August 12, 2024

Marcea Barringer
Supervisory Policy Analyst
Attention: Duty to Serve RFI
Federal Housing Finance Agency
Ninth Floor, 400 Seventh Street, SW
Washington, DC 20219

RE: Request For Input On The Enterprises' Proposed 2025-2027 Duty To Serve Plans

Dear Ms. Barringer,

The Housing Assistance Council (HAC) appreciates the opportunity to comment on 2025-2027 Duty to Serve Plans proposed by Fannie Mae and Freddie Mac (the Enterprises). A great deal of work has clearly gone into these Plans, and HAC applauds many of the goals laid forth in the plans. However, we continue to feel that, broadly, the plans are not ambitious enough when compared to the need on the ground in rural areas. The true, yet-untapped potential of Duty to Serve requires the Enterprises to set and stick to ambitious goals, and we encourage that in the 2025-2027 Plans.

HAC helps build homes and communities across rural America. Founded in 1971, headquartered in Washington, D.C. and working in all 50 states, HAC is a national nonprofit and a certified community development financial institution (CDFI). We are dedicated to helping local rural organizations build affordable homes and vibrant communities. We provide below-market financing, technical assistance, training, and information services. HAC also serves as rural America's "Information Backbone" with leading public and private sector institutions relying on HAC's independent, non-partisan research and analysis to shape policy. HAC is also a member of the Underserved Mortgage Markets Coalition (UMMC). Thus, HAC is uniquely positioned to provide comments on the Enterprises' proposed 2025-2027 Plans.

Overall, when considering the proposed Plans, HAC understands the challenges that come with the current market conditions, but encourages the

FHFA and the Enterprises to set ambitious purchase goals even (and perhaps especially) amid challenging market conditions. The mission of Duty to Serve calls the Enterprises to work proactively in these underserved markets even when it is challenging and runs counter to their profit motives. Duty to Serve purchases account for a small portion of the Enterprises' work, and goals that rely on low baselines and/or do not scale up year-over-year do not send a message of proactive commitment from the Enterprises.

While HAC spoke at the FHFA's Rural Duty to Serve Listening Session, our written comments cover all three Duty to Serve markets: preservation, rural, and manufactured housing.

AFFORDABLE HOUSING PRESERVATION MARKET

USDA Section 515 Preservation

The preservation of USDA's Section 515 portfolio is one of HAC's top priorities. We launched our Center for Rural Multifamily Housing Preservation earlier this year to bring our lending, research, technical assistance, and policy expertise together to address the dire preservation needs of this critical stock of rural rental housing. We therefore continue to encourage the Enterprises to be ambitious in their Section 515 Duty to Serve goals.

In their proposed Plan, Fannie Mae includes a goal of financing the preservation of 85 units of Section 515 housing each year from 2025-2027. Fannie also plans to continue their support for Section 515 preservation technical assistance, with a goal of delivering technical assistance to 30 organizations each year (an increase from the 20 per year goal from their previous Plan). Freddie Mac mentions that they will continue to offer their Section 515 preservation product, but does not include any specific USDA Section 515 preservation goals in their proposed 2025-2027 Plans.

Section 515 preservation deals are complex and time consuming, and HAC appreciates the time that both Enterprises have invested in exploring avenues for engagement with the preservation of this important rural rental housing stock. Both Enterprises worked for several years to complete subordination agreements with USDA for Section 515 loan purchases. Fannie Mae saw some success with their Section 515 purchase work in 2023, financing the preservation of four properties containing nearly 250 units. Freddie Mac purchased their first and only Section 515 loan in 2021, however it was not in a Duty to Serve-defined rural area.

Over 900 Section 515 properties and 21,000 units were lost from the program between 2016 and 2021,[1] demonstrating that the preservation needs of the portfolio are not being met by current funding sources. HAC encourages both Enterprises to meet or exceed the terms currently offered by the USDA Section 538 program in order to make their preservation product competitive to fill this need. Additionally, the Enterprises should seek out smaller, more challenging preservation deals that would not as readily fit into the Section 538 pipeline.

We applaud Fannie Mae's proposed goals in their 2025-2027 plan. We are glad to see Fannie continuing to support preservation technical assistance for the Section 515 portfolio and are pleased to see an increase in the goal for organizations served over the last Plan round (from 20 per year to 30 per year). We do, however, feel that the goal to finance the preservation of 85 units per year is too low given that Fannie was able to finance the preservation of nearly 250 units in 2023. We would suggest that the 2023 activity alone be used as the baseline for this goal, instead of using a three-year historical average. Additionally, switching to units instead of properties/loans as the metric for this goal could inadvertently result in Fannie pursuing only preservation deals on larger properties to minimize the number of deals needed to meet their goal. Smaller properties are often more challenging to preserve and don't readily fit into the Section 538 program pipeline, as mentioned earlier. Fannie should improve their Section 515 preservation product to work better for smaller loans (those under $1 million). Encouraging the Enterprises to engage with small preservation deals is important, and could be a reason to continue to use number of properties instead of number of units as the metric for this goal.

