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Public Finance and Regulatory Analysis Division
Office of Policy Development and Research
Department of Housing and Urban Development
451 7th Street, SW, Room 8216
Washington, DC 20410-0500

To Whom It May Concern:

Thank you for the invitation to comment on the Review of HUD Policy in Opportunity Zones. Enterprise Community Partners ("Enterprise") is pleased to provide our recommendations on this important topic, especially given the potential impact of the new Opportunity Zones tax incentive on the low-income communities that HUD and Enterprise both serve.

Enterprise is a leading provider of the development capital and expertise it takes to create decent, affordable homes and rebuild communities. Since 1982, we have raised and invested $43.7 billion in equity, grants and loans to help build or preserve nearly 585,000 affordable homes in diverse, thriving communities. This includes community investments through Enterprise Community Loan Fund, Inc., a Treasury Department-certified Community Development Financial Institution (CDFI) and one of the largest nonprofit loan funds in the country. Enterprise Community Loan Fund, Inc. has invested more than $1.7 billion in low-income communities and helped to build or renovate nearly 110,000 affordable homes nationwide.

Enterprise believes the Opportunity Zones tax incentive should be used to advance equitable and inclusive growth. We believe investments made through socially-minded, responsible Qualified Opportunity Funds (QOFs) with a commitment to community engagement have the potential to transform communities, grow small businesses, and create broader access to opportunity. QOF investments should thoughtfully serve each low-income community's unique needs—especially those of long-time residents and business owners—so that the investments do not lead to displacement but rather inclusive community benefits and growth.

Enterprise is launching our own family of QOFs, intended to advance equitable and inclusive growth in the communities where investments are made. As both an advocate for low-income communities and an active Opportunity Zones fund manager, we believe that HUD has an important role to play with serving both designated Opportunity Zones (OZs) and the other non-designated low-income communities.

<u>Overarching Comments</u>

Enterprise shares HUD's interest in encouraging beneficial investment in urban and economically distressed communities, including OZs, and our comments are informed by our experience in supporting, advising, and managing public and private investments into low-income communities. Enterprise also shares HUD's intent to maximize the beneficial impact of investment in OZs, so long as the benefits of those investments are equitable—serving the community needs of existing low-income residents and small businesses.

As HUD explores how it might maximize the beneficial impact of investing in OZs through its own existing programs and policies, we encourage HUD to consider first the purpose of its existing programs and policies and to ensure that any potential changes do not unintentionally weaken how a HUD program fulfills its intended purpose. Attention must be paid to how the approximately 75% of other eligible low-income communities that were not designated OZs, and many other urban, suburban, and rural communities, are served by critical HUD programs. Above all, HUD should continue to pursue sufficient affordable housing investments to address the housing needs in all low-income communities, especially those that are rapidly gentrifying and where low-income households are most at risk of being displaced.

The intent of the Opportunity Zones tax incentive is to attract *new* private capital. Grant funds often stimulate private investments and fill gaps the private market will not reach; however, we do not recommend the wholesale diverting of limited, pre-existing public resources intended to serve communities including but not limited to OZs. Essentially, we ask that HUD be cautious to not over direct grant funds to OZs at the expense of non-designated, but otherwise similarly situated communities. We also ask HUD to consider fair housing implications of disproportionately limiting affordable housing choices and investments to Racially and Ethnically Concentrated Areas of Poverty (RECAPs), since many OZs meet HUD's definition of RECAPs.

<u>Responses to Selected Questions Posed in the Request for Information</u>

1. *How should HUD use its existing authorities to maximize the beneficial impact of public and private investments in urban and economically distressed communities, including Opportunity Zones?*

Investments made into OZs or any low-income community are only beneficial to that community if that community's specific needs are being served by those investments; an increase to the tax base alone will not necessarily benefit existing residents and small business owners. Investments, especially private investments as is the case with the Opportunity Zones tax incentive, must first conduct meaningful community engagement to identify and understand what those community needs are. Furthermore, there will often need to be inclusive policies in place to capture the benefits of investments meant to stimulate economic growth—such as local hiring practices and inclusionary zoning. HUD can help ensure that OZs are benefiting from public and private investments by supporting the alignment of new investments with the current community needs of existing low-income residents and local businesses.

In the case of the Opportunity Zones tax incentive, there is no guarantee that all of the designated OZs will receive investments through QOFs, nor that amongst the OZs that do receive investments that those will be equal amounts or types of investments. It is likely that certain designated OZs will receive more QOF investments than others, especially those that are already rapidly gentrifying communities.

