEs) beyond the affordable housing goals that have been in place since 1992. LISC provided comments on the DTS rulemaking and previous three year plans and requests for plan modifications. We applaud the thoughtful and creative work which has been done to date, particularly with affordable housing preservation programs.

LISC believes that the Duty to Serve effort should focus primarily on supporting and expanding transactions that improve affordable housing opportunities in underserved geographies and for low-income populations. The efforts of the GSEs pursuant to their Duty to Serve should be evaluated by the extent to which they facilitate *more* transactions to create or preserve these types of housing opportunities, particularly for households at the lowest end of the income spectrum.

The outreach of the GSEs and FHFA in developing the DTS plans has been commendable, and LISC believes the types of transactions that will expand choice and opportunity for underserved areas and low-income households are often smaller, more labor-intensive, and have different risk profiles than is typical in conventional mortgage underwriting. Community development financial institutions have worked in underserved communities for many years and have first-hand knowledge of local markets and partners. We are adept at mitigating the risks that are often inherent in investing in them. With our strong loan portfolios, CDFIs are natural partners for leveraging the GSEs liquidity and expanding responsible investment in these markets.

Beyond working with CDFIs for loan purchase and technical assistance activities, LISC recommends FHFA determine whether the GSEs can make equity or equity like investments in CDFIs through their DTS authority. Equity capital is critically important for CDFIs to be able to tackle some of the most challenging affordable housing problems in our nation.

Fannie Mae stated in their current 2022-2024 DTS plan that they would explore investing in one or more CDFIs working in high needs rural regions although it doesn't appear that has happened to date. A plain reading of the authorizing statute for DTS indicates the GSEs have such authority and LISC encourages FHFA release to the public a legal determination on this issue. LISC recommends that the GSEs update their DTS plans to include additional CDFI investment activity if FHFA determines it's eligible. Such work should be focused on activities where GSEs lenders have not been able to make progress to date with DTS activities.

LISC notes that it is challenging to review and make recommendations to FHFA on the GSE's DTS plans due to a lack of information on how activities are counted and insufficient public information on appropriate market baselines. For instance, many Low-Income Housing Tax Credit (LIHTC) properties have GSE debt, Section 8 subsidy, and soft sources from state and local housing trust funds. This is due to how affordable housing is financed, since projects often require multiple subsidies. For DTS purposes, it's unclear if a project would meet multiple activities if it met numerous DTS requirements or if only one activity is counted based on a GSE or FHFA determination. Related, stakeholders are not able to discern if FHFA only counts units supported by relevant programs (inclusionary zoning, Section 8, etc.) or if a whole building is counted if a portion of the units include relevant DTS activities.

LISC recommends that FHFA explain to the public how DTS activity is accounted for in public reporting. In addition, we recommend that plans provide detailed market information for each activity, so stakeholders are better able to discern the appropriateness of proposed baselines.

II) Specific Comments

LISC's specific comments focus primarily on affordable housing preservation, which is a critical component of our broader strategy for community revitalization and economic mobility. LISC supports affordable housing preservation activities through technical assistance activities in our national footprint and through our financing activities and those of the National Equity Fund (NEF), our nonprofit LIHTC syndicator affiliate.

1) Low-Income Housing Tax Credits

The GSEs provide critical equity and debt financing for LIHTC projects. Investment activities are currently a small portion of DTS activities although since 2017, FHFA has allowed each GSE to invest annually in LIHTC projects. Late last year, FHFA increased the LIHTC investment cap for each GSE from $850 million to $1 billion. Any investments above $500 million in a given year are required to be in areas that have been identified by FHFA as markets that have difficulty attracting investors, such as rural communities. These investments are designed to preserve affordable housing, support mixed-income housing, provide supportive housing, or meet other affordable housing objectives.

LISC thanks FHFA for raising the investment caps last year and recommends that they are adjusted by at least an inflationary factor on annual basis and that a portion of this extra investment authority be dedicated to underserved LIHTC markets. These investments should also be eligible for DTS credit and *this set-aside is needed since the GSEs provide critical support for projects not generally located in Community Reinvestment Act markets. In addition, FHFA should continue to monitor the LIHTC housing market as Congress considers tax changes next year and adjust the caps as needed to ensure the investor market is large enough to absorb an increase or to potentially help with downward pricing pressures.*

FHFA's announcement that the LIHTC caps were being increased also stated that the Enterprises can only make investments in projects that waive the Qualified Contract (QC) provision, ensuring the minimum 30-year affordability period required by the LIHTC program. Preventing QC abuse is critically important since we're losing approximately 10,000 affordable housing units annually due to it.

