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September 5, 2020

Board of Directors  
California Housing Finance Agency  
500 Capitol Mall, Suite 1400  
Sacramento, California 95814

Re: Selection of HUD Intermediaries for National Mortgage Settlement  
Housing Counseling Program  
Sept. 10, 2020 Meeting, Agenda Item No. 8

Dear CalHFA Board Members:

I am writing on behalf of the Neighborhood Stabilization Corporation (“NSC”) to object to the CalHFA staff’s selection of conditionally approved HUD intermediaries for the National Mortgage Settlement Counseling Program and to request that the Board postpone a decision on approving any intermediaries and on executing any contracts until the application and selection process is redone in a manner that comports with due process and fundamental fairness.

As you are aware, CalHFA has decided to allocate up to fifty million dollars (\$50,000,000) of the three hundred million dollars that was appropriated to CalHFA from the National Mortgage Settlement fund for the purpose of providing HUD-certified counseling services to homeowners, former homeowners, or renters. In late July, CalHFA invited HUD-approved intermediaries to apply for grants that would be used, in conjunction with HUD-Certified Counseling Agencies, to provide housing counseling services within the State of California, with an emphasis on reaching underserved and ethnically diverse communities (e.g., African-American, Latino, Asian, Native American, etc.). Despite the large amount of money involved and the tremendous importance of these services, no formal Request for Proposals (RFP) was issued by CalHFA staff; instead, a one-page notice was distributed and posted online announcing the availability of funding for up to four participants, specifying six qualifications that an applicant must possess and eight items that must be included in the application (e.g., most recent two years audited financial statements, HUD year-end performance records, etc.). No information was provided regarding the criteria that CalHFA would use to award the contracts nor regarding the respective weights that would be given to any specific factors during the decision-making process. Applicants were given less than two weeks to respond, with completed applications and all requested documentation required to be submitted no later than 5:00 p.m. on August 4, 2020.

During the application process, NSC kept asking CalHFA staff about the criteria and correspondent ranking that would be used in selecting the HUD intermediaries, so that it could

provide information in its application that would be responsive to the program's goals and objectives; NSC was informed that the criteria were still being determined. When NSC continued to ask questions, it was told only that Executive Director Boatman Patterson was focused on minority participation, and that it was unnecessary for a HUD intermediary to identify and include other HCAs in their applications if it could accomplish the results within its own network of HCAs.<sup>1</sup>

NSC timely submitted an application to serve as a HUD intermediary for this grant on August 4, 2020. A copy of NSC's completed application is attached hereto for your information and review. On August 10, NSC received an email asking it to submit "the most recent 2 years Independent Audit of Federal Funds 'Single Audit.'" NSC promptly responded that it had previously provided the federal funds audit from 2019 and explained that no audit was conducted in 2018 because it had not exceeded the required "single audit" threshold. Beyond that, NSC heard nothing further from CalHFA staff regarding its application or the selection process. No interviews were conducted, no other questions were asked of NSC, and no other requests for additional documents or clarifications were made of it.

On August 25, 2020, NSC's CEO Bruce Marks received a letter from Executive Director Boatman Patterson informing him that NSC had not been selected as one of four HUD Intermediaries to receive an award allocation as part of the Housing Counseling Program. The August 25th letter included no information about why NSC's application had not been selected, nor about which organizations' applications had been selected and why. Indeed, until the September 4, 2020, release of the "Board package" for this agenda item for the Board's September 10th meeting, NSC had not been informed by anyone at CalHFA about what criteria were used to select the HUD Intermediaries and which four organizations were selected to receive awards under the Program, despite its having repeatedly asked for this information from CalHFA staff. And *to this day*, NSC has still never been given any explanation as to why it was not selected as one of the HUD Intermediaries or what aspects of its application were found to be deficient or lacking by the staff. Moreover, when Mr. Marks inquired about an appeal or other protest process, he was told that no appeal process existed.