If new investments are not thoughtfully designed to serve community needs and local policies and practices are not in place to capture benefits for low-income community members, then investments might lead to the further gentrification and subsequent physical and/or economic displacement of residents and/or businesses. From our experience with public-private partnerships and investing in low-income communities, we also know that low-income communities often have a wide variance in existing capacity to absorb an influx of private investment into their community.

To maximize the benefits of investments for low-income communities, HUD could:

- Provide technical assistance and resources such as best practices for QOF managers and investors on conducting meaningful community engagement, and/or help facilitate such community engagement;
- Provide both quantitative and qualitative census tract-level data on low-income housing and other community needs to inform potential investments;
- Provide technical assistance and resources for designated OZs and other low-income communities to build capacity to absorb public and private investments and capture benefits for that community;
- Support local governments in developing and adopting policies and practices that support equitable growth and prevent the physical and/or economic displacement of low-income residents and local businesses when experiencing an influx in investments; and
- Ensure that OZs and other low-income communities experiencing gentrification are supported in competitively applying for HUD resources that would build and preserve affordable housing as a critical anti-displacement measure.

2. *HUD is considering creating an information portal on Opportunity Zones. What types of information should HUD include in such a tool? How can it be made accessible to and most usable by HUD's various stakeholders and customers? If the portal includes information on Federal financing programs and incentives beyond those offered by HUD, what information would be most useful to include?*

We strongly recommend that HUD consult with the Treasury Department before creating an information portal on Opportunity Zones to ensure that there is not repetition in the collection of OZ-related data. Enterprise and many other OZ stakeholders have made recommendations to the Treasury on the collection and public sharing of OZ-related data. We recommend that the Treasury fulfills the critical role of collecting and publicly sharing key data on QOFs and investments. This data is important for HUD's analysis of the impact of the Opportunity Zones incentive; without this information HUD would not be able to identify which of the designated OZs are receiving investments and what the intended impact of those investments are, among other important considerations. We encourage HUD to express to the Treasury its interest in receiving the data as recommended in our comment letter in order to evaluate the efficacy of the Opportunity Zones tax incentive. Enterprise's letter to the Treasury can be found at: https://bit.ly/2KTqKBv

Rather than information on QOF investments, an Opportunity Zones information portal created by HUD could provide key information on the community needs of that low-income community, and other resources for meaningful community engagement and equitable investing.

3. *In what ways could HUD structure preference points for Opportunity Zones and incorporate policy objectives in the rating factors for applicants in discretionary grant competitions to increase the incentive to invest in Opportunity Zones? In addition, how should HUD prioritize support for urban and economically distressed areas, including Opportunity Zones, in its grants, financing and other assistance?*

Overall, we do not recommend that HUD create preference points for competitive grants or any other assistance located in Opportunity Zones for that reason alone as it would create an unfair disadvantage for the non-designated low-income communities and would weaken how those grant programs fulfill their intended purposes. After the creation of OZs, Governors had to make tough choices in selecting among eligible census tracts on a very short deadline. While all of the eligible tracts have need, OZs provide a strategic advantage for attracting private capital. If preference points for HUD programs are given solely on the basis of a project being located in an OZ, HUD grants might not be awarded to the most beneficial or impactful applicants or those with the greatest need. Therefore, we recommend against creating preference points for OZs at the national level; it can be left to applicants to decide whether to apply for the use of competitive funds.

That being said, we recommend that HUD considers how its existing programs can be more efficiently administered so that when there is an opportunity to align HUD grants, financing, or other assistance with a QOF investment, it can be done so nimbly and rapidly to accommodate the tight time period for deploying QOF investments. For instance, HUD could examine how Section 221(d)(4) mortgage loans for rental and cooperative housing might align with QOF investments. However, we have heard from developer partners that the application process is too cumbersome, and it is a missed opportunity for a HUD resource to help maximize a QOF investment. HUD could streamline the application and administration process of Section 221(d)(4) and other relevant programs so that they could be efficiently paired with QOF investments.

Lastly, HUD could consider providing dedicated TA to rapidly gentrifying communities where low-income residents and local businesses face the greatest risk of physical and/or economic displacement. TA for both local anti-displacement strategies and for competitively applying and securing critical HUD resources could be valuable to help prevent and mitigate displacement pressures. However, we do not recommend limiting this TA to OZs as there are may be gentrifying communities that are not designated OZs and equally need assistance, and not all OZs will receive the same influx in investments.

