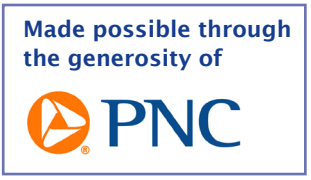


National Low Income Housing Coalition Presents



2010 Advocates' Guide

to Housing & Community Development Policy





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The National Low Income Housing Coalition is dedicated solely to achieving socially just public policy that assures people with the lowest incomes in the United States have affordable and decent homes.

The National Low Income Housing Coalition was established in 1974 by Cushing N. Dolbeare.

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How to Use the Advocates' Guide

The National Low Income Housing Coalition's *2010 Advocates' Guide to Housing and Community Development Policy* is intended to provide advocates, policymakers, students, and others with information on the most relevant housing and housing-related programs and issues at the federal level, as well as information related to the community planning process.

Each article provides basic information on a specific program or issue, and its current status. Where appropriate, advocacy alerts are provided to help advocates weigh in on particular topics. The appendices are intended to further assist advocates in making their voices heard.

We expect that 2010 will see continued high levels of housing-related activity in both Congress and the Administration. As the Obama presidency has gotten underway, the Administration has introduced initiatives that address the housing needs of people with the lowest incomes, including ones related to public housing, housing choice vouchers, the foreclosure crisis, and sustainable and livable communities. Congress, too, continues to focus on issues of importance to low income housing advocates, both in general and in response to the ongoing foreclosure and economic crises.

This year's Guide includes several new features. A new chapter in the beginning of the Guide sets the stage by describing the housing need nationally for housing for people with the lowest incomes. Additional articles reflect new priorities of Congress and the Administration. And new appendices show the organizational chart of HUD, describe White House offices that are focused on housing-related policies, and suggest ways in which advocates can make the most of their relationship with NLIHC.

In addition, we have marked articles throughout the Guide that deal with topics that have a place on NLIHC's 2010 policy issues agenda, as set by NLIHC's board. Those program or issue areas are denoted at the beginning of a chapter by the following icon:



Articles in the Guide are current as of March 20, 2010. In general, articles have been updated to include the final fiscal year 2010 (FY10) appropriations and President Obama's initial budget request for fiscal year 2011 (FY11, which runs from October 1, 2010 through September 30, 2011). We do not include information on the FY11 Congressional appropriations process, as it has not begun as we go to press.

To stay up to date, members of NLIHC receive weekly updates on housing policy through our newsletter, *Memo to Members*, as well as through regular Calls to Action. We hope that you will use the membership form at the back of this Guide, or visit www.nlihc.org/join, to join or renew your NLIHC membership.

The 2010 Advocates' Guide to Housing and Community Development Policy was edited by Kim Schaffer, Outreach and Communications Director at NLIHC. Danna Fischer, NLIHC Legislative Director and Counsel, lent invaluable policy expertise to the editing process. Sarah Brundage assisted in the editing and compilation process.

The Guide was compiled with the help of many of our partner organizations. We are deeply grateful to each of the authors for their assistance; the Guide would not be possible without them.

Several articles build on the work of authors from previous versions of the Guide, and we appreciate and acknowledge their contributions as well.

Support for this publication was provided by PNC. NLIHC is grateful for the support.



NLIHC Policy Issues Agenda 2010

NLIHC's mission is to achieve socially just public policy that assures people with the lowest incomes in the United States have affordable and decent homes.

Our goals to meet our mission are:

- (1) to preserve existing federally assisted homes and housing resources;**
- (2) to expand the supply of low income housing; and**
- (3) to establish housing stability as the primary purpose of federal low income housing policy.**

Our objectives to meet our mission are to change public opinion, increase capacity of low income advocates, and to cause federal policy makers to act.

NLIHC's 2010 Policy Priorities

National Housing Trust Fund (NHTF). Advancing the National Housing Trust Fund remains NLIHC's highest priority. NLIHC will seek to capitalize the NHTF and continue to seek new funding sources, finalize HUD regulations on the NHTF, and obtain project-based vouchers to go to states to accompany NHTF dollars.

Housing Choice Vouchers. To support the units added by the National Housing Trust Fund and otherwise assist the lowest income families in accessing affordable housing, NLIHC will continue to advocate for a significant number of new vouchers. NLIHC will continue our campaign to secure at least 250,000 new vouchers in FY11, and for enactment of the Section 8 Voucher Reform Act (SEVRA).

Foreclosure Intervention. NLIHC will monitor compliance of the Protecting Tenants in Foreclosure Act of 2009 and educate the public about this law, protect tenants in private market multifamily properties that are threatened with foreclosure, and support bankruptcy and foreclosure prevention legislation.

Preservation of Public and Assisted Housing. NLIHC will support enactment of comprehensive Section 8 project-based and other multi-family housing preservation legislation, to include a mandate for federal agencies to collect and disseminate data, and capacity grants to support local data collection; support and promote policies that preserve severely distressed and non-severely distressed public housing stock through administrative and legislative vehicles; and work to ensure renewal of all vouchers in use.

Gulf Coast Housing Recovery. NLIHC will support enactment of Gulf Coast Housing Recovery legislation that reflects issues identified by the Katrina Housing Group, which NLIHC coordinates, and will continue to work to influence the National Disaster Housing Strategy.

Budget and Appropriations. NLIHC will work to achieve the best possible HUD budget for FY11, including through the President's budget, the Congressional budget resolution, and appropriations bills.

Housing Plus Services. Work in this broad subject area includes the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH) implementation as well as the enactment of Section 202 and 811 reform bills, Section 3 legislation, and healthy housing legislation.

Tax Policy. NLIHC will work to achieve greater equity in federal housing subsidies both along the income spectrum and between homeowners and renters, and will advocate for redirecting these savings to fund NHTF and Housing Choice Vouchers.

Low Income Housing Tax Credits. NLIHC will support efforts to help the LIHTC program rebound, with a focus on continuing the exchange program for 2010 and on support for a policy revision that would require 25% of LIHTCs to be used for housing affordable for extremely low income households.

Definition of Affordability and Income. NLIHC will monitor and inform proposals to redefine the federal poverty level to assure consideration of housing costs. NLIHC will also monitor and inform any changes to Fair Market Rents and income limits.

Planning for Livable Communities. NLIHC will advocate for improvements to the Livable Communities Act/Sustainable Communities Initiative and will seek reform of federally required planning processes, including the Consolidated Plan and the duty to Affirmatively Furthering Fair Housing, to achieve greater inter-departmental coordination.

Housing Funding from Other Sources. NLIHC will seek ways to maximize resources for affordable housing for extremely low income households through the Capital Magnet Fund, climate change legislation, energy retrofit legislation, Community Reinvestment Act legislation, and the transportation bill, as well as other potential resources.

For More Information

National Low Income Housing Coalition · 202-662-1530 · www.nlihc.org

Housing Need

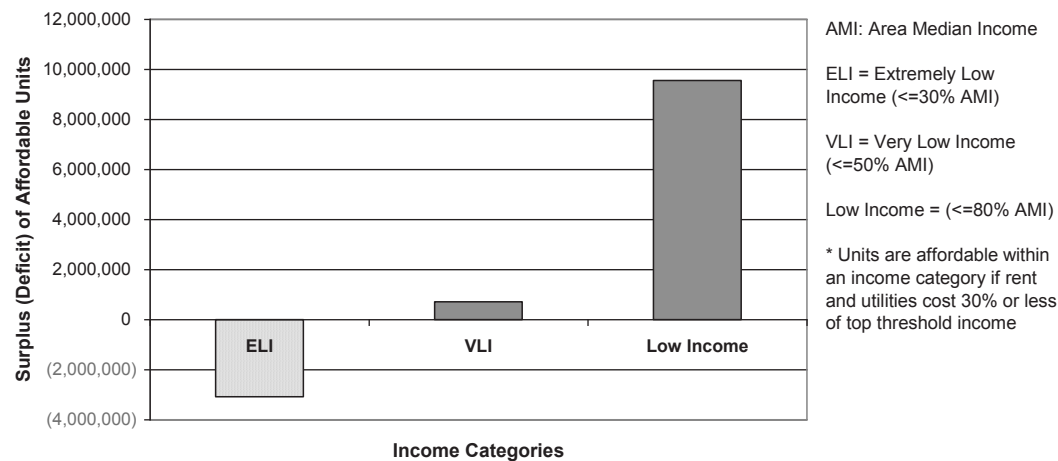
By Megan DeCrappeo, Research Analyst, National Low Income Housing Coalition

Despite a housing market that remains weak and unstable, and average rents and home prices that are often reported to be falling, the need for quality, affordable rental housing in light of the current economic crisis is greater than ever. In the past few years the demand for low-cost rental housing has grown while the supply of rental units affordable to the lowest income households has declined, further exacerbating the persistent mismatch that these families face between their incomes and the costs of available housing in the United States.

According to NLIHC's annual publication, Out of Reach, as of 2010 there remained no county in the 50 states and the District of Columbia in which a full-time worker earning the locally prevailing minimum wage can afford even a one-bedroom apartment at the Fair Market Rent (FMR). A person would need to earn an hourly wage of \$18.44 in order to afford a two-bedroom rental home at the nation's FMR, and the estimated median wage among all U.S. private sector workers is only \$16.01.

This gap between what people are earning and the high costs of housing is further illustrated by NLIHC's analysis of the 2008 American Community Survey (ACS). According to this analysis, there are 9.2 million extremely low income (ELI) renter households (households earning 30% or less of the Area Median Income, or AMI) and only 6.1 million rental units that they can afford (using the standard affordability measure of spending no more than 30% of household income on housing costs). This creates an absolute shortage of 3.1 million rental homes for these households nationwide. This is the only income group for whom there is an absolute shortage (See Figure 1).

Figure 1: A Comparison of Households and Units by Income Threshold* (2008)



Source: NLIHC Tabulations of 2008 American

In actuality, the situation is much worse, because many of the units that are affordable to ELI households are in fact rented and occupied by higher income households. So on a nationwide basis, the shortage of affordable and available rental homes for ELI households is 5.8 million. Nationally, there are only 37 affordable and available rental homes for every 100 ELI renter households; this represents a decline from 39 units in 2007.

ELI households include people who work at the low wage jobs that are so critical to a healthy economy. They are child care providers, nursing home aides, hotel housekeepers, office cleaners, retail clerks, and receptionists. In Denver, CO, families with a total annual income of \$22,800 or less are considered extremely low income. In Birmingham, AL, the annual income of an ELI household is \$18,270 or less, and in Boston, MA, it is \$27,060 or less. ELI households are

also often elderly and disabled people whose income is limited to Supplemental Security Income (SSI); the federal SSI benefit level is \$8,088 annually in 2010 for an individual and \$12,132 for a couple.

Cost burden. In order to find housing, families with extremely low incomes must make a number of sacrifices. Many end up spending precariously high percentages of their income on rent. Seventy-one percent of ELI renters and 66% of ELI owners spent more than half of their incomes on housing costs in 2008, leaving very little for other basic necessities such as food, health care, and transportation. For example, without additional assistance, an ELI family of four making \$18,270 a year in Birmingham, AL, has just \$175 a week to pay for groceries, transportation, education, health insurance and other costs after housing.

Overcrowding. Beyond paying more than they can afford, many households also cope with unaffordable housing costs by doubling and tripling up in units, creating overcrowding. A recent HUD analysis found that in 2009 the rate at which households were moving in with other households had increased 25% from the height of the housing bubble in 2005.

Substandard housing. Another coping mechanism for people struggling to find housing they can afford is to live in substandard housing that may threaten the health of household members. Housing problems are increasingly linked to significant impacts on health. For example, a recent study from Children's HealthWatch found that children who live in crowded units or have moved twice or more in the last year are more likely to be food insecure, at-risk for development delays, in fair or poor health and gaining weight too slowly. Living in stable, affordable housing can lead to healthier and more successful life outcomes for children of low income families.

The available data confirm that there is a critical and continual need for a sufficient supply of affordable housing and it is imperative that researchers and advocates continue to work together to meet this need. Unfortunately, the situation appears to be getting worse. The U.S. housing market remains in considerable flux, the unemployment rate has reached 10%, and, according to the Brookings Institute, the rate of poverty is even higher today, estimated to have increased as much as 2.2 percentage points in the nation's largest metropolitan areas in 2009. Increases in poverty are directly correlated with increases in homelessness and housing instability. With more and more Americans facing poverty in 2010 it seems likely the United States will continue to see a rise in unaffordable housing and homelessness.

See also: *Federal Data Sources for Housing Advocacy*.



National Housing Trust Fund

By Danna Fischer, Legislative Director and Counsel, and Sheila Crowley, President, National Low Income Housing Coalition

Establishing the National Housing Trust Fund has been NLIHC's number-one priority for many years. NLIHC has led the National Housing Trust Fund campaign, endorsed by more than 5,700 organizations nationwide, since 2001. The goal for the National Housing Trust Fund as established by the National Housing Trust Fund campaign is to build or preserve 1.5 million rental homes affordable for extremely low income households in 10 years.

Legislation to establish the National Housing Trust Fund (NHTF) was signed into law by President George W. Bush in July 2008. This is the first new federal housing production program specifically targeted to extremely low income households families since 1974.

The NHTF Campaign is now focused on securing short- and long-term funding for the NHTF and on assuring that program regulations will reflect the legislative intent of providing affordable housing for extremely low income (ELI) households.

The NHTF has not yet been implemented, but HUD officials are working on the program regulations. The program will be administered by the Office of Community Planning and Development at HUD.

History

The National Housing Trust Fund became law with the passage of H.R. 3221, the Housing and Economic Recovery Act of 2008 (HERA) near the end of the 110th Congress. HERA was signed by President Bush on July 30, 2008 (P.L. 110-289).

This was a multi-year campaign during which NHTF legislation was introduced in the 106th, 107th, 108th, and 109th Congresses. The primary sponsor of earlier versions of the legislation in the Senate was John Kerry (D-MA); it was Bernie Sanders (I-VT) in the House. After leadership changed in the Congress in 2007, House Financial Services Committee Chairman Barney Frank (D-MA) made the NHTF a top priority and Senator Jack Reed (D-RI) led the fight in the Senate.