***Simply put, this is no way for CalHFA (or any other government agency) to award up to \$50 million in California state funds*** — money that is desperately needed to provide comprehensive housing counseling to distressed California renters and others residents in the midst of the current pandemic. While we understand that CalHFA claims an exemption from the formal requirements for competitive bidding set forth in the Public Contract Code, the process used to award and distribute these state funds must still comport with the requirements of due

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<sup>1</sup> NSC subsequently came to learn that additional information regarding the program and the selection process was contained in a Memorandum from Kathy Phillips, Director of Marketing and Communications, to CalHFA's Board of Directors dated August 13, 2020 (but apparently written on August 9, 2020 ("CalHFA Memorandum")). None of criteria mentioned in that Memorandum, however, was provided to NSC during the course of the application process.

process and fundamental fairness, which at a minimum mandate that clear and objective criteria be provided *prior to the submission of applications* regarding what information is requested from applicants and how their applications will be evaluated; that these criteria not change during the course of the application process; that applicants be provided in a timely manner with the results of the selection process, including the reasons for the agency's decisions; and that a meaningful appeal process be available in order for the agency to hear applicants' protests and respond to any misunderstandings or errors made in the initial selection decisions.

In the absence of any of this required transparency in the application and selection process, NSC has no idea why it was not among the organizations selected and has no way to meaningfully address these issues in making a case to the Board that it should be awarded a contract under the Housing Counseling Program. NSC's application, however, was an exceedingly strong one, and no other organization would appear to be more deserving of an award from these funds. NSC — a 501(c)(3) non-profit housing counseling organization that is a solely owned subsidiary of the Neighborhood Assistance Corporation of America ("NACA") — is one of the largest HUD-Approved Counseling Intermediaries in the country and is among the few HUD Intermediaries that provides comprehensive counseling through its own affiliates/branches nationwide. NSC is therefore able to use its front-line experiences and expertise to work as an intermediary with other HCAs to administer the grant and to assist them with building their capacities.

Moreover, NSC is ready and able to immediately implement the grant funds to provide the most significant impact for people and neighborhoods across California; it does not have to "gear up" and could complete performance of the grant services within 18 to 24 months. NSC is also uniquely able to limit the administrative costs and fees because counseling affiliates/branches are part of NSC's own network; they are integrated into the network through a state-of-the-art proprietary national database and Client Management System ("CMS") called NACA-Lynx, whereas most other intermediaries and HCAs use antiquated technology and are still developing their CMS. NSC is thus best positioned to deliver workshops and counseling to a very large number of California households due to its existing structure and systems. Each client would receive, at no cost, group education workshops and individual one-on-one counseling sessions (i.e., both initial and follow-up sessions) during the term of the grant at a total cost for each client of \$750, providing education and counseling services to over 12,500 households throughout California.

NSC has an extraordinary counseling track record in California and nationally. Even during the current pandemic, NSC has not laid-off nor furloughed a single staff person. In fact, NSC has actually increased its staffing and continues to do so. NSC was able to quickly transition to a virtual environment without diminishing any of their counseling workshops or individualized counseling services. As a result, the demand for its services increased significantly. To accommodate this demand, NSC provides virtual four-day events providing workshops and individualized video counseling sessions with HUD-Certified Housing Counselors working from home. NSC's proprietary client management system (i.e., NACA-

Lynx) provides for paperless comprehensive counseling and works exceptionally well with video-conferencing technology.

The CalHFA Memorandum mentioned two specific criteria of apparent importance in the selection process: building the state's counseling capacity and prior experience in distributing grant funds expeditiously during the mortgage crisis beginning in 2008. NSC ranks highly on both of these scores. As noted above, NSC is recognized as having top-level technical infrastructure and the capacity to assist HCAs to increase and enhance their own effectiveness and productivity. With its proven experience and technological innovations, NSC is in an extremely strong position to assist other HCAs to build their capacity and technical systems. As a HUD-approved trainer of other HUD counselors, NSC would provide free training to HUD Counselors in California. NSC would also provide access to its NACA-Lynx CMS at no cost.

In addition, NSC achieved extraordinary results during the last mortgage crisis. NSC counseled many thousands of at-risk California homeowners, and incurred millions of dollars in expenditures when support from California was available through NMS funds, but never provided. Nationally, NSC was by far the most effective organization in providing affordable solutions during the mortgage crisis. It secured legally binding agreements with all of the major servicers/lenders and investors to provide affordable solutions for struggling homeowners. NSC organized and managed 144 massive Save-the-Dream events with hundreds of its housing counselors and lenders on-site for five or more days providing same-day affordable solutions, ultimately providing over 250,000 affordable solutions to at-risk homeowners. In California specifically, NSC organized and managed 34 huge Save-the-Dream events with tens of thousands of homeowners attending each one, achieving unprecedented results with many thousands of homeowners receiving same-day affordable solutions and having their mortgage payments reduced by hundreds and sometimes over a thousand dollars per month. NSC worked with community organizations, such as NID-HCA, National Urban League, and others in the state; and they all participated in NSC's numerous Save the Dream events. After the Keep Your Home California ("KYHC") program had disastrous initial results, NSC was subsequently permitted to participate in the program and was instrumental in making the KYHC program work, to the point that in the end it submitted likely the most solutions for California homeowners.

