FHFA Final Rule: Validating & Demanding Accountability for Rural Colonias

Who We Are

Guided by a vision of a nation where persistent poverty no longer exists, six regional Community Development Financial Institutions (CDFIs) located in and serving regions with a high prevalence of persistent poverty came together. The CDFIs—Come Dream | Come Build (cdcb) of Brownsville, Communities Unlimited, Fahe, First Nations Oweesta Corporation, HOPE Credit Union and Enterprise Corporation, and Rural Community Assistance Corporation—formed a coalition, currently called the Partners for Rural Transformation (PRT). With a shared ethos of investing in both people and places and informed by the voices of local people, we seek to unify around opportunities in diverse communities at a time of great division in our nation. A closer look at persistent poverty America reveals how structural exclusion by place and race continues to paint a picture that is steadfastly rural and marred by racial, capital and data inequity. These challenges are exacerbated by a history of disinvestment and data extraction.

Rural America faces systematic, avoidable, and unjust economic, health, and racial disparities. Legacies of forced geographic and cultural displacement, enslavement, financial discrimination, residential segregation, and transitioning economies have left an indelible mark. Despite evidence of persisting rural inequities, there is no coordinated effort to build a comprehensive evidence base to support deep systems change – that is, to generate research that informs the shifts in policies, practices, resources, power, trust, and attitudes necessary to advance equity.

Rural America, especially in areas of persistent poverty, have been largely disinvested over the past decades. We are seeing the impacts of this disinvestment across federal and state agencies in almost every sector of life. Of the 395 persistent poverty counties, eight out of ten are nonmetro (rural). The majority (60%) of people living in persistent poverty counties are people of color. In fact, 4 out of 10 (42%) persistent poverty counties are majority people of color.

Background: FHFA, GSE's & DTS

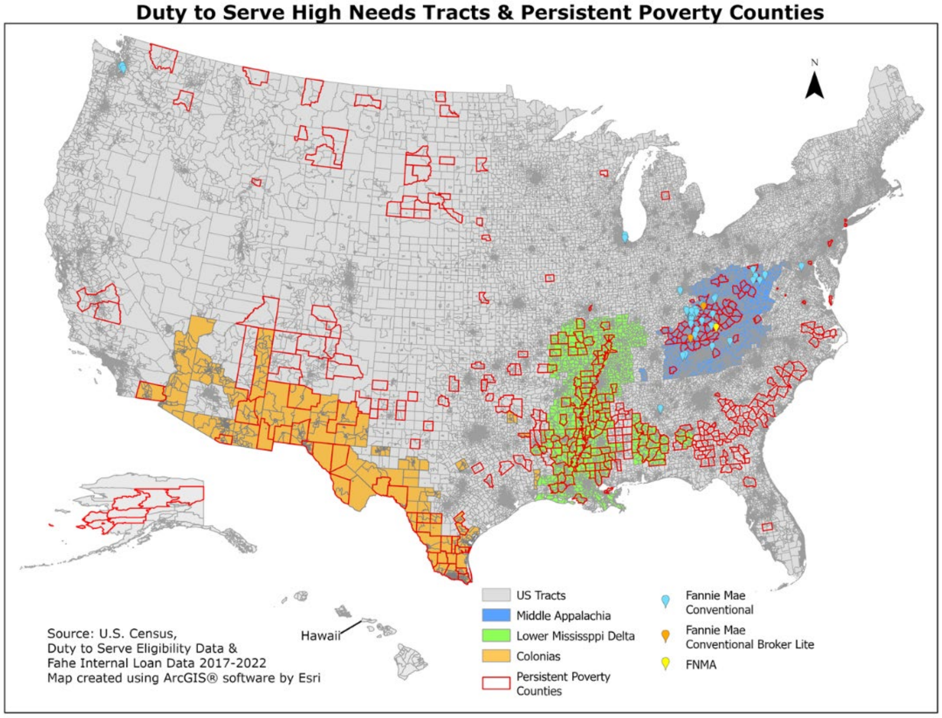
The Enterprises, Fannie Mae and Freddie Mac, were mandated to serve underserved markets after the passing of the Safety and Soundness Act. This was the inception of the Duty To Serve (DTS) Program, housed under the Federal Housing Finance Agency (FHFA). DTS was implemented in 2016. The legislation notes that the Enterprises are to "provide leadership to the market" by creating various loan products and more flexible underwriting guidelines to improve mortgage financing and to facilitate a secondary market for home mortgage loans for "very-low, low, and moderate-income families." The Enterprises must do so within three underserved markets: manufactured housing, affordable housing preservation, and rural housing. The FHFA is charged with evaluating the degree of compliance that the Enterprises' are serving the specific markets annually.

The Work

The Partners for Rural Transformation wanted to assess the efficacy of the DTS program analyze the "reach" of DTS loans within the Appalachia and Colonia regions. PRT Partners cdcb and Fahe worked with PRT to do a comparative study to evaluate if DTS data and their own lending data aligned, which are largely rural areas of persistent poverty that are suffering from worsening housing markets and homeownership rates in Appalachia and the colonias.