We are disappointed to see Freddie Mac not set forth any specific Section 515 preservation goals in their proposed 2025-2027 Plan. For several years now, Freddie has tried to remove their proposed Section 515 purchase goals during the annual Plan modification process and FHFA has denied this request. While these deals are undoubtedly challenging, they are possible as evidenced by the fact that both Enterprises have done them (Freddie in 2021 and Fannie in 2023). Freddie Mac should add Section 515 purchase goals back into their proposed 2025-2027 Plan before it is approved by the FHFA.

[1] Housing Assistance Council, "Rural America is Losing Affordable Rental Housing at an Alarming Rate: An Update on Maturing Mortgages in USDA's Section 515 Rural Rental Housing Program," 2022, https://ruralhome.org/update-maturing-mortgages-usda-section-515-rural-rental-housing-program/.

And lastly, HAC continues to recommend that both Enterprises add equity investments in CDFIs engaged in Section 515 preservation to their Plans. The available preservation programs are often incompatible with smaller, more difficult preservation deals. These deals instead fall to mission-driven CDFIs, who need capital support to continue to important work. We discuss targeted equity investments more generally in the next section of these comments.

RURAL HOUSING MARKET

Equity Investments in CDFIs

Permitting targeted equity investments in CDFIs is, in HAC's opinion, the single most impactful action that the FHFA could currently take to improve Duty to Serve outcomes. It would allow community-based nonprofit lenders to bring the power of the Enterprises to markets in which little to no mortgage activity currently occurs, growing new markets for future activity by the Enterprises. We continue to encourage the FHFA to take this opportunity to approve the use of the equity investment tool for CDFIs.

In the past Plan cycle, Fannie Mae included a goal around equity investments in CDFIs, presumably to encourage FHFA to reexamine the issue. HAC was and continues to be very supportive of that inclusion. However, neither Enterprise included a CDFI equity investment goal in their proposed 2025-2027 Plans. We would suggest both Enterprises do so as a show of support for the concept, and we strongly encourage FHFA to take action to permit targeted equity investments in CDFIs.

Targeted equity investments in CDFIs that are already lending for rural housing, manufactured housing, and affordable housing preservation would significantly improve liquidity and the distribution of investment capital for all the Duty to Serve underserved markets. For example, targeted equity investments from the Enterprises could have a significant impact in reversing USDA's Section 515 preservation crisis by providing the capital for CDFIs to make preservation loans, as mentioned in our preservation comments. CDFIs have been working in these markets for decades and have the relationships and track record to successfully lend and develop the products and services needed to serve the housing needs of underserved communities. These capable organizations just need additional access to capital and liquidity to turn mortgage deserts into fertile markets for Enterprise activity.

In the statute establishing Duty to Serve, Congress set out "investments" as one of four explicit criteria that FHFA must use in evaluating the Enterprises'

Duty to Serve performance.[2] Because this statutory change applies only to very limited equity investments that are part of the Enterprises' overall strategy to reach Duty to Serve's underserved markets, allowing this controlled investment would unlock massive potential for improved access to capital in the underserved markets without any significant increase in risk. It is time for the FHFA's previous decision on targeted equity investments to be reassessed and we encourage the FHFA leadership team to ask the FHFA general counsel to do so.

Native Communities

Housing finance in Native American communities has been a stunning example of both racial and geographic inequity at both the policy and private market levels for decades. Native American housing is a complex issue not only because of the rural nature of many reservations but also the unique land ownership rights. Reservation lands, depending on geographic, political and historic differences, can be owned in trust, be tribally held property, be allotted to individuals, or be purchased in a manner like non-tribal lands.

Because the loan volumes on tribal lands are so paltry, the housing industry specialists vital to the mortgage lending industry eco-system have yet to develop fully. The additional steps that lenders do not typically deal with in the standard mortgage market disincentivize financial institutions from working on tribal lands.[3] Many lenders have all too often chosen to simply not serve these investment-worthy markets. And as a result, tribal homebuyers and lenders must instead rely on the more cumbersome federal agency systems.