We applaud FHFA for including this QC requirement going forward for the GSE's LIHTC investments. LISC and our partners advocated for this change and sent FHFA a letter with other recommendations on how the GSEs can prevent QC abuse through their debt offerings, including prohibiting: 1) The GSEs from acquiring multifamily loans on Housing Credit properties unless the owner has agreed to waive their QC rights; 2) The GSEs from acquiring multifamily loans on properties financed with Housing Credits where an owner has taken the property through the QC process and terminated the rent and income limitations on the property; and 3) The Federal Home Loan Banks from providing Affordable Housing Program funds to Housing Credit properties unless the owner has agreed to waive its QC rights.

We applaud Freddie Mac for including a QC activity in its DTS plan, which states that it will explore QC protections in its debt products in 2025 through consultation with stakeholders. Fannie Mae does not include any QC activities in its DTS plan. We believe both GSEs should include such protections and note that there's increasing precedent for utilizing other federal subsidies and loan programs to prevent this practice. For instance, the U.S. Department of the Treasury included such requirements for states and localities utilizing State and Local Fiscal Recovery Funds for affordable rental housing. The U.S. Department of Agriculture is also working to include it for the Section 538 Guaranteed Rural Rental Housing program. We recommend that FHFA require QC waivers as a condition of accessing GSE multifamily debt, so that publicly backed multifamily mortgages are not being utilized in conjunction with these transactions.

<u>2) USDA Section 515 Rural Rental Housing Program</u>

Fannie Mae has proposed loan purchase goals for preserving properties financed under the USDA Section 515 Rural Rental Housing Program (**FN_AHP_Sec 515_1**). Fannie will continue to purchase loans secured by Section 515 properties and states it will purchase 85 for each year of the plan cycle. *LISC supports Fannie Mae's loan purchase goals and appreciates the efforts put into date to purchase loans on Section 515 properties for the first time in 2023.*

We appreciate Fannie Mae's focus on preserving Section 515 properties since these are critical housing resources in rural communities. There are over 13,000 Section 515 properties, providing over 374,000 units of affordable homes to low-income residents in rural areas. These resident populations include some of our nation's most vulnerable citizens, with the majority of units occupied by low-income older adults and person with disabilities. Many of these properties are old, with nearly 90 percent over 20 years old, and half over 30 years old[1]. The majority of the at risk properties have large capital needs and limited ability to access debt due to cash flow challenges.

LISC is concerned about the current loss of Section 515 properties and the coming wave as mortgages mature. For instance, there are over 5,000 properties under the program that are becoming eligible for prepayment each year during the next 10 years, with a significant increase in annual prepayment

[1] http://www.ruralhome.org/storage/documents/publications/rrreports/A_Platform_For_Preservation_EXECUTIVE%20SUMMARY.pdf

eligibility beginning in 2028. LISC testified before the Senate Banking Committee on legislation that would provide USDA new authorities and resources to help preserve this housing[2].

Fannie Mae has also proposed technical assistance (TA) activities for preserving Section 515 properties (**FN_AHP_Sec 515 TA_2**). Fannie previously partnered with two national nonprofit organizations to deliver TA directly to Section 515 owners and buyers with an affordable mission and preservation focus, including housing authorities, state housing finance agencies, and nonprofit developers. These partnerships resulted in two successful Preservation Academies and two Buyer-Seller Conferences, as well as direct TA to over 30 recipients. *LISC supports Fannie Mae's proposal to continue TA activities and recommends continuing to utilize the results from these efforts to refine their loan purchase activity.*

Freddie Mac does not include a Section 515 loan purchase or technical assistance goal, as it did in previous DTS plans. *LISC recommends that Freddie revise their DTS plans to include Section 515 loan purchase goals and determine if there's a need for additional TA activities.*

We note that Congress recently provided USDA authority to retain Section 521 Rental Assistance (RA) at properties with maturing Section 515 mortgages. USDA is currently implementing this decoupling preservation program and there will be a need for debt and equity sources to help recapitalize this older housing stock. The ability for owners to retain Section 521 RA should help leverage private capital and Fannie and Freddie should determine in conjunction with USDA how they can support such transactions through loan purchases. We recommend FHFA include a new DTS activity for both Fannie and Freddie focused on loan purchases for properties with standalone Section 521 RA contract. In addition, the GSEs should utilize their TA activities to support owners interested in preserving their properties through decoupling.