4. *What types of technical assistance should be offered through HUD?*

As previously stated, in order to maximize the benefits of investments for low-income communities HUD could:

- Provide technical assistance and resources such as best practices for QOF managers and investors on conducting meaningful community engagement, and/or help facilitate such community engagement;
- Provide both quantitative and qualitative data on the low-income housing and other community needs of specific Opportunity Zones to inform potential investments;

- Provide technical assistance and resources for designated Opportunity Zones and other low-income communities to build capacity to absorb investments and capture benefits for that community;
- Support local governments in developing and adopting policies and practices that support equitable growth and prevent the physical and/or economic displacement of low-income residents and local businesses; and
- Ensure that Opportunity Zones and other low-income communities experiencing gentrification are supported in competitively applying for other HUD resources that would build and preserve affordable housing as a critical anti-displacement measure.

5. *What role can HUD play in helping to ensure that existing residents, businesses and community organizations in Opportunity Zones benefit from the influx of investment and remain the focus of their community's growth going forward?*

In addition to providing the previously described TA, we would also like to re-emphasize the importance of HUD fulfilling its primary duty of serving the housing needs of low-income communities. High and rapid influxes of investments can change a community, but it might not always serve the needs of its existing residents as is the case when gentrification leads to the physical and/or economic displacement of low-income residents. The most important role that HUD can play to ensure that existing residents, businesses and community organizations in OZs benefit from incoming QOF investments is to provide adequate tools and funding for affordable housing. HUD should request sufficient funding in its key housing programs to serve the housing needs of *all* low-income communities and should equitably and efficiently deploy those resources.

HUD can also ensure that its revised Section 3 rule is an effective tool for ensuring that employment and economic opportunities generated from HUD covered funding benefit low-income communities, businesses, and workers. Enterprise provided comments in response to HUD's proposed Section 3 rule, which can be found at: https://bit.ly/2IncAH3

6. *How can HUD properly evaluate the impact of Opportunity Zones on communities?*

In order for HUD, Congress, or the public to evaluate the impact of Opportunity Zones on communities, we need adequate data on QOFs and investments. As previously mentioned, Enterprise submitted detailed comments to the Treasury on data collection and reporting. We urge HUD to also express the necessity of this data in order to evaluate the impact of the OZ tax incentive. Once again, Enterprise's letter to the Treasury can be found at: https://bit.ly/2KTqKBv

7. *How should HUD interact with other stakeholders to maximize the success of the Opportunity Zone incentive?*

As the host agency of the White House Opportunity and Revitalization Council, HUD—and Secretary Carson in particular—has a unique and critical role to play in ensuring that the Opportunity Zone tax incentive leads to equitable and beneficial investments for the targeted low-income communities. Other OZ stakeholders may be interested in the success of the OZ tax incentive in benefiting QOF investors; however, we strongly urge HUD to play the vital role in ensuring that the OZ tax incentive is successful in spurring *equitable* economic growth for the low-income communities designated as OZs.

In that role, we re-iterate the importance of HUD encouraging the Treasury to collect and publicly report meaningful data necessary to evaluate the impact of the tax incentive on low-income communities.

Lastly, we encourage HUD to utilize its wealth of knowledge and experience, and that of its partners, in guiding OZ stakeholders and low-income communities toward policies and practices that help lead to equitable investments. Many OZ investors may not have prior experience with social impact investing or investing in low-income communities, which have unique community needs and often vulnerable housing markets. Through rapidly available and easily accessible TA, HUD can guide both investors and the targeted low-income communities in navigating the new OZ tax incentive so that it can successfully benefit low-income communities. Enterprise is happy to provide HUD with further support in fulfilling this important role.

8. *How might Qualified Opportunity Fund investments support the goal of ending homelessness?*

From our experience thus far engaging with the emerging Opportunity Zones industry, we find it unlikely that QOF investments will be used to support housing or services targeting homeless populations. Unfortunately, the Opportunity Zones tax incentive does not align well with supportive housing projects. Rather, we are more so concerned that homelessness may *increase* in some low-income communities if HUD programs do not adequately preserve and increase the supply of affordable housing in OZs. We recommend that HUD creates an inventory of its assisted housing properties in OZs that are coming to the end of their extended use agreements, and work with non-profit housing organizations to ensure that these units are maintained as affordable housing.

We thank you for considering these comments and look forward to working with HUD and the White House Opportunity and Revitalization Council to ensure the Opportunity Zones tax incentive leads to equitable investments in low-income communities. For questions, please do not hesitate to contact me at mmcfadden@enterprisecommunity.org and Sarah Brundage, Senior Director, Public Policy, and sbrundage@enterprisecommunity.org.

Sincerely,

Marion Mollegen McFadden
Senior Vice President, Public Policy
Enterprise Community Partners