Both Chairman Frank's and Senator Reed's bills proposed to fund the NHTF with contributions from Fannie Mae and Freddie Mac. H.R. 3221 made major regulatory changes to Fannie Mae and Freddie Mac and created a new program for foreclosure prevention. The version of the NHTF that was ultimately included in the larger housing bill (H.R. 3221) was the one offered by Senator Reed. It was not as detailed as Chairman Frank's bill and left much of the structure of the program to be created by regulation.

Unfortunately, the financial crisis in the fall of 2008 required that Fannie and Freddie be taken over by a conservator, and contributions to the NHTF have been suspended. During the presidential campaign of 2008, candidate Barack Obama advocated funding for the NHTF. In his first budget proposal, for FY10, President Obama requested \$1 billion as the initial capitalization of the NHTF. That funding has not yet materialized.

Program Summary

The purpose of the NHTF is to increase and preserve the supply of rental housing for extremely low and very low income families, including homeless families, and to increase homeownership for extremely low and very low income families.

The NHTF's most important features are:

- It is a permanent program with dedicated source(s) of funding not subject to the annual appropriations process. Funding sources under consideration will not compete with annual HUD appropriations.
- At least 90% of the funds must be used for the production, preservation, rehabilitation, or operation of rental housing. Up to 10% can be used for first-time home buyer assistance for down payments, closing costs, and interest rate buy-downs.
- At least 75% of the funds for rental housing must benefit extremely low income households and all funds must benefit very low income households.

The NHTF is a block grant to states, which will designate a state housing finance agency, housing and community development entity, a tribal designated housing entity, or any other qualified agency to receive the grants. The amount that each state will receive is based on a formula that HUD has already developed. The factors used in the formula are prescribed in the legislation, with the intent that funds be distributed based on the level of need for ELI affordable rental housing in each state.

States will develop allocation plans based on housing needs and program requirements, solicit proposals from willing developers and providers, and make grants to the entities chosen in the competition.

Eligible recipients of grants from the states are organizations and agencies (for-profit and nonprofit) that demonstrate:

- The experience and capacity to produce the kind of housing called for by the program;
- The financial capacity to undertake the eligible activity; and
- Familiarity with federal, state, and local housing programs.

For the purposes of federal civil rights laws, the NHTF is considered federal financial assistance. All activities carried out must comply with federal laws on tenant protection and tenant participation, laws requiring public participation, and fair housing and laws related to accessibility for people with disabilities.

NHTF funds cannot be used for political activities, lobbying, counseling, traveling and administrative expenses, or endorsements of a particular candidate or party. Recipients must conduct and submit periodic financial and project reports, and conform to audit and record retention requirements.

Allocation regulations. NHTF dollars will be allocated to states and eligible jurisdictions by formula. By law, HUD is required to establish a formula for the allocation of NHTF grants funds to the states and to base the formula on the need for affordable rental housing for extremely low and very low income households. On December 4, 2009, HUD issued proposed regulations governing how NHTF funds will be allocated.

The proposed allocation formula is consistent with the intent of the National Housing Trust Fund to serve the lowest income households where the need for housing production is the greatest, by giving a combined weight of 75% to the two factors in the formula that address the needs of ELI renter households. One of these two factors, the ratio of the shortage of standard rental units both affordable and available to ELI renters in the state to this shortage at the national level, is given the highest priority with a weight of 50%. The other factor addressing ELI renters is given a weight of 25%. The remaining two factors in the formula address the needs of very low income renters and are given less weight (12.5% each). The formula also takes into account the relative cost of construction in each state compared to the national cost of construction.

The minimum allocation amount that a state can receive is \$3 million, so any states with an estimated allocation amount below that amount will receive \$3 million and the allocations to all other states will be adjusted accordingly.

National Housing Trust Fund

The District of Columbia and Puerto Rico are defined as states for the purpose of receiving NHTF dollars. In addition, allocations to the four U.S. territories, American Samoa, Guam, the Northern Mariana Islands, and the Virgin Islands, were based on the proportion of renter households in each of these areas to the total number of renter households in the United States, and these amounts are subtracted from the total amount available for the 50 states, the District of Columbia and Puerto Rico.

The proposed regulations can be found in the Federal Register for December 4 at <http://edocket.access.gpo.gov/2009/pdf/E9-28984.pdf>

Program regulations. HUD must also develop regulations to provide program details that were not specified in the statute, including the length of time units must meet affordability criteria, requirements for geographic distribution of funded units, and more. The NHTF campaign has sent letters to the current and previous HUD Secretaries detailing our position on the full range of programmatic issues. NLIHC understands HUD completed the regulations in March 2010, and that they must be reviewed and approved by the Office of Management and Budget (OMB) before they can be made public.

One critical issue that will be addressed in regulation is the definition of affordable rent. The NHTF campaign has consistently advocated for the application of the Brooke rule to NHTF units, such that a tenant's rent contribution is limited to 30% of his or her income. The alternative formulation, used in the HOME and LIHTC programs, is to set flat rents (rents based on 30% of some fixed-income figure). This alternative would result in those households with incomes below 30% paying an unreasonable share of their income for rent and could result in unstable housing situations for families if their incomes dropped. Developers object to the use of the Brooke rule, because they say that lenders and underwriters require the guarantee of rental income that flat rents provide.

While the NHTF will reduce the overall costs associated with developing, rehabilitating, or preserving deeply targeted units, the operating costs of these units may not be met with the resources of the NHTF. Consequently, other operating subsidies may be needed to ensure the long-term viability of NHTF units. One way to address this concern is to build a source of operating subsidy into each project. The NHTF campaign supports using 20% of grant funds to capitalize an operating subsidy reserve.

Another solution is for Congress to allocate project-based vouchers to states to distribute in connection with NHTF capital grants. In the most recent funding proposals for the NHTF, \$65 million for project-based vouchers has been added.

Funding

While the enabling statute directed Fannie Mae and Freddie Mac to make annual contributions to the NHTF, the level of the required contributions was never sufficient to meet the goal of 1,500,000 homes over 10 years. Even before Fannie Mae and Freddie Mac's financial troubles caused their contributions to be suspended, the NHTF campaign was preparing proposals for other dedicated sources of revenue.

In his proposed budget for FY10, President Obama asked for an initial capitalization of \$1 billion for the NHTF. This request was repeated in his FY11 budget proposal. Both proposals suggested that the funding come from the mandatory (as opposed to the discretionary) side of the budget and are not part of the requested appropriation for other HUD programs. In late 2009, the Administration offered an offset from an unrelated program in the tax code to pay for the \$1 billion.

In the meantime, both Chairman Frank and Senator Reed introduced legislation in the fall of 2009 to pay for the NHTF with "TARP" (Troubled Asset Relief Program) funds, the program Congress created in 2008 to bail out floundering financial institutions. In late December 2009, the House passed a "jobs" bill that included \$1 billion for the NHTF and \$65 million for project-based vouchers to go with the NHTF. The House bill would pay for the program with TARP funds.

In the first three months of 2010, the Senate has passed two smaller jobs bills, but did not include the NHTF. This is despite a letter to Senate leaders signed by 25 Senators requesting funding for the NHTF.

Advocates are now working to get the funding added to another “must-pass” piece of legislation as soon as possible. The Congressional Black Caucus recently sent a letter to House Speaker Nancy Pelosi urging quick action on the NHTF.

What Advocates Need to Know Now

Funding. The Obama Administration wants Congress to put \$1 billion into the NHTF, the House has already passed legislation to do so, and a majority of Senators support the NHTF. The NHTF campaign is very close to getting the NHTF funded, but strong advocacy is needed to push it over the top.

For the long term, the NHTF will need dedicated sources of revenue of sufficient amounts to bring the program to the scale needed to actually reduce the shortage of rental housing that is affordable to the lowest income households. These sources must be outside the standard appropriations process so as not to supplant existing HUD programs.

Regulations. HUD’s proposed program regulations will be made public sometime in the spring of 2010. Advocates need to examine the proposed regulations carefully and provide comments on how to improve them if needed.

Once Congress provides funding and the regulations are finalized, the role of local advocates will become even more important. Advocates will need to influence the state allocation plans and monitor their implementation to assure that funds are spent primarily to expand the supply of rental housing affordable for extremely low income people.

What to Say to Legislators

- There is an acute shortage of rental housing in your community that extremely low income households can afford, which causes housing instability and homelessness. The need for the NHTF is urgent.
- Investment in the NHTF will not only expand housing supply, but will create new jobs in the construction trades and in operation of the new housing developments.
- Congress should immediately pass legislation to provide \$1 billion to capitalize the NHTF and \$65 million for project-based vouchers to accompany NHTF grants
- Congress should identify dedicated sources of revenue for the NHTF sufficient to build or preserve 1,500,000 units of rental housing over 10 years.

Tips for Local Success

The governor (or legislature) in each state will designate which agency (state housing finance agency, housing and community development entity, tribal-designated housing entity, or any other qualified agency) will administer the NHTF. Advocates should express their views on which agency they think would do the best job with the NHTF.

Even before the final program regulations are published, advocates also should begin talking with officials at that state agency about how the required Allocation Plan will be developed based on priority housing needs, and how the Allocation Plan will address geographic diversity, affordability, and duration of affordability.

Advocates also should suggest to state officials how the required public participation plan be drafted to ensure adequate public notice and genuine opportunities for public comment.

The latest news on the National Housing Trust Fund can be found at www.nhtf.org.

For More Information

National Low Income Housing Coalition · 202-662-1530 · www.nlihc.org
National Housing Trust Fund Campaign · 202-662-1530 · www.nhtf.org

NLIHC Preliminary Estimates of State Allocation Amounts from NHTF for Every Billion Allocated and Invested

December 4, 2009

<u>Geography</u>	<u>Amount</u> ¹	<u>Percent of total</u>	<u>Construction Jobs Created</u> ²	<u>Ongoing Jobs Created</u> ³
Alabama	\$9,600,000	0.96%	145	36
Alaska	\$3,000,000	0.30%	45	11
Arizona	\$16,600,000	1.66%	251	63
Arkansas	\$6,500,000	0.65%	98	25
California	\$193,200,000	19.32%	2917	734
Colorado	\$14,700,000	1.47%	222	56
Connecticut	\$11,100,000	1.11%	168	42
Delaware	\$3,000,000	0.30%	45	11
District of Columbia	\$3,400,000	0.34%	51	13
Florida	\$55,100,000	5.51%	832	209
Georgia	\$24,000,000	2.40%	362	91
Hawaii	\$5,800,000	0.58%	88	22
Idaho	\$3,000,000	0.30%	45	11
Illinois	\$43,000,000	4.30%	649	163
Indiana	\$14,800,000	1.48%	223	56
Iowa	\$6,000,000	0.60%	91	23
Kansas	\$5,800,000	0.58%	88	22
Kentucky	\$9,200,000	0.92%	139	35
Louisiana	\$12,100,000	1.21%	183	46
Maine	\$3,200,000	0.32%	48	12
Maryland	\$13,300,000	1.33%	201	51
Massachusetts	\$26,000,000	2.60%	393	99
Michigan	\$26,600,000	2.66%	402	101
Minnesota	\$13,700,000	1.37%	207	52
Mississippi	\$5,900,000	0.59%	89	22
Missouri	\$14,700,000	1.47%	222	56
Montana	\$3,000,000	0.30%	45	11
Nebraska	\$3,200,000	0.32%	48	12
Nevada	\$9,900,000	0.99%	149	38

¹ These estimates are based on the Proposed Rule for the Housing Trust Fund Allocation Formula, posted in the Federal Register on December 4, 2009 at <http://edocket.access.gpo.gov/2009/pdf/E9-28984.pdf>. They are intended to provide a rough indication of the ranking and magnitude of each state's allocation. These amounts and proportions are subject to change based on further clarification of HUD's proposed methodology and data sources, and the exact source and vintage of the data used at the time of allocation.

² This is an estimated number of construction jobs that will be created as a result of these NHTF allocations. These estimates are based on national estimates of the local economic impact of a LIHTC project produced by the National Association of Home Builders (www.nahb.org/fileUpload_details.aspx?contentTypeID=3&contentID=35601&subContentID=119693) and an assumption that each unit will cost \$100,000 to create. This number does not take into account local construction costs or other local factors that may affect employment outcomes.

³ This is an estimated number of ongoing jobs that will be created as a result of these estimated NHTF allocations. See note 3 for assumptions.

<u>Geography</u>	<u>Amount</u>	<u>Percent of total</u>	<u>Construction Jobs Created</u>	<u>Ongoing Jobs Created</u>
New Hampshire	\$3,000,000	0.30%	45	11
New Jersey	\$34,500,000	3.45%	521	131
New Mexico	\$4,600,000	0.46%	69	17
New York	\$111,600,000	11.16%	1685	424
North Carolina	\$22,900,000	2.29%	346	87
North Dakota	\$3,000,000	0.30%	45	11
Ohio	\$31,500,000	3.15%	476	120
Oklahoma	\$7,700,000	0.77%	116	29
Oregon	\$15,000,000	1.50%	227	57
Pennsylvania	\$33,900,000	3.39%	512	129
Puerto Rico	\$9,200,000	0.92%	139	35
Rhode Island	\$4,200,000	0.42%	63	16
South Carolina	\$8,900,000	0.89%	134	34
South Dakota	\$3,000,000	0.30%	45	11
Tennessee	\$13,400,000	1.34%	202	51
Texas	\$60,000,000	6.00%	906	228
Utah	\$4,100,000	0.41%	62	16
Vermont	\$3,000,000	0.30%	45	11
Virginia	\$19,900,000	1.99%	300	76
Washington	\$23,300,000	2.33%	352	89
West Virginia	\$4,000,000	0.40%	60	15
Wisconsin	\$15,500,000	1.55%	234	59
Wyoming	\$3,000,000	0.30%	45	11
American Samoa	\$60,000	0.01%	1	0
Guam	\$560,000	0.06%	8	2
Northern Marianas	\$260,000	0.03%	4	1
Virgin Islands	\$610,000	0.06%	9	2
United States	\$1,000,000,000	100%	15100	3800

The Budget and Appropriations Process

By Staff of the Center on Budget and Policy Priorities

Advocates should follow closely the federal budget process, which lays out the federal government's broad priorities for the year, and the appropriations process, which allocates the total amount of dollars provided through the budget process to specific federal programs, including housing programs.