<u>3) Preserving Section 8 Properties</u>

LISC supports the GSEs continued role in providing liquidity to preserve Section 8 properties (**FN_AHP_Sec 8_1 and FR_AHP_Sec 8_A**). Affordable rental housing properties with Section 8 project-based rental assistance (PBRA) contracts house some of our nation's most low-income and vulnerable residents and are critically important to preserve. The GSEs have supported Section 8 capital and liquidity needs since the first year of the DTS plan and propose to continue this activity.

LISC appreciates the data provided by the GSEs in their Section 8 PBRA activities and understands that this is a relatively fixed market since there are no new PBRA contracts. There is though an overall growth in the program through the Rental Assistance Demonstration (RAD) program, where public housing and legacy HUD financed multifamily housing are converting to Section 8 PBRA or Project-Based Voucher contracts. Even though there is a separate RAD activity, it's unclear if those loan purchases are also counted in this activity. If so, the GSEs should state how the growth of the RAD program impacts their forecasting for Section 8 PBRA loan purchases since presumably it should increase the overall anticipated loan purchase activity.

<u>4) Energy and Water Efficiency</u>

Fannie Mae states (**FN_AHP_MF Energy_1)** it will increase positive environmental and social impact of green financing through development of market awareness and understanding of energy and water efficiency improvements and financing. It currently accomplishes this through the Multifamily Green Mortgage Loan product. For Duty to Serve, the purchases of loans financing improvement on multifamily properties that reduce energy or water consumption by at least 15 percent and where savings generated over the improvement's expected life will exceed it's cost are eligible loan purchase activities. Fannie's

[2] https://www.lisc.org/media/filer_public/45/15/4515077c-3714-45cf-880b-4fed8553a200/031224_senate_banking_committee_final_testimony_matt_josephs_lisc.pdf

DTS plan states it will continue to promote advancement of this product while Freddie doesn't include a multifamily energy efficiency activity.

LISC recommends that both GSEs include DTS outreach activities focused on how the enactment of the Inflation Reduction Act (IRA) will drive increased loan purchases for their green multifamily products and what changes may be needed by lenders to accommodate this work. For instance, the IRA provided $27 billion through the Greenhouse Gas Reduction Fund to mission-based lenders such as CDFIs, green banks, states, and others that will provide flexible financing for electrification and energy and water efficiency activities at affordable rental housing properties. Both GSEs should explore allowing subordinate financing for their conventional lending products for properties receiving such financing. In addition, both GSEs should actively engage with GGRF recipients to understand what other loan product changes may be needed to support GGRF implementation.

<u>5) Rental Assistance Demonstration</u>
Fannie Mae proposes to continue purchasing loans for Rental Assistance Demonstration (RAD) properties converting to the Section 8 platform (**FN_AHP_State Local_1**). HUD has scaled the number of RAD conversions in recent years, for both public housing conversions and for other legacy federally financed affordable housing programs such as Section 8 Moderate Rehabilitation, Section 202 Project Rental Assistance Contract (PRAC) properties and Section 811 PRACs. Many RAD properties take on debt as part of their recapitalization efforts. Fannie's DTS plans combines RAD with state and local affordable housing programs, instead of keeping it separate as in years past. Freddie Mac does not include a RAD activity.

LISC thanks Fannie Mae for including a RAD activity and believes Freddie Mac should also include it. Fannie's objective is inclusive of State and Local affordable housing programs and we believe this should be tracked separately since it's not specifically related to RAD transactions. It also appears that Fannie only sets RAD targets for public housing conversions and does not include other properties eligible for RAD conversions through legacy HUD financed multifamily housing. HUD has a healthy pipeline of conversion opportunities for all RAD transaction types and LISC believes this should be included in both GSE's RAD goals.

The GSEs should build on the relationships built during the last three year cycle to increase its RAD loan purchase activity to an amount commensurate with the market opportunities for all properties eligible for conversion to long-term Section 8 contracts. LISC encourages the GSEs to work with HUD to discern that market and set goals according to this data.

We thank the FHFA for the opportunity to provide suggestions and encourage FHFA and the GSEs to continue their commitment to this sector by increasing their role in preserving affordable housing and creating new markets where there are gaps. Please contact Mark Kudlowitz (mkudlowitz@lisc.org), LISC Senior Director of Policy, 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