According to the FHFA's 2020 report to Congress on the Enterprise's duty to serve the outlined markets, including rural housing, both Fannie and Freddie exceeded their 2020 targets. All targets for the rural housing market were either met or exceeded in the FHFA's 2021 reports as well. With the FHFA results in mind, the questions revolved around: where were the DTS loans being made, what type, and how many? We expected to have enough data to understand where these DTS loans were going, and compare the counts to the bottom line targets that were either met or exceeded, compared to 2020 and 2021 reports.

Duty to Serve High Needs Tracts & Persistent Poverty Counties



Moreno, C. (2022). "Duty to Serve High Needs Tracts & Persistent Poverty Counties"

With DTS loan data from cdcb & Fahe spanning 2019-2021, it was found that not as many loans were being made in Persistently Poor counties as originally assumed, and, if you were to "zoom in" closely on this map, it was noticed that these loans are actually made right outside of Persistent Poverty Counties, in near-by, more affluent areas. This explained another perplexing find in the data. With DTS and the Enterprise's targeting low and very-low income areas, we expected to see subprime or deep subprime average credit scores of DTS loan borrowers. The average DTS loan borrower for cdcb between 2019-2021 was 725, which falls in the super-prime credit score category. Similarly, for Fahe, the average credit score for DTS loan borrowers from 2021 and 2022 was 752, well above the subprime threshold.

The question was, why are these DTS loans just missing the geographies and communities that they are intended to help? Secondly, if the FHFA is reporting that all targets are met or exceeded, why are these areas still experiencing disparities in regard to homeownership rates and affordable housing options? It was found that cdcb cited a low count in DTS loans due to the shift and inconsistencies in the definitions and geographical boundaries of rural areas, high-needs rural areas and colonias. Without a clear and consistent definition of Colonia census tract, rural and high-needs rural areas, the Enterprises are not able to clearly compute which DTS loans counted towards their bottom lines within these regions. The data was measured with ambiguous boundaries. *It is harder to be precise and accurate with a moving target.*

Building on the DTS momentum, right after presenting at the Rural Research Symposium hosted by Freddie Mac in late 2022, the FHFA released a request for public comment on a Notice of Proposed Rule. Both cdcb and PRT responded with a comment in order to uplift a technical definition of census tract for Colonias that PRT National Partner, HAC, helped cdcb articulate.

The recommendation proposed by PRT, cdcb and HAC stated that FHFA adopt a new and flexible definition of a colonia census tract. The main advantage of using colonia census tracts to identify and verify Duty to Serve-eligible criteria is achieving stability in methodology while maintaining flexibility to adapt to evolving geographies. This is no small feat: As fundamentally ad-hoc communities, informally self-built by people pushed to the margins, colonias defy concrete definition. For decades federal policy makers attempted to define colonias, unsuccessfully chasing evolving and dynamic contexts. Since the passage of NAFTA in 1994, the character of colonias shifted as new unincorporated communities arose as result of the explosive economic and demographic expansion along the U.S.-Mexico border. Past definitions failed to account for these shifts; whether it was narrow geographies, an adherence to what many imagined colonias to be, or a deference to contradictory parameters at the state level, outside efforts simply missed the mark. Despite this, Enterprise lending activity proved to be the only vehicle for credit in these underserved markets (but to a limited degree; traditional market lending was nonexistent). Shifting to a more stable definition enables the Enterprises to design and implement more intentional engagement with colonias, significantly deepening impact. The definition delivers laser focused concentration on colonias even when they are surrounded by mixed-income non-colonia communities. Despite their proximity, none of the relatively high-income incorporated areas would fall under a colonia census tract in the proposed methodology, proving its efficacy in directing resources to where they are most needed.

The Win

PRT Partners, especially cdcb, and PRT National Partners, are all celebrating the advocacy and legislative win since the FHFA has released their final rule, adopting a new definition for "colonia census tract" to mean a census tract containing a colonia, which will serve as a census tract-based proxy for a colonia. This altered definition's immediate impact will be on Fannie and Freddie lending activity. But the FHFA's leadership on this topic possesses the potential to create a beneficial ripple effect. If other federal entities were to also adopt this methodology it would streamline the deployment of a suite of federal programs and services across USDA, HUD, Treasury, and others. This would result in the real possibility of economically integrating colonia communities to their surrounding economies, supercharging efforts to address decades of disparities.

The Wins To Come

While we are appreciative and excited about this new definition, and the data, accountability and transparency implications it will have for FHFA programs like DTS, PRT is not done yet. This is, hopefully, one of MANY wins to come. It is critical, for truly transformative work to be done in the colonias, that this definition is adopted by all other federal agencies. This will allow the same benefits, including geographic clarification, data measurability, and higher accountability in all sectors of life for those living in the colonias. DTS and FHFA mainly focus on housing, and this is only one essential pillar of a higher quality of life for these communities. Education, Energy, Workforce Development, Small Business, Broadband, and Infrastructure also need to be able to measure their impact more clearly in colonias, and make more accurate and targeted program designs and implementations when serving these areas. PRT calls upon all federal agencies to follow in the historical footsteps of FHFA in adopting the new definition of colonia census tract, and the amended definitions of rural area and high-needs rural area.

For any questions about the article, contact PRT here.

For any questions about the map, contact Camila at Cmoreno@fahe.org