President's Request

The federal budget operates on an annual cycle that begins the first week in February, when the President must provide a detailed budget request to Congress. The budget request covers the upcoming federal fiscal year, which begins on October 1. For example, the Administration in February 2010 released its first look at its budget plan for FY11, which begins October 1, 2010.

The President's budget addresses three main areas: entitlement programs, 'discretionary' or 'appropriated' programs, and taxes.

Entitlements like Medicare or Social Security generally run on auto-pilot, and are not controlled by annual appropriations. But if the President wants to make changes in these programs (whether to expand them or cut them), he will reflect that in his budget request.

'Discretionary' or 'appropriated' programs must have their funding renewed each year in order to continue operating. Almost all housing programs are discretionary, including the big ones like Section 8 and public housing. The President's budget request has a line item for each housing program, showing how much he thinks Congress should provide in funding for the year ahead. The budget request may also include legislative language recommending policy changes in particular programs.

Finally, if the President wants to make a change in federal tax policy, that will be reflected in his budget as well. Some low income housing is subsidized through the tax code, for example, by the Low Income Housing Tax Credit. Taxes are also an important part of budgeting generally, because costly tax cuts drain revenues from the rest of the budget that could have been used to maintain or expand affordable housing programs, for example. Since 2006, Congress has been trying to live by a 'pay-as-you-go' standard that requires any tax cut to be offset somewhere else in the budget or the tax code, so that it does not add to the deficit. (Note: this 'PAYGO' rule also applies to expansions of entitlement programs, but *not* to funding for discretionary programs like affordable housing.)

Taken together, the President's requests relating to entitlements, discretionary programs, and taxes determine whether his budget plan will lead to deficits, surpluses, or a balanced budget.

Congressional Budget

After receiving the President's budget, Congress holds a series of hearings at which Cabinet officials testify about the budget request. Congress then turns in March and April to the task of crafting its own budget plan, which is very different from the President's budget request. Instead of a detailed plan, the Budget Committees in each chamber write a 'budget resolution' which operates like a blueprint for the individual spending and tax bills that will follow over the course of the year.

What is particularly important in the budget resolution for housing programs is the total amount of funding that is made available for all discretionary programs. This top-line number in the budget resolution acts as a ceiling on discretionary spending for the rest of the year. If, for example, it is set at a level that corresponds to a freeze in spending, then it will be very unlikely that there will be significant increases in housing funding later in the year, because that will just mean deeper cuts in other areas to adhere to that overall cap. The cap is taken very seriously, and cannot be set aside later in the year without the support of the House leadership and a 60-vote supermajority in the Senate.

A final budget resolution must be agreed to by both houses, but it does not need the President's signature, because it is not actually a binding law, just a very powerful roadmap. Once it is complete, the committees of Congress get to work on their tax bills and spending bills.

Congressional Appropriations

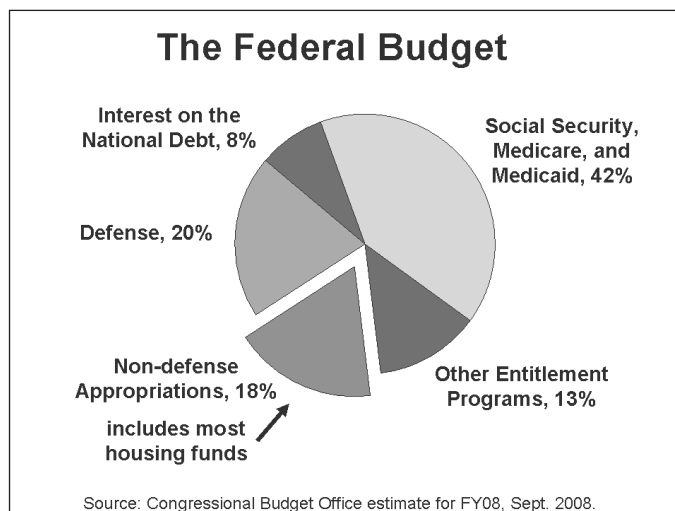
For housing, most of the critical budget activity takes place in the Appropriations Committee. The Committee takes the total amount of money provided in the budget resolution for discretionary programs (which budget experts call the '302(a) allocation'), and then divides it up among its 12 subcommittees (into what are known as '302(b) sub-allocations'). One of those subcommittees, Transportation-HUD-Related Agencies, then must further allocate its funding (its '302(b)') among the various housing programs (with the exception of rural housing, which is funded by the Agriculture Appropriations subcommittee).

The 12 appropriations bills that are produced through this process must be passed by both chambers and signed into law by the President, or wrapped into a catch-all 'omnibus' appropriations bill. If either doesn't happen before the new fiscal year begins on October 1, then a 'continuing resolution' keeps the government open and provides funding for programs until final appropriations bills are agreed to.

What Advocates Need to Know Now

Housing advocates have opportunities throughout the annual budget process to have an impact on important decisions. For example:

- Prior to the President's submission of a budget request to Congress, advocates can provide input to federal agencies and the President's Office of Management and Budget on what the priorities for the coming year should be.
- Once the President's budget request comes out, advocates can comment on the housing parts of it (the good and the bad), as well as on the tax policies, and whether they will lead to adequate revenue for housing programs and other priorities, or a further shrinking of the pie.
- When Congress starts crafting its budget resolution, advocates can encourage it to set a reasonable level for overall discretionary program funding, one that provides enough resources not only to maintain current services, but also to address unmet need.
- Finally, advocates can work to secure funding for housing programs in the Transportation-HUD appropriations bill, and help fight any tax cuts that are not paid for and would therefore drain needed revenues from the overall budget.



For More Information

"Introduction to the Federal Budget Process," by Martha Coven & Richard Kogan, available online at www.cbpp.org/3-7-03bud.htm.

Background on the Budget and Appropriations from the Coalition on Human Needs, available online at www.chn.org/issues/budget/background.html.

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NLIHC Budget Chart for Select Housing Programs

FY11 Budget Chart for Selected HUD Programs
(figures in millions)

HUD Program (set asides indented)	FY05 Enacted	FY06 Enacted	FY07 Enacted	FY08 Enacted	FY09 Enacted	FY10 Enacted	FY11 President's Request
Tenant Based Rental Assistance	14,766	15,417	15,920	16,391	16,817	18,184	19,551
Contract Renewals	13,463	13,949	14,436	14,666	15,034	16,339	17,310
Tenant Protection Vouchers	163	178	149	200	150	120	125
Administrative Fees	1,200	1,238	1,281	1,351	1,450	1,575	1,791
Family Self Sufficiency Coordinators	46	47	47	49	50	60	60
Family Unification Program Vouchers				20	20	15	0
Veterans Supportive Housing Vouchers				75	75	75	0
Nonelderly Disabled Vouchers				30	30	0	0
Disaster Housing Assistance Program							66
Homeless Special Needs Demonstration Vouchers							85
Section 811 Mainstream Vouchers							114
Project Based Rental Assistance	5,298	5,037	5,976	6,382	7,500	8,552	9,382
Public Housing Capital Fund	2,579	2,439	2,439	2,439	2,450	2,500	2,044
Emergency/Disaster Grants	30	17	17	19	20	20	20
Resident Opportunities and Supportive Services	53	38	38	40	40	50	0
Public Housing Operating Fund	2,438	3,564	3,864	4,200	4,455	4,775	4,829
HOPE VI	143	99	99	100	120	135	0
Choice Neighborhoods Initiative						65	250
Native American Housing Block Grants	621	624	624	630	645	700	580
Native Hawaiian Housing Block Grants	9	9	9	9	10	13	10
Housing Opportunities for Persons with AIDS	282	286	286	300	310	335	340

HUD Program (set asides indented)	FY05 Enacted	FY06 Enacted	FY07 Enacted	FY08 Enacted	FY09 Enacted	FY10 Enacted	FY11 President's Request
Community Development Fund	4,671	4,178	3,772	3,866	3,900	4,450	4,380
<i>CDBG Formula Grants</i>	4,110	3,711	3,711	3,593	3,642	3,990	3,990
<i>Economic Development Initiative Grants</i>	262	307	0	180	165	173	0
<i>Catalytic Investment Grants</i>							150
<i>Sustainable Communities Initiative</i>						150	150
<i>Rural Innovation Fund</i>						25	0
<i>University Community Fund</i>						0	25
Brownfields Redevelopment	24	10	10	10	10	18	0
Energy Innovation Fund						50	0
HOME Investment Partnership Program	1,900	1,733	1,733	1,704	1,825	1,825	1,650
<i>HOME Formula Grants</i>	1,789	1,690	1,690	1,629	1,821	1,825	1,650
<i>American Dream Downpayment Initiative</i>	50	25	25	10	0	0	0
Self-Help Homeownership Opportunity Program	25	20	20	26.5	26.5	27	0
Housing Counseling Assistance	42	42	42	50	65	87.5	88
Homeless Assistance Grants	1,241	1,327	1,442	1,586	1,677	1,865	2,055
Rural Housing and Economic Development	24	17	17	17	26	0	0
<i>Housing for the Elderly</i> (Section 202)	741	735	735	735	765	825	274
Housing for Persons with Disabilities (Section 811)	238	237	237	237	250	300	90
Fair Housing and Equal Opportunity	46	46	46	50	54	72	61
<i>Fair Housing Assistance Program</i>	26	26	26	26	26	29	28
<i>Fair Housing Initiatives Program</i>	20	20	20	24	28	43	33
Healthy Homes & Lead Hazard Control	167	152	152	145	140	140	140
Policy Development & Research (excluding academic grants)	45	36	36	28	32	48	87
Total Budget Authority (includes items not listed on this chart)	32,040	34,270	33,650	37,600	41,500*	43,581**	41,590

*The following HUD programs also received a total of \$13.6 billion in funding under the American Reinvestment and Recovery Act (enacted on February 17, 2009): CDBG, \$1 billion; Neighborhood Stabilization Program, \$2 billion (in addition to the \$3.92 billion in NSP funding in July 2008 for NSP); Homelessness Prevention Fund, \$1.5 billion; public housing capital fund, \$4 billion; HOME funds exclusively for low income housing tax credit projects, \$2.25 billion; project-based Section 8, \$2 billion; project-based Section 8/Section 202/Section 811 for energy and green retrofits, \$250 million; Native American Housing Block Grants, \$510 million; Native Hawaiian Formula grants, \$10.2 million; Lead Hazard Reduction, \$100 million.

** The FY10 appropriations bill, H.R. 3288 shows the total budget authority for HUD as \$46,059.

Affirmatively Furthering Fair Housing: Analysis of Impediments to Fair Housing Choice

By Ed Gramlich, Regulatory Director/State Partner Liaison, National Low Income Housing Coalition

States and local governments must certify that they are ‘affirmatively furthering fair housing’ (AFFH) in their Consolidated Plans (ConPlans) and Public Housing Agency (PHA) Plans. In order to comply, these jurisdictions must have an Analysis of Impediments to Fair Housing Choice, also known as an AI.

While these requirements have historically been overlooked, affirmatively furthering fair housing is expected to take on a new importance in the wake of a court decision on an AFFH case in Westchester County, NY, and renewed attention from HUD under the Obama Administration.

History

Title VIII of the Civil Rights Act of 1968 (the Fair Housing Act) requires HUD to administer its programs in a way that affirmatively furthers fair housing. The laws which establish the Community Development Block Grant (CDBG) program, the Comprehensive Housing Affordability Strategy (CHAS), and the Public Housing Authority Plan (PHA Plan) each require jurisdictions to certify (pledge in writing) that they are affirmatively furthering fair housing, often abbreviated as AFFH. States must assure that units of local government receiving CDBG or HOME funds comply.

Further, HUD’s Fair Housing Planning Guide states that the obligation to affirmatively further fair housing applies to all housing and housing-related activities in a jurisdiction, whether publicly or privately funded.

Summary

In the context of an AI, an ‘impediment’ to fair housing can be an action or an inaction that restricts housing choice, or that has the effect of restricting housing choice. Some policies or practices might seem neutral, but can deny or limit the availability of housing. Obvious impediments include outright discrimination based on race or ethnicity, refusing to rent to families with children, or insurance practices that reinforce segregated housing patterns. Less obvious impediments include lack of large rental units, inadequate multi-lingual marketing, zoning that limits group homes, and insufficient public transportation to areas with affordable housing.

AIs are their own separate documents, the content of which are not prescribed by HUD. They are available to the public. HUD’s Fair Housing Planning Guide defines an Analysis of Impediments as:

- (1) A comprehensive review of a jurisdiction’s laws, regulations, and administrative policies, procedures, and practices.
- (2) An assessment of how those laws, regulations, and practices affect the location, availability and accessibility of housing.
- (3) An assessment of conditions, both public and private, affecting fair housing choice for all protected classes. The protected classes are: race, color, religion, sex, national origin, familial status (in other words, households with children) and disability.
- (4) An assessment of the availability of affordable, accessible housing in a range of unit sizes.

The Fair Housing Planning Guide explains that analyzing fair housing impediments and taking appropriate actions means:

- Eliminating housing discrimination in the jurisdiction.
- Promoting fair housing choice for all.
- Providing housing opportunities for people of all races, colors, religions, genders, national origins, family types and disabilities.
- Promoting housing that is structurally usable by all people, particularly those with disabilities.
- Fostering compliance with the nondiscrimination features of the Fair Housing Act.

The name of the agency or department which will have an AI varies from locality to locality. Generally, the office that manages the CDBG program should be able to provide a copy. In addition, advocates can contact the Fair Housing and Equal Opportunity (FHEO) staff at their HUD Field Office.

AIs are not sent in to HUD and they are not a formal piece of any CDBG document such as the ConPlan's Annual Action Plan or Five-Year Strategy. However, a September 2, 2004, HUD Policy Memorandum says that a jurisdiction may include in its Annual Action Plan the actions it plans to take in the upcoming year to overcome the effects of impediments to fair housing. Note that this is only a 'may,' not a 'must;' plus, many jurisdictions do not know this Policy Memorandum exists. Also, some jurisdictions point to a part of their ConPlan or Action Plan called 'barriers to affordable housing' and claim that to be the AI. The law creating the CHAS (the statutory root of the ConPlan) requires such a discussion, but this is not an AI.