Due to disinvestment and lack of financing for upkeep and preservation, many homes in Native communities have fallen into disrepair. Thirty-four percent of Native Americans living on tribal land report at least one major problem in their home, compared to only 7 percent of households nationwide.[4] The poor condition of the housing stock has led many to doubling up in houses. Overcrowding is a major issue and puts an even larger strain on the existing housing stock. Because of the underdeveloped lending process for tribal land, tribes have limited access to capital to repair and preserve the existing housing stock.

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[2] Housing and Economic Recovery Act of 2008, 12 U.S.C. § 4565(d)(2)(D) (2020).
[3] Rural Voices: Meeting Native American Housing Needs - Housing Assistance Council (ruralhome.org)
[4] HAC tabulations of the 2010 U.S. Census of Population or the American Community Survey 2005-2009 Five Year Estimates.

In other areas, including some rural areas, renting and multifamily housing play key roles in the housing market. On tribal lands, though, 71 percent of the housing stock is single-family homes, and almost 16 percent is manufactured homes.[5] Multifamily units are limited. Although the Low-Income Housing Tax Credit (LIHTC) program has been successfully utilized by tribes – particularly in states that provide tribal set asides - not all states provide equal access to allocations and pricing for projects in rural areas are often not as competitive as in urban areas.

Both Enterprises include loan purchase goals for single family loans to Native families living in Indian areas in their proposed 2025-2027 Duty to Serve Plans, through the HUD Section 184 program and their NACLI and HeritageOne products. We would like to see these purchase goals be significantly higher than currently proposed. Proposing to purchase 10, 15, or 20 single family loans made to Native families living in Indian areas each year is woefully inadequate when compared to the need. These purchase targets should be at least doubled in each of the Enterprises' proposed Plans.

We also continue to encourage both Enterprises to establish dedicated Native lending teams as part of their Duty to Serve work. Such teams would add to the credibility of the Enterprises' Duty to Serve work in Native communities. Without in-house expertise and cultural competency, progress in improving activity levels in Native communities will be slow at best.

And lastly, we are glad to see Fannie Mae continuing to include support for technical assistance to organizations serving Native and farmworker communities.

Heirs' Property

Property ownership has served as a tool for wealth accumulation. Residents engage in a housing journey towards purchasing property and gaining wealth through equity. The homeownership journey has been historically and systemically exclusionary, contributing to the racial wealth gap. Over generations, households have lost land due to a variety of systemic issues, including lack of access to a clear title. One form of title issues, heirs' property, is defined as properties with multiple owners and no clear title. A conservative

[5] Homeland, film directed by Jillian Spitzmiller and Hank Rogerson (Berkeley, California: University of California Extension, Center for Media and Independent Learning, 2000).

estimate of the total assessed value of all identified heirs' properties from 44 states and the District of Columbia is approximately $32.3 billion.[6]

Both Enterprises include goals around heirs' property in their plans, which we commend. HAC has been researching this issue, thanks to support from Fannie Mae. For both plans, we would like to highlight the importance of providing support for addressing title issues that impact Native American households. There are title issues that impact Native households that do not fit the traditional definition of "heirs' property." For that reason, HAC would recommend that both GSEs consider heirs' property *and* other title issues in their approaches.

Freddie Mac proposes to finance homeowner education focused on heirs' property, which HAC fully supports. We would encourage them to go further and consider innovative loan products as well. It is well documented that in high needs rural regions, households often face compounded impacts of systemic exclusion. This includes less access to legal resources needed to resolve title issues and various barriers when accessing the financing system, even with clear title. It is commendable that Freddie Mac is focused on heirs' property and is committed to community and practitioner education, engaging with local and trusted community organizations, and conducting needs assessments to determine financing challenges. However, if Freddie Mac's products will ultimately remain the same, and still only be accessible to owners with a clear title and who are deemed credit worthy, this will not result in significant increased access for residents of heirs' property. We urge Freddie Mac to consider innovative underwriting processes that expand the credit box, redefine a more inclusive definition of "credit worthy", and consider a product that may use a demonstration of partial ownership to secure a loan in their needs assessment and the resulting actions.

We applaud Fannie Mae for their commitment to developing a loan product for rural residents of heirs' property in the Plan. HAC would encourage Fannie Mae to keep the diversity of communities, households, experiences and impacts of title issues central in their development of the loan product. It is essential to consider a flexible product that can serve a diverse rural America.