In sum, we are confident that any independent and objective review of NSC's qualifications would confirm the strength of its application and the appropriateness of its selection as a HUD intermediary for the National Mortgage Settlement Housing Counseling Program. In fact, now that the criteria that CalHFA staff purportedly used in evaluating the applications have finally been made available in the Board package for the September 10, 2020, Board meeting (although those criteria were never provided to the applicants themselves), it is even more perplexing why NSC was not selected for approval as one of the four HUD-Certified Intermediaries. The proposed resolution ratifying the staff's selections states that the CalHFA NMS Counseling Program team assessed all nine HUD-certified Intermediary applications utilizing the following six (6) objective criteria, on each of which NSC excels:

- (1) *Breadth and depth of outreach capabilities in California:* Over the past five years, NSC has assisted 76,886 households throughout California. For the time period beginning from the mortgage crisis in 2008, the HomeSave Program participation (i.e., at-risk homeowners) was 183,062 households, and the Purchase Program (i.e., homebuyers) was 72,513 households, for a total participation of 255,575 households. NSC submitted a report with its application showing the breakdown of this participation by county and MSA;
- (2) *Historical evidence of serving low and moderate income Californians with an emphasis on serving the most economically vulnerable.* 82% of the above households over the past five years were minority (i.e., African American (45%), Latino (28%), Asian (6%), Native American (1%)), with the vast majority being low- to moderate-income;
- (3) *Demonstrated history of serving historically underserved and marginalized communities.* NSC's counseling, workshops, Save-the-Dream events (i.e., for at-risk homeowners), and Achieve-the-Dream events (for homebuyers) were focused in the historically underserved and marginalized communities, as demonstrated by the over 80% minority participation;
- (4) *Partnerships with other housing counseling entities.* NSC has partnered with other non-profits organizations in our events. While NSC has the capacity to far exceed the requested counseling sessions, it will partner with other HCAs.
- (5) *A plan for capacity building.* NSC leverages its outstanding capacity and infrastructure to provide assistance, particularly to smaller HCAs. This includes free trainings to counselors from other HUD counseling entities and free access to NACA-Lynx CMS; and
- (6) *Demonstrated ability to efficiently and effectively use counseling funds.* NSC would provide a workshop, intake, and follow-up counseling at \$750 per client. This is half the cost of what CalHFA staff proposed in the Memorandum to the Board. NSC through HUD has demonstrated its comprehensive counseling and efficient reporting through its state-of-the-art web-based NACA-Lynx CMS.

In the absence of a transparent and due-process compliant application and selection process, including a meaningful appeal process, NSC has no meaningful means of making its case for selection in comparison to any of the other applicants, and specifically in comparison to the four HUD Intermediaries that CalHFA staff selected for receipt of these contracts. Equally important, without this same information, *this Board* has no fair and objective means of evaluating the strengths and weaknesses of the competing organizations in fulfilling its statutory obligation to approve all major contractual obligations; the Board will merely be rubber-stamping the staff's selections. For these reasons, we respectfully reiterate our demand that the Board postpone any decision on the selection of HUD Intermediaries for the Housing Counseling

Program at this time, and that it instead direct CalHFA staff to re-initiate the application and selection process — this time adhering to the State Contracting Manual procedures or other, similar procedures that will provide a fair and objective application and selection process that complies with due process, and that will provide a complete record for the Board to review and rely upon in performing its statutory responsibilities.

We understand that time is of the essence in distributing the National Mortgage Settlement funding and in commencing the Housing Counseling Program, and we would be pleased to discuss with CalHFA staff how our concerns can be accommodated without unduly delaying the Program. We stand ready to work cooperatively with CalHFA for the betterment of California's vulnerable and underserved populations. We thank you in advance for considering our position and taking appropriate action to address this issue.

Sincerely,

A handwritten signature in blue ink that reads "Fredric D. Woocher". The signature is written in a cursive style with a large initial "F".

Fredric D. Woocher

Enclosures:

- NSC Application

Cc: Tia Boatman Patterson, CalHFA Exec. Director  
Claire Tauriainen, CalHFA General Counsel  
Hon. Gavin Newsom