Timeframe. According to the Fair Housing Planning Guide, AIs must be updated in cycle with the timeframe of a ConPlan. So, theoretically, if a jurisdiction has to come up with a new ConPlan every five years, then it should also revise its AI at the same time. However, the September 2, 2004, HUD Policy Memorandum states that a jurisdiction "should update, where appropriate, its AI...to reflect the current fair housing situation in their community." That Policy Memorandum also implies that jurisdictions that do not make appropriate revisions to update their AIs could face problems. Advocates might want to be sure that their jurisdiction's AI is up to date and reflects all impediments because much can change before a five-year ConPlan update.

Public participation. Unfortunately, the regulations do not directly tie public participation in CDBG, the ConPlan, or the PHA Plan with the AI. However, the Fair Housing Planning Guide offers a few words that advocates might be able to use: "Since the FHP [Fair Housing Plan] is a component of the Consolidated Plan, the citizen participation requirements for the Consolidated Plan apply." The introduction to the Fair Housing Planning Guide stresses that "all affected people in the community must be at the table and participate in making those decisions. The community participation requirement will never be more important to the integrity, and ultimately, the success of the process."

The Fair Housing Planning Guide also suggests that before developing actions to eliminate the effects of impediments, a jurisdiction "should ensure that diverse groups in the community are provided a real opportunity" to take part in the process of developing actions to be taken. HUD "encourages jurisdictions to schedule meetings [for public comment and input] to coincide with those for the Consolidated Plan."

Monitoring Compliance

Before the start of the CDBG, HOME, or public housing program year.

In order to get CDBG, HOME, or public housing money, jurisdictions must certify that they are affirmatively furthering fair housing. All Annual Plans have this written certification, signed by the authorized official. There must be evidence that supports this pledge and such evidence must be available to the public.

HUD can disapprove a PHA Plan or a ConPlan (and therefore receipt of CDBG and HOME dollars) if a certification is inaccurate. The September 2, 2004, Policy Memorandum gives examples of 'inaccurate:'

- (1) There is no AI;
- (2) The AI is substantially incomplete;
- (3) No actions were taken to overcome the impediments;
- (4) The actions taken were 'plainly inappropriate' to address impediments;
- (5) There are no records.

Another situation that could cause HUD to look more carefully at an AI is the failure to make "appropriate revisions to update the AI." (September 2, 2004, Memorandum)

This can be an important advocacy tool in years between new five-year ConPlans and PHA Plans. If there are major changes in conditions for people who are members of protected classes, advocates should make sure the AI is revised to show those changed conditions. In general, if advocates think that a jurisdiction's AI is inadequate or that the jurisdiction has not taken reasonable actions to overcome impediments to fair housing, they should write a complaint to the HUD Field Office.

CDBG regulations also allow a certification to be challenged if there is evidence that a policy, practice, standard or method of administration, although it seems neutral, really has the effect of significantly denying or adversely affecting fair housing for persons of a particular race, color, religion, sex or national origin.

Affirmatively Furthering Fair Housing

At the end of the CDBG or HOME program year.

In the Annual Performance Report related to the ConPlan, called the 'CAPER,' a jurisdiction must include a summary of the impediments to fair housing, and it must have a description of the actions taken in the past year to overcome the effects of impediments (September 2, 2004, Memorandum).

If advocates think that the actions taken to overcome impediments to fair housing were inadequate, it is important to write a complaint to the jurisdiction and to send a copy to the HUD Field Office.

Records to be kept. CDBG regulations require jurisdictions to keep three types of records:

- (1) Documents showing the impediments, and the actions carried out by the jurisdiction with CDBG and other money to remedy or lessen impediments;
- (2) Data showing the extent to which people have applied for, participated in, or benefited from any program funded in whole or in part with CDBG; and
- (3) Data indicating the race, ethnicity, and gender of those displaced as a result of CDBG use, plus the address and census tract of the housing to which they were relocated.

A February 9, 2007, Joint Memorandum from the Assistant Secretaries for HUD's Office of Fair Housing and Equal Opportunities (FHEO) and Community Planning and Development (CPD), which administers CDBG and HOME, suggests that a jurisdiction keep for the record: copies of local fair housing laws and ordinances; the full history of the development of its AI; options available for overcoming impediments; a list of those consulted; planned actions and actions taken; and issues that came up when actions were carried out.

The Fair Housing Planning Guide also suggests that jurisdictions keep transcripts of public meetings or forums and public comments or input, a list of groups participating in the process, and a description of the financial support for fair housing, including funds or services provided by the jurisdiction.

What Advocates Need to Know Now

Court proceedings on an AFFH case in Westchester County, NY, and new attention to the issue by HUD have given recent life to AFFH requirements.

The case in Westchester County began in April 2006 when the Anti-Discrimination Center (ADC) sued the county, alleging that it violated the False Claims Act each time it certified as part of its Consolidated Plan process since 2000 that it was "affirmatively furthering fair housing."

On February 24, 2009, U.S. District Judge Denise Cote, in *U.S. ex rel. Anti-Discrimination Center v. Westchester County, New York*, found that from April 2000 to April 2006 the county's AI "utterly failed to comply with the regulatory requirement that it perform and maintain a record of its analysis of impediments to fair housing choice in terms of race. This failure is only compounded by the county's failure to follow the guidance provided by HUD [in its Fair Housing Planning Guide]." Judge Cote also observed that "[t]he AFFH certification was not a mere boilerplate formality, but rather was a substantive requirement rooted in the history and purpose of the fair housing laws and regulations, requiring the county to conduct an AI, take appropriate actions in response, and to document its analysis."

On August 10, 2009, HUD announced a historic settlement with Westchester County that requires the county to use \$51.6 million of its own funds to "ensure the development of" at least 750 new units of affordable housing over the next seven years, with at least 630 of them in parts of the county that are currently home to very few people of color. All 750 homes must remain affordable and occupied by income-eligible households for at least 50 years. At least half must be rental units, with a minimum of 20% affordable to households with very low incomes (below 50% of the area median income; AMI), and the remaining 80% affordable to households with incomes below 65% AMI.

A court-appointed monitor rejected the county's required implementation plan on February 11, 2010, and directed it to make significant revisions. This was followed on March 16 with a press statement from HUD stating, "We have seen two versions of the implementation plan and, while the County has worked to improve it, there is still work to be done to set a clear strategy for promoting diverse, inclusive communities. The County must explain how it will

utilize the full range of tools available to ensure the development of 750 new affordable homes in eligible high-opportunity communities and to overcome any anticipated barriers.”

The July 13, 2009, Federal Register announced HUD’s intention to create a proposed rule concerning jurisdictions’ obligation to affirmatively further fair housing choice. The public was invited to offer ideas via email and at a HUD listening session via a webcast with call-in capacity. HUD sought suggestions on six topics: How can the existing process be improved? What documentation is currently used? What factors should be considered? How often should AIs be updated? What would be the implications of a regional approach? What can be done to reduce housing segregation and increase housing opportunities? As of the printing of this Advocates’ Guide, proposed regulations have not been issued.

HUD’s involvement with the Westchester case, its urging the state of Texas to update its 2003 AI in light of hurricane damage from 2005 and 2008, and its intent to issue AFFH regulations are indications that advocates should engage jurisdictions and HUD to ensure genuine efforts to affirmatively further fair housing choice.

For More Information

National Low Income Housing Coalition · 202-662-1530 · www.nlihc.org

HUD’s Office of Fair Housing and Equal Opportunity (FHEO): http://portal.hud.gov/portal/page/portal/HUD/program_offices/fair_housing_equal_opp

HUD’s Affirmatively Furthering Fair Housing webpage: <http://www.hud.gov/offices/fheo/promotingfh.cfm>

HUD’s Fair Housing Planning Guide, Vol. 1 (#HUD-1582B-FHEO): www.hud.gov/offices/fheo/images/fhpg.pdf

HUD’s Office of Affordable Housing has a good chapter summarizing the Fair Housing Planning Guide, “Affirmatively Furthering Fair Housing” (page 18) in Fair Housing for HOME Participants: www.hud.gov/offices/cpd/affordablehousing/library/modelguides/200510.pdf

September 2, 2004 Memorandum from HUD’s Community Planning and Development Office (CPD): www.hud.gov/offices/fheo/library/finaljointletter.pdf

February 9, 2007 Joint Memorandum from Assistant Secretaries for CPD and FHEO: www.hud.gov/offices/fheo/promotingfh/fairhousing-cdbg.pdf

See also: *Consolidated Plan, Fair Housing Programs, Public Housing Agency Plan.*

Balanced Housing Policy: Owning and Renting in U.S. Housing Policy

By Danilo Pelletiere, Research Director, National Low Income Housing Coalition

In the wake of the foreclosure crisis, balanced housing policy is a common theme in federal policy discussions today. Did the emphasis on homeownership in the last decade and the corresponding neglect of rental housing contribute to the housing crisis that spawned the global economic meltdown? Many low income housing advocates would say yes and that it is time for public policy to be more balanced in support of all forms of housing tenure.

In housing policy, “tenure” refers to how a household secures the right to live in its housing. The tenure choice is primarily between a household renting or owning its home, but there are hybrids such as owned manufactured homes sited on leased land, or shared ownership such as cooperatives.

In theory, a household should decide to own or rent based on personal factors such as financial resources, and future plans, as well as the availability, quality, and price of homes for rent and for sale where the household wants to live. In practice, however, public policy has long sought to influence these choices and promote homeownership. From political enfranchisement to favorable tax treatment, policy in the United States has traditionally rewarded homeownership, in recognition but also as reinforcement of owners’ status as more worthy and wealthier members of the community.

In 2009, the Congressional Budget Office estimated that almost 80% (about \$230 billion) of public resources for housing subsidized homeownership, while only 20% (about \$60 billion) subsidized rental housing. This imbalance in public subsidies illustrates the political advantage accorded to policy choices that favor home ownership.

Issue Summary

To an economist, the fundamental difference between owning and renting a home is that an owner controls how the home is maintained and used and therefore has the potential to extract the most value from it in the form of “rents.”

A renter gains value from a home as a shelter and from its location and amenities, and in return for these services pays rent to an owner. While a homeowner can extract rent from a home by accepting these payments, he or she can also forego these explicit payments and use the home for shelter directly. As the occupant, the owner receives the same shelter and location benefits as a renter while also having the opportunity to use, maintain, and improve the property in a way that maximizes personal enjoyment or financial returns. This additional value, which is not expressed in any direct payment, is the “imputed rent” the homeowner receives living in the property.

While most households value the additional rents of ownership, there are tradeoffs that may cause some households to prefer to not own their homes. Homeowners have significantly more control over their homes, but they also have more responsibility for them. Their ability to pursue other activities and opportunities may be limited by the money and time that homeownership demands. Moreover, even if the long term costs between ownership and renting are similar, purchasing a home requires significantly more in upfront costs, and large, irregular expenditures along the way for repairs and maintenance. Finally, while homeownership provides the potential for greater wealth through home price appreciation, it also carries the risk of unforeseen costs and depreciation. As many people have learned in the current foreclosure crisis and home price drop, homeownership can be a money-losing venture.

Thus, even a household that has a strong preference to own and a choice of housing available for sale may still decide to rent for reasons including:

- (1) The household does not have the ability to pay the higher upfront costs associated with purchasing a home;
- (2) The household does not have a reasonable expectation of being able to budget for the more variable and

- uncertain costs of ownership over time (e.g. repairs and equipment replacement); or
- (3) The household expects to move and does not have sufficient confidence about being able to sell or otherwise vacate the home in a timely fashion without significant costs (Even under advantageous circumstances in which the household is likely to find a willing buyer, the household will need to occupy the house for some amount of time to recoup any upfront costs and to allow the value of the house to appreciate).

Because homeownership is ultimately more costly than renting, at least in the short term, higher income people are the most likely to be able to own homes.

To encourage more homeownership among lower income households, public policy can address the three factors listed above. At a basic level, government can subsidize the upfront and total cost of homes for sale relative to those for rent. This can be done either by directly subsidizing the building or purchase of the home or by reducing the costs of privately financing either activity. Beyond this, it can facilitate budgeting by making the costs of financing and maintaining a home less variable over time. Finally, it can provide some kind of assurance that when a homeowner wishes to sell, there will be buyers in the market with sufficient income or credit to purchase the home.

It should also be recognized that owning and renting exist along some kind of continuum and there are other forms of tenure that combine elements of both owning and renting, most prominently providing residents with an equity stake in cooperatively-owned projects. While there are a variety of cooperative ownership and other models of tenure, these models have struggled to move to scale outside of a few cities. An exception has been the growth in owned manufactured homes, which are sited on leased land throughout much of the country. This arrangement can be precarious if an alternative use for the land is proposed by the landowner or community. Federal programs treat condominiums as homeownership consistently and have accommodated coops as well. Federal policy has little to say about manufactured housing other than to regulate the quality of its construction.

History

Ownership of land and other property has historically been a prerequisite for participation in political and cultural life. Even in the United States, prior to the 20th century, property ownership was often required to vote. Therefore, becoming a property owner brought formal political enfranchisement to men who were not otherwise excluded from the political process by virtue of their race. While property requirements for voting had disappeared by last century along with restrictions based on gender and race, domestic politics continued to laud the homeowner and policy moved decisively toward facilitating the achievement of homeownership for a growing number of households.

During the Great Depression, homeownership rates fell from 49% in 1930 to 44% in 1940. In its wake, the federal government intervened directly to encourage homeownership and enhance the financial security of homeowners through a growing array of institutions, regulations, and subsidies. These institutions included the Federal Home Loan Banks, the Federal Housing Administration, and Fannie Mae. The rate of homeownership grew steadily after World War II, reaching 62% in the 1960 Census.

In this period, not everyone who had the desire, income, and resources to own a home was allowed to do so. In particular, formal racial discrimination in access to government programs, private financing, and neighborhoods restricted the ability of financially qualified non-white households to either purchase a home or to do so in the neighborhoods of their choice, thus limiting their access to many of the financial benefits of homeownership that accrued to qualifying white households over this period. Beginning in the 1970s, federal legislation began to counteract this sorry history.

By the 1990s, 66% of American households owned their homes. Even with increased access to the housing provided by fair housing laws, the historic lack of housing wealth limited the access of minority households to home buying and the homeownership gap between blacks and whites persisted. This led to a significant push in both the Clinton and G. W. Bush administrations to increase minority homeownership through homeownership assistance and the marketing of homeownership, not only to minority but also to lower income households.