[6] A Methodological Approach to Estimate Residential Heirs' Property in the United States. Housing Assistance Council. November 2023. https://ruralhome.org/methodological-approach-estimate-residential-heirs-property/

Colonias

As part of earlier Duty to Serve Plan cycles, Fannie Mae supported research into the definition of colonias, which resulted in the FHFA's addition of a definition of "colonia census tract" to the Duty to Serve regulation and amended the definitions for high-needs rural regions and rural areas in July 2023. As a research partner in that effort, HAC applauds Fannie Mae and the FHFA for highlighting the unique needs of colonias.

In their 2025-2027 proposed Plan, Fannie Mae includes an objective to develop a strategy to increase single-family lending in colonia census tracts. This proposed goal is focused on continued outreach and only includes work in 2025 and 2026. Since research on colonias has already been undertaken and Fannie Mae has connections with organizations serving colonias, we would encourage the addition of more results-focused goals in this objective (loan purchases, loan products, financing for homebuyer counseling, etc.). Nevertheless, we applaud Fannie Mae's commitment to highlighting the specific needs of colonias in their proposed Plan. Freddie Mac does not include any specific goals for colonias, and should be encouraged to do so.

Low Baselines and Goals That Do Not Scale Year-Over-Year

As mentioned earlier in these comments, when considering the proposed Plans, HAC understands the challenges that come with the current market conditions. However, we encourage the FHFA and the Enterprises to set ambitious purchase goals even amid challenging market conditions. The mission of Duty to Serve calls the Enterprises to work proactively in these underserved markets even when it is challenging and runs counter to their profit motives. Duty to Serve purchases account for a small portion of the Enterprises work, and goals that rely on low baselines and/or do not scale up year-over-year do not send a message of proactive commitment from the Enterprises.

Overall, it stood out to HAC that both Enterprises tend to set baselines as low as possible by removing from consideration years they deem atypical. This combined with baselines that average several prior years of activity often results in goals for 2024 that do not even meet the level of purchases made in 2023.

Additionally, there are many areas across the Plans where goals (both loan purchases and/or organizations served) don't scale up year-over-year, which HAC would encourage to the greatest extent possible.

Broader Rural Goals Not Attached to HNRRs or HNRPs

Fannie Mae includes a new activity in this Plan cycle to support the rural housing market as most broadly defined by the regulation. HAC supports this new addition and continues to feel that the Duty to Serve rural definition is the most precise rural definition in the federal government. The goals under this new activity include researching conditions facing rural renters and homeowners, developing a strategy to acquire multifamily loans targeted at workforce housing, improving single family secondary market access for CDFIs, and increasing mortgage opportunities for rural residents of heirs' property.

We would, however, caution that this new activity must be "in addition to" and not "at the expense of" the core Duty to Serve work in high-needs rural regions (HNRRs) and with high-needs rural populations (HNRPs). Capital and capacity will always flow to the path of least resistance, which has historically and presently not been communities in HNRRs or to HNRPs. Robust and ambitious goals for these targeted groups must remain the focus of Duty to Serve activity.

Rural LIHTC Equity Investments

The Enterprises' return to the Low-Income Housing Tax Credit (LIHTC) equity market as a part of Duty to Serve has the power to boost LIHTC effectiveness in rural areas. Of the over 13,000 properties that received LIHTC allocations from 2006-2016, over one quarter were located in census tracts defined by the FHFA as rural. Notably, rural LIHTC properties were substantially smaller (44 units versus 88 units on average) and served a poorer population (94 percent low income versus 86 percent low income) than non-rural properties.

While we understand that the Enterprises are waiting on clarification from Treasury on whether they are considered Tax-Exempt Controlled Entities (TECEs) under the Internal Revenue Code, any retreat from the rural LIHTC market will have a negative impact on rural areas. HAC has called on Treasury to clarify that the Enterprises are not TECEs, and we hope a clarification will be made in a timely manner. In the meantime, we encourage both Enterprises to set higher LIHTC equity investment targets.

Freddie Mac plans to engage in 20 rural LIHTC transactions each year in 2025-2027. This is below the 26 transactions that they completed in 2023. We suggest that the 2023 transactions be used as the baseline and that Freddie scale up their planned number of transactions year-over-year.

Fannie Mae's proposed Plan includes wide ranges for rural LIHTC equity investments in each of the three Plan years (16-30 transactions in 2025, 23-45 in 2026, and 27-55 in 2027). We suggest they instead set the high end of each range as the target, so that they do not inadvertently just strive to meet the low end of the range each year. We do, however, applaud that they are looking to scale up transactions each year.

Farmworkers

Farmworkers are essential to our nation's food supply and economy, and their unique housing needs and circumstances deserve attention from multiple sectors including the Enterprises.