Becoming a homeowner became not merely a symbol of economic success but the very means by which to achieve it. While the primary mechanism for this movement was to be growing home equity, new homeowners were also

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expected to benefit from the assumption of attitudes commonly associated with home owning such as thrift, personal responsibility, and civic engagement.

By 2004, the historical highpoint, nearly 70% of American households owned their own homes. Hispanic rates of homeownership grew most quickly, followed by that of blacks. The homeownership gap persisted, but by 2005, 49% of blacks and 50% of Hispanics owned homes, up from 43% and 42% respectively just a decade earlier.

By 2007, however, it was becoming clear that a deregulated or poorly regulated mortgage industry and inflated price expectations had exposed U.S. homeowners to significantly greater risks than at any time since World War II. In particular, homeowners with more recent loans, a higher proportion of whom were lower income and minorities, had smaller equity cushions and more costly payments and terms, making them highly vulnerable to foreclosure due to falling incomes and home prices, which can lower the sales price of a home below the loan amount and increase the chances of foreclosure.

As the bursting housing bubble led to a widening economic crisis in 2008 and 2009, unemployment grew rapidly, more and more homeowners found themselves facing foreclosure, and more households overall opted to rent rather than own. The gains that were made in homeownership have proven unsustainable. The number of renter households grew by 3.1 million between 2004, the low point during the homeownership boom, and 2009. During the same period the number of owner-occupied households increased by only half that number. By the final quarter of 2009 the higher homeownership rates seen among minorities had dropped to 46% among blacks and 48% among Hispanics. The nation's homeownership rate declined to 67.2% from its high of 69.2%.

In this environment, many of the assumptions underlying the policy to push for nearly universal homeownership have been revealed to have been flawed. While the boom allowed policy makers to focus on the positives of owning versus renting, the bust is emphasizing the inherent risks, magnified by flawed and often criminal mortgage practices.

Moreover, the foreclosure crisis is not solely affecting homeowners, but landlords as well. Renters are often seen as safe from the foreclosure crisis, but the last two years especially have shown that renters are often invisible victims of the foreclosure crisis. Numbers show that in 2008, 20% of properties facing foreclosure nationwide are rental properties. Since rental properties include both single-family and multifamily homes, an estimated 40% of the families facing eviction from their homes in the current crisis are renters. And a study released by the Congressional Oversight Panel in February 2010 suggests that the United States is only at the beginning of the commercial real estate crisis, which is likely to affect thousands of multifamily rental properties and disrupt the lives of millions of tenants.

Until 2009, the rights of tenants whose landlords lost their properties to foreclosure were based on a patchwork of state laws, most of which provided little or no protections for renters about to lose their homes due to no fault of their own. In an unprecedented action, the U.S. Congress enacted the Protection of Tenants in Foreclosure Act of 2009, which provides, for the first time, federal protections for tenants in the private housing market. Under PTFA, tenants must receive at least 90 days' notice of eviction upon foreclosure. PTFA provides a greater measure of balance between owners and renters in federal housing policy.

Programs Summary

Despite the foreclosure crisis, federal policy is still heavily slanted in favor of homeownership, with approximately \$230 billion of the government resources allocated to programs that promote homeownership as opposed to \$60 billion allocated to the rental sector. (The rental housing dollars include a portion of the HUD budget, as well as rental housing programs at USDA and the Low Income Housing Tax Credit program.)

While some federal policies have addressed the problems of renters, the majority continue to focus on homeowners. Indeed, the Congressional Budget Office analysis found that a number of policies and programs that were being implemented in response to the foreclosure and credit crises further tip the scales toward homeownership.

Of the many current federal programs and policies that seek to promote homeownership, most provide low-cost, guaranteed financing. Some provide liquidity to housing markets to further reduce the cost and variability of financing and to facilitate the resale of homes. A few programs directly subsidize production of affordable for-sale homes. Tax policies provide ongoing subsidy for higher income homeowners. HUD programs such as the Community

Development Block Grant (CDBG) program can assist homeowners in making repairs. Of these federal programs, only the Section 8 Housing Choice Voucher program can provide ongoing direct assistance to low income homeowners.

Mortgage insurance. FHA provides insurance to mortgage lenders. This insurance reduces the lender's risk and allows more people to qualify for mortgages and to purchase homes. The U.S. Department of Agriculture (USDA) and the U.S. Department of Veterans Affairs (VA) also provide federal government-backed mortgage insurance. These programs helped establish the 30-year fixed rate mortgage as the predominant form of mortgage in the United States.

Government sponsored enterprises. The structure of the domestic mortgage market is divided into two categories: the primary market and the secondary market. In the primary market, an institution such as a bank or credit union makes a loan directly to a homeowner. A home loan not only represents an immediate risk to the lender, but also, since most loans are paid off over many years, it ties up the money for many years in the future.

On the assumption that a primary lender is more likely to make a loan if it can be reasonably certain that it can sell the loan if it needs to, Congress established Fannie Mae, Freddie Mac, and Ginnie Mae to buy and sell mortgages and thereby facilitate the "secondary market" for mortgages. Government sponsorship and oversight in the case of Fannie and Freddie implied a government guarantee. In the past year, with mortgage markets in a free fall, the federal government stepped in with funds and as conservator to stabilize the finances of Freddie Mac and Fannie Mae, assuming explicit responsibility for them.

Along with helping the secondary market, federal policy has also made capital available to the primary market. The publicly chartered Federal Home Loan Bank (FHLB) system makes loans to its member banks, which in turn originate mortgages. The USDA and VA also provide direct loans.

Tax expenditures. The federal government provides substantial subsidies for homeownership through the tax code. For homeowners who itemize their tax returns, mortgage interest and real estate property taxes can be deducted from the federal income tax liability. Capital gains taxes are waived for up to \$250,000 for an individual and \$500,000 for a couple on profit received from the sale of a home.

At more than \$150.4 billion in 2006, tax expenditures for homeowners cost the federal Treasury more than three times the cost of direct outlays for low income housing assistance (\$39 billion). While the purpose of these deductions is popularly considered to be increasing homeownership, there is a general consensus among economists that in design and practice these policies are ineffective in achieving this goal. The Mortgage Interest Deduction (MID) in particular is cited as a policy that provides the most benefit to higher income households, and therefore does more to increase housing consumption among homeowners than it does to increase the number of homeowners.

Further tax advantages for homeowners. Congress included a first-time home buyer tax credit in the American Recovery and Reinvestment Act of 2009 (ARRA; commonly referred to as 'the stimulus bill') in order to encourage home buying during the recession. First-time homebuyers with incomes up to \$150,000 for a couple (\$75,000 for an individual) who purchased their homes between April and December 2009 received a tax credit of \$8,000, thereby reducing their federal tax liability for 2009 by that amount. In November 2009, the Congressional Budget Office estimated the program would cost \$14 billion that year. Before the program could expire, Congress extended the program until June 2010, added a new tax credit of \$6,500 for "move-up" buyers, and increased the income limits to \$225,000 for couples and \$125,000 for individuals. Congress may take up extension of this program again.

Other federal programs. A first-time home buyer may withdraw, without penalties, money from a tax-free individual retirement account for a downpayment. Additionally, through the support of the federal tax system, state housing agencies issue mortgage revenue bonds and mortgage credit certificates to subsidize first-time homebuyers with low and moderate incomes. Many other federal programs that are not exclusive to homeownership nonetheless also support the federal homeownership expansion agenda, including the HOME Investment Partnerships Program, the Community Development Block Grant (CDBG) program, the Self-Help Homeownership Opportunity Program (SHOP), the Rural Housing Service, Native American Housing, Family Self-Sufficiency (FSS), and Individual Development Accounts. Even Housing Choice Vouchers (Section 8 vouchers), the foundation of federal rental assistance, can now be

applied to monthly mortgage payments. Federal housing counseling funds are most often used for homeownership counseling, including foreclosure avoidance. CDBG funds are used in many communities to maintain the homes of the elderly and others unable to afford or perform maintenance. The Federal Home Loan Banks are also required to operate Affordable Housing Programs, which have historically invested significantly in encouraging homeownership.

New federal assistance for homeowners in foreclosure crisis. Public policy in the foreclosure crisis has directed billions of federal dollars into trying to prevent foreclosure. The Obama Administration rolled out the Making Home Affordable initiative in March 2009. This is a \$75 billion program aimed at reducing a borrower's monthly housing expenses to 31% of gross income, through modifications to the loan, such as lower interest rates, extensions of the term, principle forbearance, and principle forgiveness. The cost to the government comes in the form of offsetting the costs of some of these modifications but also in the form of incentives to participate made to loan servicers, who are responsible for handling the loans after they are originated. It was initially anticipated this program may reach 3 million to 4 million at-risk homeowners. Only a small portion of the \$75 billion was spent in 2009, however, as relatively fewer workouts were performed under the program than initially expected.

The Administration announced a new plan in February 2010 to help the states that were the hardest hit in the housing crisis. Through this plan, five states - Nevada, Arizona, California, Florida, and Michigan - will receive \$1.5 billion to be split among them to fund programs to assist borrowers who owe more than their home is worth, help with challenges arising from second mortgages, assist unemployed homeowners, and encourage sustainable and affordable homeownership in general. There is no mention of assisting tenants or landlords.

More fundamentally, when Fannie Mae and Freddie Mac were placed under government conservatorship in October 2008 in order to help cover the reported losses on loan guarantees, the subsidy to these institutions not only became explicit but it increased. Through September 2009, the federal government has spent \$96 billion on cash infusions to Fannie and Freddie to help cover these losses. Placing Fannie and Freddie under government conservatorship means that they are essentially assuming the risks on the mortgages they buy and the securities they guarantee. CBO recently estimated that the subsidy costs of new Fannie Mae and Freddie Mac credit activities in 2009 equal \$43 billion.

Programs to encourage renting. Unlike homeownership, no public policies expressly promote renting as a preferred form of tenure for any group of households. While there are several policies and programs that help low income renters, explicitly or implicitly, these programs are seen as providing housing of last resort, bottom rungs of a housing ladder that should see households one day move towards homeownership through the programs mentioned above.

What Advocates Need to Know Now

The quickly rising foreclosure crisis among both homeowners and tenants suggests that policies must not only assist homeowners facing distress but also renters. While some policies have addressed the problems of renters, such as the Protecting Tenants in Foreclosure Act and the Neighborhood Stabilization Program, policies continue to focus on homeowners.

While a number of new programs have included or allowed rental housing to be assisted, this spending amounts to a tiny sliver of the new spending and foregone taxes being devoted to foreclosure response. In short, while a lot of discussion has been centered on promoting renting, the recent programs and policies moved federal spending in the opposite direction. At the same time that Congress has invested heavily in new programs to support homeowners, Congress has failed to act on proposals to capitalize the National Housing Trust Fund or significantly increase funding for HUD's core rental assistance programs.

For advocates, the concern has to be finding the balance between creating a path to responsible and sustainable homeownership for both current and future homeowners, and assuring that the uncritical boosterism of homeownership that contributed so much to the current crisis does not persist in the response.

What to Say to Legislators

- Housing policy must focus on providing safe, decent, affordable housing to those most in need, irrespective of the tenure situation or choice.
- Rental and ownership housing complement each other, providing a range of housing choices to Americans.
- Programs to provide stable and affordable rental housing are likely the best way to responsibly encourage and build the foundation for households choosing homeownership.
- Foreclosure assistance should not be limited to homeowners, but should be distributed among renters as well.
- Rental housing is an important element in plans to stabilize neighborhoods and families in the wake of the foreclosure crisis.
- Congress should capitalize the National Housing Trust Fund and fund 2 million additional Housing Choice Vouchers.
- Congress should oppose the extension of the first-time homebuyer credit.

For More Information

National Low Income Housing Coalition · 202-662-1530 · www.nlihc.org

Center for Economic and Policy Research · 202-293-5380 · www.cepr.net/
(Research and opinion on the choice between renting and owning)

Congressional Budget Office · (202) 226-2602 · www.cbo.gov

(Look for the recent report *An Overview of Federal Support for Housing* <http://www.cbo.gov/ftpdocs/105xx/doc10525/HousingPrograms.1.1.shtml>)

See also: *Mortgage Interest Deduction, Fair Housing Programs, Foreclosure Intervention: Protecting Homeowners, Foreclosure Intervention: Protecting Renters, Fannie Mae and Freddie Mac, Federal Housing Administration, Federal Home Loan Banks.*

Capital Magnet Fund

By Corey Carlisle, Director of Federal Policy and Government Affairs, Low Income Investment Fund

The Capital Magnet Fund (CMF) was established as a permanent trust fund in the Housing Economic Recovery Act of 2008 (HERA), and provides a source of funding for community development financial institutions (CDFIs) and nonprofit housing developers to finance affordable housing for extremely low, very low, and low income families. In addition, the CMF can be used to provide economic development in support of affordable housing.

The CMF is administered by the Community Development Financial Institutions (CDFI) Fund at the U. S. Department of the Treasury.

History

Senator Jack Reed (D-RI) initially created the CMF as a provision in stand-alone legislation he introduced in 2007, the GSE Mission Improvement Act of 2007 (S. 2391). This bill was the basis for the affordable housing provisions in HERA.

Program Summary

The CMF was established to carry out a competitive grant program to attract private capital for and increase investment in the development, preservation, rehabilitation, or purchase of affordable housing for low income families. On March 4, the CDFI Fund released a Notice of Funds Availability (NOFA) for the CMF. This NOFA opens the inaugural application round of the CMF, under which \$80 million will be made available to support the financing of affordable housing and related economic development activities and community service facilities.

Eligible recipients are Treasury-certified Community Development Financial Institutions or nonprofit organizations that have as at least one of their purposes the development or management of affordable housing.

Grants awarded through the CMF will attract private capital and increase investment in affordable housing projects (both homeownership and rental). Unlike other federal programs such as HOME, the CMF is not a block grant or project-based program. The program capitalizes on what CDFIs do best, which is to leverage a small federal investment with private funding. The new program expects grantees to leverage by at least 10:1 the initial federal investment. For example, this year's program is anticipated to leverage the \$80 million of CMF award dollars to support in excess of \$800 million investment in affordable housing and related economic development.

In order to leverage funds, CMF dollars may be used to provide loan loss reserves, to capitalize a revolving loan fund or an affordable housing fund, or for risk-sharing loans. The CMF can also be used to finance economic development activities or community service facilities, such as day care centers, workforce development centers, and health care clinics, which in conjunction with affordable housing activities implement a concerted strategy to stabilize or revitalize low income or underserved rural areas.