Agriculture is a multibillion-dollar industry in the United States and is integral to the health and well-being of the nation. The affordability of fresh produce in our grocery stores comes, in part, through cheap labor undertaken by farmworkers. While no definitive figures are available, an estimated 2.5 million people work harvesting fields, farms, and orchards in the United States.[7] Among the poorest groups in the nation, farmworkers earn low wages and experience working conditions that hinder their ability to access affordable quality housing. The condition of farmworkers is further exacerbated by a plethora of legal, cultural, and geographic circumstances that often keep this population in the shadows of American society and contributes to their economic marginalization.

Quality and accurate information on farmworkers and their housing conditions can inform strategies and solutions to improve housing for this precariously housed population. More than 20 years has passed since any significant research on farmworker housing conditions nationally has been conducted, and much has changed in farmworker dynamics, housing situations, and the use of employment visas to secure farm laborers.

Farmworkers are a specifically designated high-needs rural population in the Duty to Serve Rule. But since implementation of the final rule, there has been scant involvement or action from the Enterprises in this area. Because of this near dearth of activity, the Enterprises should provide action by first commissioning or supporting national research to better understand

[7] David A. Strauss. "Farm Labor Housing: An Overview." *Rural Voices*. 10, No. 2. 2006. 2-6.

farmworker housing dynamics that will drive sound strategies, solutions and products for products the Enterprises can implement to assist this important but overlooked Duty to Serve-specified population.

MANUFACTURED HOUSING MARKETS

Manufactured Home Personal Property Loans

There are approximately 6.7 million occupied manufactured homes in the United States, comprising about 6 percent of the nation's housing stock. More than half of all manufactured homes are located in rural areas around the country and manufactured homes make up 13 percent of all occupied homes in rural and small-town communities.[8]

Living in manufactured homes is often characterized by unique financing and land tenure challenges. While the purchase price of manufactured homes can be relatively affordable, financing costs can be much greater than for conventional housing mortgages. The majority of manufactured homes are financed with personal property, or "chattel," loans. These types of loans are more similar to car loans than to conventional mortgage loans and have their roots in the manufactured homes' growth out of the travel trailer industry.

In the previous cycle of Duty to Serve Plans, Freddie Mac included the development of a pilot product to support the purchase of manufactured housing loans titled as personal property. However, neither Enterprise included goals around the purchase of personal property loans in the 2025-2027 proposed Plans. With shorter terms and higher interest rates, personal property loans can generally be less beneficial for consumers than conventional mortgage financing, putting vulnerable, low-income borrowers at risk. The Enterprises could play a role here by bringing chattel loans into their secondary market and encouraging more favorable terms for borrowers who rely on these loans. Both Enterprises should add or resume their goals around personal property loans for manufactured homes.

Manufactured Home Real Property Loans

Both Enterprises include goals around the purchase of manufactured home loans titled as real property that exceed the goals put forward by the Underserved Mortgage Markets Coalition (UMMC), of which HAC is a member. We applaud these goals. But without goals related to personal property loans,

[8] Housing Assistance Council. Rural Research Brief: Manufactured Housing in Rural America. July 2020. https://ruralhome.org/wp-content/uploads/2021/05/Manufactured_Housing_RRB.pdf

as mentioned earlier, the Enterprises are leaving more than half of the manufactured housing market behind.

Manufactured Home Communities

Manufactured housing units are often located in land lease communities, where residents own their unit but pay rent to a landlord for the lot on which it is located. Though about three quarters of manufactured homes are owner-occupied, estimates suggest that approximately 40 percent of all manufactured homes are in land lease communities. There are around 45,000 of these communities across the nation.[9]

Both Enterprises should be encouraged to set more ambitious goals for the purchase of Manufactured Housing Resident-Owned Communities (ROC). Currently, Fannie Mae proposes purchasing two loans in 2025 and 2026 and three in 2027. Freddie Mac proposes outreach-related goals for ROCs but does not set any purchase goals. Both Enterprises, but especially Freddie Mac, need to set more ambitious targets for ROC loan purchases.

Thank you for your time and consideration of these comments. We greatly value our partnership and look forward to continuing to work with FHFA and the Enterprises to address these important challenges.

Sincerely,

David Lipsetz
President & CEO

[9] Housing Assistance Council. Rural Research Brief: Manufactured Housing in Rural America. July 2020. https://ruralhome.org/wp-content/uploads/2021/05/Manufactured_Housing_RRB.pdf

202-842-8600 hac@ruralhome.org ruralhome.org 202-347-3441
1025 Vermont Ave., N.W., Suite 606, Washington, DC 20005