Applications for the competitive grants are required to include a detailed description of the types of affordable housing and economic and community revitalization projects for which the entity would use the grant and the anticipated time frame in which they intend to use it.

The criteria for determining which areas should be served are:

- Percentage of low income families or the extent of poverty;
- Rate of unemployment or underemployment;
- Extent of blight and disinvestment;
- Projects targeting extremely low, very low, and low income families in an area of economic distress; and
- Any other criteria chosen by the Secretary.

No institution can be awarded more than 15% of all capital magnet funds available for grants in a given year, and those receiving grants must spend the funds within two years of the date of receiving them.

Prohibited uses are political activities, advocacy, lobbying, counseling services, travel expenses, and endorsements of a particular candidate or party.

Each grantee must track its funds by issuing periodic financial and project reporting and audit requirements. If the Treasury Secretary is not satisfied with the compliance, the grantee may receive fewer funds, have to pay the Treasury back, or have its grant terminated.

The Secretary must submit a periodic report to the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Financial Services describing the activities for which these funds are being used.

Funding

The CMF's initial funding source was to be a percentage of new business for Fannie Mae and Freddie Mac; however, these assessments have been suspended due to the GSEs' current financial conditions.

Should Freddie and Fannie stabilize and the regulator again allows contributions, funding will be based on a percentage of each company's annual new business. Twenty-five percent of each company's annual new business must go to a reserve fund at the Treasury to offset federal revenue losses. The remaining 75% of the funds will be divided between the CMF, which receives 35%, and the National Housing Trust Fund (NHTF), which takes the other 65%. For the first three years, a percentage of the funds (100% in FY09, 50% in FY10, and 25% in FY11) are first directed to offset FHA losses in HUD's Hope for Homeowners program. Funds not needed to cover FHA losses eventually will revert to the NHTF and the CMF. If authorized by Congress, the CMF is also able to collect funding from other dedicated revenue sources or receive appropriated funds.

In the meantime, citing the need to provide funding to the much-needed program, the Administration requested \$80 million to finance the program in FY10. In December 2009, as part of the FY10 appropriations for the Department of the Treasury, Congress provided \$80 million for the CMF.

What Advocates Need to Know Now

As the country faces a housing crisis of epic proportions, the CMF, which provides enough flexible funding to support a wide variety of housing options and encourages significant leveraging of federal dollars, is likely to be one of the best tools available to help low income people and neighborhoods survive this economic emergency. As originally envisioned, the CMF was to be funded at approximately \$218.4 million annually through assessments on Fannie Mae's and Freddie Mac's new business. These assessments have been suspended due to the GSEs' current financial conditions.

For FY11, Congress should build on the FY10 investment in the CMF by providing \$100 million to continue the program until the GSEs can fulfill their obligation.

Tips for Local Success

The CMF represent a significant source of capital to support affordable housing and related community economic development. With \$80 million available to CDFIs and affordable housing nonprofits this year, advocates will want to see if your organization is eligible and consider applying for these funds. Once funding awards are made, it will be important to highlight the local impact of this program with policymakers.

For More Information

The CDFI Fund · 202-622-6355 · www.cdfifund.gov

Opportunity Finance Network · 215-923-4754 · www.opportunityfinance.net

To find out more about the CMF and the NOFA, go to: http://www.cdfifund.gov/news_events/CDFI-2010-13-CDFI-Fund-Opens-Capital-Magnet-Fund-for-Applications.asp

Climate Change and Affordable Housing

By Danilo Pelletiere, Research Director, National Low Income Housing Coalition

Scientists generally agree that our climate is changing rapidly due at least in part to an increase in carbon dioxide and other emissions from human economic activity. It has been well documented that low income households are most vulnerable to climate change. Yet at the same time, policies to mitigate climate change are likely to have the greatest negative impact on the lowest income households.

As Congress and the Administration continue to consider policies to address climate change, housing advocates need to be engaged on the issue both to minimize the disruption that any policy will have on low income people's lives and to make certain low income people benefit from proposed changes. Done right, climate change policy can benefit low income households and their housing by creating new revenues for affordable housing and new jobs and by reducing utility usage.

Currently there is no national climate change policy. The U.S. Environmental Protection Agency (EPA) has recently asserted the power to regulate some greenhouse gases under the Clean Air Act of 1970.

Issue Summary

Climate change is unlike other environmental challenges. The primary motivation for environmental legislation has historically been toxicity. Pollutants such as lead or carbon monoxide have been increasingly regulated as studies and citizens' movements have shown them to be toxic. The primary means for such regulation has been called "command and control," in which a target for reductions is set for a particular sector, and technologies or processes are approved and required in order to reduce pollutants in line with that target.

The current climate change debate differs from past air pollutant policy debates in part because the primary pollutant, carbon dioxide, is not what would traditionally be considered toxic to humans and because the regulatory regimes being considered at the federal level are "market-based." Market-based policies use a variety of mechanisms to set a price on pollution, allowing the regulated parties, primarily private firms, to choose how they want to reduce their costs from polluting, thereby reducing pollution.

Whatever policy approach is taken, addressing climate change requires intervening in activities that produce greenhouse gasses, primarily energy generation using carbon-based fuels, such as coal, to make them more costly. Therefore by their very nature these policies increase the cost of energy and the products and services produced with it. Reducing carbon fuel consumption and switching to other sources of energy will also cause a disruption of labor markets as jobs are lost in affected industries and new "green jobs" may only emerge elsewhere or at a later date. Without careful consideration, the costs of climate change policy are likely to be regressive, with the lowest income households bearing the greatest costs in proportion to their incomes and contribution to the problem.

While the specifics of legislation remain up in the air, it seems likely that the focus on climate and green housing will persist in 2010. On any legislation there are some clear messages that can be brought to policy makers, environmentalists, and housing advocates in proposing and reacting to climate policies.

Low income households are most vulnerable to the impacts of climate change. Low income households often lack the financial and informational resources with which to mitigate the effects of climate change. From higher heating and cooling costs to health conditions such as asthma, a low income family has fewer options when facing such issues. They also face greater geographic exposure to the impacts of climate change, as they may live on marginal lands such as flood plains, mudslide zones, or in areas without adequate green space or plentiful water.

Investing in low income housing is a sound climate strategy. Not only do residential buildings produce nearly a fifth of greenhouse gas emissions, but the nation's affordable housing stock, and the subsidized HUD and USDA properties in particular, tend to be older and the owners have fewer resources with which to invest in energy

savings. The tenants of these buildings are even less able to make such investments. Thus, not only does this stock represent “low-lying fruit” for reducing energy and greenhouse gas emissions, but it also represents an area where retrofits would likely not occur without such programs. More fundamentally, with the proper investments and incentives low income households and modest multifamily units represent some of the most energy-efficient sectors of our economy.

Green technology and retrofits are sound housing policy. Investing in these properties makes good climate policy sense because they are in need of investment. For this very reason energy-efficiency investments would also benefit the properties and their residents by helping to preserve developments, increase their comfort and the safety and reliability of heating and other systems, and reduce expenses for residents, many of whom pay a portion of utility costs. By meeting core capital and maintenance needs, these investments will also benefit public housing agencies, private owners, and individual projects on firmer financial footing.

Investing in green public and assisted housing can generate federal budget savings. While many subsidized tenants pay all or a portion of their own utilities, the federal government may also contribute depending on the program. HUD currently estimates that it spends nearly \$5 billion a year on energy costs for its Section 8 and public housing stock alone. As a result, gains in efficiency will be realized directly as energy costs are reduced.

Climate change policy must be progressive, not regressive. Finally, those crafting policies must be told that low income households need to be the least impacted by the increasing cost of energy likely to come with any regulation of carbon or greenhouse gases and the most likely to receive benefits that are large relative to their energy use and costs.

What Advocates Need to Know Now

There was considerable federal activity around climate change in 2009, particularly in advance of the United Nations Climate Talks in Copenhagen, Denmark.

House of Representatives. In 2009 the House of Representatives passed “Cap and Trade” legislation. The cap and trade approach sets a limit on pollution and creates a market in which permits to pollute can be both bought and sold. The cap is slowly ratcheted down and as permits become scarcer, the cost to pollute increases. The government generates funds by selling the permits and by allocating permits to sell (or revenues from the sale) to specific entities; funds can be directed to specific purposes.

This approach to climate change regulation would have increased the cost of energy for low income households, but it would also have generated additional government revenues that could be used to offset the increase in costs, either directly through payments to households, indirectly through reducing costs elsewhere, or through the provision of goods, services or employment.

The 2009 House Bill (H.R. 2454) would have provided direct consumer rebates to low income households as well as a variety of programs to weatherize low income households’ homes. Along with the more general increase in rebates and weatherization funds, low income housing advocates were successful in gaining a set-aside of 10% of the funds that states would have received under the Retrofit for Energy and Environmental Performance (REEP) program, a block grant for energy-efficiency investments, for public and assisted housing. This provision would have generated an estimated \$50 million to \$100 million a year for green retrofits in this stock.

Conditions for the funding include that none of the funds be used for demolition, that the retrofit not be used to justify any rent increase, and that the period of affordability under the qualifying program be extended “commensurate with the funding received.” In the bill, “assisted housing” is defined as properties receiving funding from the Section 202, Section 811, and Section 8 programs or “similar programs.”

Senate. A similar provision, which would have provided somewhat more funding, was included in S. 1733 the Clean Energy Jobs and American Power Act, introduced in the Senate last year.

Congressional prospects in 2010. Without sufficient support in the Senate, however, the momentum behind cap and trade has died. Congress is now considering a variety of other proposals such as cap and dividend, in which permits

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are sold to oil, coal, and natural gas sellers, not emitters. These sellers of carbon fuels would need to buy permits equal to the carbon content of their fuels, and at regular intervals they would need to show sufficient permits or face steep penalties. As with cap and trade, the cost of the permits would be at least in part passed on to consumers.

The revenues the government receives from the permits could then be used to reimburse consumers or for other government purposes. Other efforts are likely to be targeted at passage of the energy and efficiency provisions of the climate bills without a corresponding system to regulate greenhouse gasses.

The Administration. In a move designed to spur action in Congress on climate change, the Obama administration has said it is prepared to use the power it already has to regulate greenhouse gasses. In 2007, the Supreme Court ruled that greenhouse gases such as carbon dioxide could be considered pollutants, giving the Environmental Protection Agency (EPA) the power to regulate them under the Clean Air Act. The Obama administration has concluded further that it is legally mandated by this decision to step in and address carbon emissions in the absence of more comprehensive climate legislation. It remains unclear exactly how the Obama administration will regulate carbon emissions under the act, and what standards and technologies it would call for, so the exact impact of such a move on low income families remains uncertain.

For More Information

National Low Income Housing Coalition · www.nlihc.org
Center for Budget and Policy Priorities · www.cbpp.org
Climate Equity Alliance/Green for All · www.greenforall.org

See also: *Greening Affordable Housing*.

Community Development Block Grant Program

By Ed Gramlich, Regulatory Director/State Partner Liaison, National Low Income Housing Coalition

The Community Development Block Grant (CDBG) program is a federal program aimed at creating viable communities by providing funds to improve housing, the living environment and economic opportunities – principally for persons with low and moderate incomes. At least 70% of the CDBG funds received by a jurisdiction must be spent to benefit people with low and moderate incomes.

The CDBG program is administered by HUD's Office of Community Planning and Development (CPD).

History

The CDBG program was established under Title I of the Housing and Community Development Act of 1974, which combined several existing programs (such as Urban Renewal and Model Cities) into one block grant. This change was designed to give communities more flexibility in how they spent federal dollars.

Program Summary

The primary objective of the CDBG program is to create viable communities by providing funds to improve housing, the living environment, and economic opportunities for persons with low and moderate incomes.

Eligible activities. CDBG funds can be used for a wide array of activities, including: housing rehabilitation (such as loans and grants to homeowners, landlords, nonprofits and developers); new housing construction by certain neighborhood-based nonprofits; downpayment assistance and other help for first-time homebuyers; lead-based paint detection and removal; purchasing land and buildings; constructing or rehabilitating public facilities such as shelters for people experiencing homelessness or victims of domestic violence; making buildings accessible to those who are elderly and/or are disabled; public services such as job training, transportation, health care, and child care (public services are capped at 15% of a jurisdiction's CDBG funds); capacity-building for nonprofits; rehabilitating commercial or industrial buildings; and loans or grants to businesses.

Formula allocation. The program's emphasis on people with low incomes is reinforced by the formulas that determine how much money each entitlement jurisdiction and state receives. The formulas are based on factors heavily weighted by the degree of poverty and indicators of poor housing conditions in a jurisdiction. Seventy percent of each annual appropriation is automatically distributed to cities with more than 50,000 in population and counties with more than 200,000. These are called entitlement jurisdictions. The remaining 30% goes to states for distribution to their small towns and rural counties.

Beneficiaries. At least 70% of the CDBG funds received by a jurisdiction must be spent to benefit people with low and moderate incomes. The remaining 30% can also benefit people with lower incomes, or it can be used to aid in the prevention or elimination of slums and blight (often used by local governments to justify downtown beautification) or to meet an urgent need such as hurricane, earthquake, or flood relief.

'Low and moderate income' is defined as household income below 80% of the area median income (AMI), which can be quite high. For instance, in Cincinnati 80% of AMI was \$55,350 in 2009. AMI in some jurisdictions is so high (the AMI in the Lowell, MA, metro area was \$88,400 in 2009) that HUD caps the qualifying household income at the national median income, which was \$64,000 for a four-person household in 2009.

A CDBG activity is counted as benefiting people with low and moderate incomes if it meets one of four tests:

(1) Housing Benefit. If funds are spent to improve a single-family home, the home must be occupied by a low or moderate income household. In multifamily buildings, at least 51% of the units must be occupied by low or moderate income households. In addition, the housing must be affordable, as defined by the jurisdiction. In recent years, about 25% of CDBG funds have been used for some type of housing program, which is a decline from 35% in previous decades.

Community Development Block Grant Program

(2) Area Benefit. Some CDBG-eligible projects, such as road and park improvements, can be used by anyone. To judge whether such a project primarily benefits people with lower incomes, HUD looks at its service area. If 51% of the residents in the activity's service area are people with lower incomes, then HUD assumes people with lower incomes benefit. The regulations provide several ways to challenge that assumption. The primary challenge is to show that the full range of direct effects of the activity do not benefit people with lower income.

(3) Limited Clientele. A service or facility assisted with CDBG funds must be designed so that at least 51% of its users have lower incomes. The three most common ways to meet this test are: (1) limit participation to people with lower income; (2) show that at least 51% of the beneficiaries are lower income; or (3) serve a population that HUD presumes is lower income, including abused children, domestic violence victims, people with disabilities, illiterate individuals, migrant farm workers and seniors. Advocates can challenge a presumed benefit claim if an activity does not really benefit people with low income.

(4) Job Creation or Retention. If job creation or retention is used to justify spending CDBG money, then at least 51% of the resulting jobs on a full-time-equivalent basis must be filled by or be available to people with lower incomes. 'Available to' means either the job does not require special skills or a particular level of schooling, or the business agrees to hire and train people with lower incomes. Those with lower incomes must receive first consideration for the jobs.

Public participation. Every jurisdiction must have a public participation plan that describes how the jurisdiction will provide for and encourage involvement by people with low incomes. Public hearings are required at all stages of the CDBG process. Hearings must give residents a chance to state community needs, review the proposed uses of CDBG funds and comment on the past uses of these funds. There must be adequate public notice to people who are likely to be affected by CDBG-funded projects, and people must be given reasonable and timely access to information. In particular, advocates should get a copy of the draft Annual Action Plan and the latest Grantee Performance Report (GPR). Many jurisdictions will try to deny the public copies of the GPR; it must be made available. The GPR also goes by the name 'IDIS Report C04PR03.'

Funding

In FY09, CDBG received an appropriation of \$3.642 billion, an increase from FY08's funding of \$3.593. For FY10, CDBG formula grants received an appropriation of \$3.990 billion.

What Advocates Need to Know Now

Both the Obama Administration and some members of Congress have discussed their interest in making changes to the program to ensure that it more effectively serves low and moderate income people. The President's FY11 budget proposes level funding at \$3.99 billion, along with indications that revision of the allocation formula will be considered in order to better target money to produce "maximum effect in the neediest jurisdictions." However, no proposed legislative changes have been introduced.

NLIHC's long-standing position is that the most effective way to reform the CDBG program is to more deeply target CDBG resources to very and extremely low income groups and households.

Tips for Local Success

Because only 70% of CDBG funds have to benefit people with low or moderate incomes and because all of the funding could benefit people with moderate incomes, many of the lowest income households never benefit from the program. Locally, people can organize to get 100% of a jurisdiction's CDBG dollars to be used for activities that benefit people with lower incomes and can strive to have more of the dollars used to benefit people with extremely low incomes.

The public participation process can be used to organize and advocate for more CDBG dollars to be used for the kinds of projects people with lower incomes really want in their neighborhoods, and then to monitor how funds are actually spent. To do this, obtain and study the jurisdiction's Annual Action Plan, which lists how a jurisdiction plans to spend CDBG funds in the upcoming year, and the Grantee Performance Report (C04PR03), which lists how CDBG money was spent in the previous year. These documents must be available to the public from the staff in charge of CDBG in your local jurisdiction.

For More Information

National Low Income Housing Coalition · 202-662-1530 · www.nlihc.org

HUD's Entitlement Cities Division · 202-708-1577 · www.hud.gov/offices/cpd/communitydevelopment/programs/entitlement/index.cfm

HUD's States and Small Cities Division · 202-708-1322 · www.hud.gov/offices/cpd/communitydevelopment/programs/stateadmin/index.cfm

See also: *Affirmatively Furthering Fair Housing: Analysis of Impediments to Fair Housing Choice, Consolidated Plan.*

Community Development Financial Institutions Fund

By Corey Carlisle, Director of Federal Policy and Government Affairs, Low Income Investment Fund

The Community Development Financial Institutions (CDFI) Fund is comprised of six programs designed to expand the capacity of financial institutions to provide credit, capital, and financial services to underserved populations and communities in the United States.

The CDFI Fund is housed in the Department of Treasury.

History

The CDFI Fund was authorized by the Riegle Community Development Banking and Financial Institutions Act of 1994.

Program Summary

To understand the CDFI Fund it is first necessary to describe CDFIs and what they do. Community Development Financial Institutions, or CDFIs, are specialized private sector financial institutions that serve economically disadvantaged communities and consumers. CDFIs assume many different forms, including banks, community development corporations, credit unions, loan funds, venture capital funds, and microenterprise loan funds.

United by a primary mission of community development, CDFIs work where conventional financial institutions do not by providing financial services coupled with financial education and technical assistance to help alleviate poverty for economically disadvantaged people and communities. CDFIs offer responsible alternatives to predatory lenders, providing necessary services at a fraction of the cost. CDFIs implement capital-led strategies to fight poverty and to tackle tough economic infrastructure issues such as quality affordable housing, job creation, wealth building, financial literacy and education, and microenterprise development and training.

CDFIs also provide basic financial services to the unbanked. CDFI customers include small business owners, nonprofits, affordable housing developers, and low income individuals. Nearly 70% of CDFI customers are low income persons, 59% are racial minorities, and 52% are women. CDFIs operate in all 50 states and the District of Columbia.

Programs Summary

The CDFI Fund currently operates six programs designed to both build the capacity of CDFIs and increase private investment in distressed communities nationwide. These programs include the CDFI Program, the Native Initiatives Program, the Bank Enterprise Award Program, the New Markets Tax Credit Program, the Capital Magnet Fund Program, and the Financial Education and Counseling Pilot Program. The CDFI Fund is the largest single source of funding for CDFIs and plays an important role in attracting and securing non-federal funds for CDFIs.

The CDFI Fund is unique among federal programs because it takes an entrepreneurial approach to its programming, funding, and strengthening of institutions rather than specific projects. CDFIs match the federal investment from the CDFI Fund multiple times over with private money, using these funds to revitalize communities through investment in affordable housing, small businesses, and community facilities, and by providing retail financial services to low income populations.

CDFI Program. The CDFI Program is comprised of two components: Financial Assistance (FA) and Technical Assistance (TA). Through these two components, the CDFI Program provides loans, equity investments, and grants to CDFIs to support their capitalization and capacity building, enhancing their ability to create community development opportunities in underserved markets. CDFIs compete for federal support based on their business plans, market analyses, and performance goals.

FA awards are for established, certified CDFIs and are used for economic development, affordable housing, and community development financial services. FA awards must be matched at least one-to-one with non-federal funds. TA awards are for start-up or existing CDFIs and are used to build capacity to serve their target market through the

acquisition of goods and services such as consulting services, technology purchases, and staff or board training. The FY10 funding level for this program is \$107.6 million.

Native Initiatives (NACA) Program. The NACA Program provides technical assistance and financial assistance to CDFIs serving Native American populations. NACA supports CDFIs' expansion of access to capital and financial services in Native American communities nationwide. The NACA Program also includes investments in training and resource materials to help Native American organizations and other entities implement and sustain Individual Development Account (IDA) matched savings programs. The CDFI Fund began awarding technical assistance grants to Native American CDFIs in FY02, then added financial assistance in FY04. The FY10 funding level for this program is \$12 million.

Bank Enterprise Award (BEA) Program. The BEA Program was created in 1994 to support FDIC-insured financial institutions around the country that are dedicated to financing and supporting community and economic development activities. The BEA Program complements the community development activities of insured depository institutions (i.e., banks and thrifts) by providing financial incentives to expand investments in CDFIs and to increase lending, investment, and service activities within economically distressed communities. Providing monetary awards for increasing community development activities leverages the Fund's dollars and puts more capital to work in distressed communities throughout the nation. The FY10 funding level for this program is \$25 million.

New Markets Tax Credit (NMTC) Program. Congress established the New Markets Tax Credit (NMTC) program as part of the Community Renewal Tax Relief Act of 2001 to encourage investors to make investments in low income communities that traditionally lack access to capital. Conventional access to credit and investment capital for developing small businesses, retaining jobs, and revitalizing neighborhoods is often limited in economically distressed communities or in communities with large low income populations. The NMTC provides investors (financial institutions, corporations, etc.) with a tax credit for investing in a Community Development Entity (CDE) that, in turn, reinvests the funds in qualified low income communities. CDEs are domestic partnerships or corporations with a primary mission of serving or providing investment capital for low income communities or low income persons. CDEs use capital derived from the tax credits to make loans to or investments in businesses and projects in low income areas.

The NMTC program is administered by the CDFI Fund, which allocates tax credit authority—the amount of investment for which investors can claim a tax credit—to CDEs that apply for and obtain allocations. To date, the CDFI Fund has made 396 awards totaling \$21 billion in allocation authority. Under the current statute, the NMTC expires at the end of each calendar year, unless Congress acts to extend the program.

Capital Magnet Fund (CMF) Program. Created through the Housing and Economic Recovery Act (HERA) of 2008, the CMF is one of the newest CDFI programs. Through the CMF, the CDFI Fund will provide competitively awarded grants to CDFIs and qualified nonprofit housing organizations to finance affordable housing and related community development projects. With \$80 million appropriated to the CMF for FY10, the CDFI Fund anticipates that it will begin to solicit applications by the second quarter of FY10. The FY10 funding level for the CMF is \$80 million.

Financial Education and Counseling (FEC) Pilot Program. Also newly created under HERA, the FEC is a pilot program that allows the CDFI Fund to make grant awards to certified CDFIs, HUD-approved housing counseling agencies, credit unions, governmental entities (state government, local government, or tribal government), or a collaborative effort of two or more such entities to provide a range of financial education and counseling services to prospective homebuyers. The FEC Pilot Program application deadline was November 19, 2009, with awards expected sometime in early 2010. The FY10 funding level for this program is \$1 million.

Since its creation, the CDFI Fund has awarded \$1.11 billion to community development organizations and financial institutions, as well as awarded allocations of New Markets Tax Credits that will attract private-sector investments totaling \$26 billion.

Community Development Financial Institutions Fund

Funding

Appropriations for the CDFI Fund in FY10 were \$246.7 million. That figure, combined with the \$100 million appropriated under the American Recovery and Reinvestment Act of 2009 (ARRA), was the largest ever appropriation for the CDFI Fund.

This funding level represents a dramatic turnaround from budgets a few years ago that called for elimination of the CDFI Fund. The Bush Administration demonstrated opposition to the continued existence of the CDFI Fund grant programs, but with broad bipartisan support, the CDFI Fund remained funded, although at lower appropriations levels. Appropriations for the CDFI Fund reached a high of \$118 million in FY01, but had decreased to \$54.5 million in FY07.

Applications for CDFI Fund awards consistently exceed the supply of funds. Since 1996, applicants to the CDFI Program have requested more than four times the amount awarded.

What to Say to Legislators

Advocates should contact Members of Congress, especially members of the Senate and House Appropriations Committees, to encourage support for increased funding of the CDFI Fund to help meet the demand for financial services and capital in low income communities.

In addition, advocates should urge Members of Congress to support and cosponsor NMTC reauthorization legislation. Further, advocates are encouraged to promote public policy efforts aimed at strengthening the larger community development finance movement. These may include supporting financial services regulatory reform, anti-predatory lending legislation, and efforts to reform and modernize the Community Reinvestment Act.

CDFIs design innovative products that offer responsible alternatives to predatory lenders, providing homeownership and financial opportunities to underserved individuals and communities. Advocates can play an active role in helping to communicate the positive role of CDFIs in low wealth markets.

For More Information

The CDFI Fund · 202-622-6355 · www.cdfifund.gov

Opportunity Finance Network · 215-923-4754 · www.opportunityfinance.net

Find local CDFIs at: <http://www.cdfi.org/index.php?page=info-4>

See also: *Capital Magnet Fund, Community Reinvestment Act.*

Community Reinvestment Act

By Josh Silver, Vice President of Research and Policy, National Community Reinvestment Coalition

The Community Reinvestment Act mandates that banks have continuing and affirmative responsibilities to meet the credit needs of low and moderate income (LMI) neighborhoods in a manner consistent with safety and soundness. Congress is currently considering updating this critical law to strengthen the CRA as applied to banks and expand CRA to non-bank financial institutions.

Four agencies are responsible for ensuring that banks and savings-and-loan institutions comply with CRA regulations: the Federal Reserve Board (FRB), the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), and the Office of Thrift Supervision (OTS).

History and Purpose

Congress passed the Community Reinvestment Act in 1977, at a time when many banks and other financial institutions would routinely 'redline' communities, refusing to invest in them or extend credit to their residents. Since its enactment four decades ago, CRA has been the primary law for increasing the flow of private capital and expanding access to banking services in minority and LMI communities.

Program Summary

CRA Examinations. CRA directs the four federal banking agencies to evaluate the extent to which banks and savings institutions are meeting local credit needs. The federal agencies also consider banks' CRA records when ruling on merger applications. A weak CRA record may be grounds for denying a merger application. While denials are rare, federal agencies occasionally approve the merger application subject to specific pledges to improve CRA and fair lending performance.

Under the CRA, large banks and saving institutions with assets over \$1 billion are evaluated by three tests that measure performance in LMI communities: the lending test, the investment test, and the service test.

- (1) The lending test evaluates a bank's record of meeting credit needs of its community, or assessment area(s), through direct lending including home mortgage, small business, small farm, and community development lending (such as construction financing for rental units).
- (2) The investment test evaluates the number and responsiveness of investments, including Low Income Housing Tax Credits and equity investments in small businesses.
- (3) The service test evaluates the availability and effectiveness of bank branches, basic banking services such as low-cost deposit accounts, and community development services in LMI communities.

Mid-size banks with assets between \$250 million and \$1 billion have a lending test and a community development test that combines elements of the large bank investment and service test. Finally, small banks with assets less than \$250 million have a streamlined lending test only.

A bank or thrift with assets greater than \$250 million undergoes a CRA exam about once every two years. Small banks with assets less than \$250 million are examined about once every four or five years.

CRA exams give one of four ratings: Outstanding, Satisfactory, Needs-to-Improve, and Substantial Noncompliance. The last two ratings are considered failing ratings. On a state or metropolitan level, a bank can also receive a 'Low' or 'High' Satisfactory rating. Even a passing rating, such as Satisfactory or Low Satisfactory, can motivate a bank to do better and strive for an Outstanding rating, since ratings influence bank's public relations and business strategies. For example, banks compete to receive deposits from state and local government agencies; having an Outstanding CRA rating helps a bank win substantial business from public agencies interested in promoting neighborhood revitalization. Community group comments can influence ratings and therefore motivate banks to bolster their performance.

CRA exams are available to the public and can be obtained online. The general public is encouraged to comment

Community Reinvestment Act

on CRA exams; the federal agencies post lists every quarter of upcoming CRA exams. In addition, community organizations and members of the general public can comment on bank merger applications being reviewed by the federal regulatory agencies.

Each of the four agencies enforcing CRA provide links to the CRA regulation for downloading. In addition, the regulatory agencies publish in combination an Interagency Question and Answer on CRA, detailing how banks are to report data, CRA exam criteria, and how specific types of bank loans, investments, and services can qualify for points on CRA exams.

What Advocates Need to Know Now

The Effects of CRA. Because CRA holds lenders publicly accountable and empowers citizens and communities to intervene in the regulatory process, CRA has been effective in increasing access to credit and capital for traditionally underserved communities.

CRA agreements are bank commitments to make specific numbers and dollar amounts of loans, investments, and services in minority and LMI communities over a specified time period. The National Community Reinvestment Coalition (NCRC) calculates that since 1977 community groups and banks have negotiated more than \$6 trillion in CRA agreements.

The Treasury Department found that CRA-covered lenders increased their home mortgage loans to LMI areas and borrowers by 39% from 1993 to 1998, more than twice the increase (of 17%) to middle- and upper-income borrowers and areas. Moreover, since 1996, banks have made community development loans totaling more than \$480 billion. They also made small business loans of more than \$640 billion in LMI neighborhoods from 1996 through 2008.

The Federal Reserve has demonstrated that CRA-covered banks are less likely to issue high-cost and risky loans than independent mortgage companies not covered by CRA. In fact, the Federal Reserve found that only 6% of all high-cost loans were issued by banks to LMI borrowers and neighborhoods and considered on bank CRA exams. The great majority of high-cost loans were issued by independent mortgage companies not covered by CRA. CRA exams encourage safe and sound lending by penalizing banks for illegal and abusive loans and awarding banks for counseling and foreclosure prevention. If non-bank lenders had undergone similar exams, they almost certainly would have made fewer abusive loans, meaning that the foreclosure crisis could have been less severe.

CRA Modernization. Representatives Eddie Bernice Johnson (D-TX) and Luis Gutierrez (D-IL) introduced H.R. 1479, the Community Reinvestment Modernization Act of 2009, in March of 2009. The bill now has 60 cosponsors. The bill would ensure that the great majority of loans issued by banks are scrutinized on CRA exams. It would also apply CRA to non-bank financial institutions including credit unions, mortgage companies, and insurance firms.

The CRA Modernization Act would require CRA exams to evaluate an institution's lending in geographical areas where they provide loans through brokers, correspondents, or through the internet. Presently, institutions are evaluated only in areas where they have bank branches. In order to counteract the steering of high-cost loans to minority communities and ensure that minority communities have access to responsible loans, H.R. 1479 would require CRA exams to scrutinize lending and services to minority communities (now, CRA exams assess performance in LMI communities only). Institutions would be penalized with lower ratings for predatory lending, securitizing abusive loans, or other practices that have negative community impacts.

This bill would also apply CRA to a variety of non-bank institutions including independent mortgage companies, large credit unions, mortgage company affiliates of banks, insurance companies, and securities firms. If these non-bank institutions had been subject to CRA requirements sooner, the foreclosure crisis would have been less severe because CRA requires institutions to serve communities consistent with safety and soundness.

The Community Reinvestment Modernization Act would also increase the accountability of covered institutions through improved data disclosure and additional opportunities for public comment on an institution's performance. Data collection requirements would be expanded to include the race and gender in the case of small business

loans, data on deposit accounts by neighborhood and data from insurance companies similar to the data required under the Home Mortgage Disclosure Act. H.R. 1479 would require federal regulatory agencies to hold more public hearings and meetings when banks merge.

Financial Regulatory Reform. Legislation being considered in the House and Senate in the wake of the foreclosure and economic crises would strengthen oversight of financial institutions, most notably through the creation of a Consumer Financial Protection Agency (CFPA). However, the House-passed reform legislation and the bill passed out of the Senate Banking Committee would not give the consumer agency/bureau oversight over CRA, and would instead leave responsibility for CRA activities under the very agencies that weakened CRA over the years.

Tips for Local Success

CRA is vital to promoting safe and sound lending and investing in communities. Community organizations are encouraged to comment on CRA exams and merger applications. These comments should describe the local credit and banking service needs and whether banks are meeting those needs. Also, organizations should establish and expand upon dialogues with CRA officers of banks in their service areas to see how banks can increase their support of affordable housing.

Supporters of this law should promote CRA in letters to the editor or opinion pieces in their local papers. They should also affirm the value of CRA for foreclosure prevention, affordable housing, and economic development during any townhall meetings or other public events in their communities.

What to Say to Legislators

Call your Members of Congress and ask to speak to the person who deals with banking or housing policy with the message that strengthening the Community Reinvestment Act (CRA) is vital to continue the wealth building, housing and economic development in our neighborhoods. CRA is the antidote to the foreclosure crisis, because it requires safe and sound lending and investing.

Congress should:

- Support and co-sponsor H.R. 1479, the Community Reinvestment Modernization Act of 2009. There is now considerable support for the bill as 60 Representatives are now cosponsors.
- Support other bills that update CRA. Insist that CRA be under the jurisdiction of the proposed Consumer Financial Protection Agency in financial reform legislation.
- Oppose any bills that weaken CRA and reduce current requirements for banks to make home loans, support affordable rental housing, and serve LMI communities.

For More Information

National Community Reinvestment Coalition · 202-628-8866 · www.ncrc.org

NCRC has developed a toolkit in support of CRA that includes a comprehensive overview of CRA, its impact on communities, and an update of legislative developments affecting CRA.

For CRA test results: <http://www.ffiec.gov>

See also: *Predatory Lending, Banking Regulation, and Consumer Protections.*



Consolidated Plan

By Ed Gramlich, Regulatory Director/State Partner Liaison, National Low Income Housing Coalition

The Consolidated Plan, popularly called the ConPlan, merges into one process and one document all the planning and application requirements of four HUD block grants: Community Development Block Grants (CDBG), Emergency Shelter Grants (ESG), HOME, and Housing Opportunities for Persons With AIDS (HOPWA) grants. States, large cities, and urban counties that get any of these grants must have a ConPlan. In addition, Public Housing Agency (PHA) Plans must be consistent with the ConPlan. The ConPlan is a tool advocates can use to influence how federal housing and community development dollars are spent in their communities.

The ConPlan process is guided by HUD's Office of Community Planning and Development (CPD).

History

The statutory basis for the ConPlan is the Comprehensive Housing Affordability Strategy (CHAS), a provision of the Cranston-Gonzalez National Affordable Housing Act of 1990. The CHAS established a local planning process that determined housing needs and assigned priorities to those needs. In order to receive CDBG, HOME, ESG, or HOPWA dollars, jurisdictions had to have a CHAS. In 1995, HUD amended the CHAS regulations to create the ConPlan; there is no ConPlan statute.

The ConPlan regulations interwove the planning, application, and performance reporting processes of the four block grants and the CHAS, resulting in one long-term plan (the ConPlan's Strategic Plan), one 'application' document (the Annual Action Plan) and one set of performance reports (the CAPER, which includes CDBG's Grantee Performance Report or GPR).

Summary

Jurisdictions develop ConPlans at least once every five years (the long-term Strategic Plan), and must update them annually (the Annual Action Plan).

There are seven key elements of the ConPlan.

(1) Housing and community development needs. The ConPlan must estimate housing needs for the upcoming five years. Also, the ConPlan must describe "priority nonhousing community development needs." HUD's regulations say the needs in the ConPlan should reflect the public participation process and the ideas of social service agencies, and those needs "shall be based on any other reliable source." NLIHC's Out of Reach and Congressional District Housing Profiles are excellent sources of data (available at www.nlihc.org).

The ConPlan must estimate housing needs by:

- Income categories, including households with incomes: below 30% of the area median income (AMI), called "extremely low" income; between 30% and 50% of AMI ("low" income); between 50% and 80% of AMI ("moderate" income); and between 80% and 95% of AMI ("middle" income).
- Family type, including: small families (two to four people); large families (five or more people); individuals; and elderly households.
- Tenure type (whether the household rents or owns).

The ConPlan must also:

- Estimate the need for public housing and Housing Choice Vouchers (Section 8), referring to waiting lists for those programs.
- Summarize the number of people who have a housing cost burden (pay more than 30% or 50% of their income), live in very poor quality housing or live in overcrowded housing.
- Estimate the housing needs for persons with HIV/AIDS and for persons with mental or physical disabilities. The

ConPlan must show the supportive housing needs of those with physical or mental disabilities.

- Estimate the housing needs of victims of domestic violence.
- Summarize the nature and extent of homelessness. The need for homeless facilities and services must be discussed separately for individuals and for families, noting also the needs of those who have some form of shelter and those who do not. The need for facilities and services for homeless sub-populations (for example, those with drug addictions) must be described. The ConPlan must describe the characteristics and needs of people who now have housing but who are threatened with homelessness.

(2) Housing market analysis. The housing market analysis requires a description of key features of the housing market, such as the supply of housing, demand for housing and condition and cost of housing. It must show areas where low income people and different races and ethnic groups are concentrated (does not apply to state ConPlans).

An inventory of both facilities and services for homeless people must be included, broken down by emergency shelter and transitional housing. A description of facilities and services for people who are not homeless but require supportive housing must be included. The housing stock available to serve people with disabilities, with special needs and with HIV/AIDS must also be described (does not apply to states).

Public housing developments must be identified and the number of public and assisted housing units must be given. The condition of public and assisted housing and the type of household and income level served must be described.

The ConPlan must describe units currently assisted with federal or state funds that might be lost for any reason such as the end of a Section 8 contract, expiration of an FHA mortgage or demolition or sale of public housing. To the extent information is available, the ConPlan should estimate the number of vacant or abandoned buildings and whether they are suitable for rehabilitation.

(3) Strategic Plan. This long-term plan must be done at least every five years. It must present the jurisdiction's specific objectives in measurable terms and estimate a timetable for achieving them. It must show a jurisdiction's priorities for distributing CPD money (the four block grant programs administered by that HUD office and subject to the ConPlan) among needs and various neighborhoods. "Needs" can mean type of activity (such as rental rehab) as well as type of person (such as extremely low income). The Strategic Plan must explain why a category of need is a priority, especially among the income groups.

For housing, the regulations add that the Strategic Plan must explain the reasoning behind priority assignments and the proposed use of funds, and how the reasoning relates to the analysis of the housing market, the severity of housing problems, the needs of the various income categories and the needs of renters compared to owners. The number of families who will get affordable housing must be shown by the income categories of extremely low, low and moderate. The Strategic Plan must also describe how the needs of public housing will be met.

Priority homeless needs should be shown. There must also be a written strategy for helping people to avoid becoming homeless, reaching out to homeless people to determine their needs, addressing needs for emergency shelter and transitional housing and helping homeless people make the transition to permanent housing.

(4) Anti-poverty strategy. The law calls for a description of goals, programs and policies for reducing the number of people with incomes below the poverty level. It also requires a statement of how affordable housing programs will be coordinated with other programs and the degree to which they will reduce the number of people in poverty.

(5) Lead-based paint. The Strategic Plan must outline actions to find and reduce lead paint hazards.

(6) Fair housing. Each year the jurisdiction must certify that it is 'affirmatively furthering fair housing.' This means that it has an Analysis of Impediments (AI) to fair housing choice, is taking appropriate action to overcome the effects of impediments and keeps records. The AI is not required to be a part of the Strategic Plan or Annual Action Plan. Although HUD's official Fair Housing Planning Guide says an AI "must be completed/updated in accordance with timeframes for the Consolidated Plan," a more recent memorandum (September 2004) says that each jurisdiction "should maintain its AI and update the AI annually where necessary."

(7) Annual Action Plan. The Annual Action Plan must describe the activities the jurisdiction will carry out in the upcoming year, along with the reason for making these allocation priorities. The activities must address the Strategic Plan's priority needs. The geographic areas that will get assistance in the upcoming year must be indicated, and the Annual Action Plan must give the reasons these areas have priority. For uses of CDBG, there must be enough detail about each activity (including location) that people can determine the degree to which they are affected.

There must be an estimate of the number and type of households that will benefit (does not apply to states). One-year goals for providing affordable housing to homeless, non-homeless and special needs households must be provided, along with one-year goals for providing affordable housing through new construction, rehab, acquisition or rental assistance.

States must describe how they will distribute funds to local governments and nonprofits, and there must be a description of all criteria used to select applications from localities. States must also describe how all CDBG money will be allocated among all funding categories (e.g., housing, economic development, public works, etc.).

The Annual Action Plan must indicate the activities that will be carried out in the upcoming year to address homelessness by: meeting emergency shelter needs and transitional housing needs; preventing homelessness, especially for those with incomes below 30% of the median; helping people make the transition to permanent housing and independent living; and meeting the special needs of people who are not homeless but have supportive housing needs.

The five steps of the ConPlan calendar are:

(1) Identify Needs. The CDBG and CHAS laws require a public hearing to gather the public's ideas on housing and community development needs. HUD's regulations require this hearing to take place before a proposed ConPlan, or a draft, is published for comment.

(2) Proposed ConPlan. There must be a notice in the newspaper that a proposed ConPlan is available. Complete copies of the proposed ConPlan must be obtainable in public places, such as libraries. A reasonable number of copies of a proposed ConPlan must be provided at no cost. There must be at least one public hearing during the development of the ConPlan (this does not apply to states). The public must have at least 30 days to review and comment on the proposed ConPlan.

(3) Final ConPlan. The jurisdiction must consider the public's comments about the proposed ConPlan, attach a summary of the comments to the final ConPlan and explain in the final ConPlan why any suggestions were not used. A copy of the final ConPlan must be available to the public.

HUD can disapprove the final ConPlan for several reasons, including: failure to follow public participation requirements; failure to satisfy all of the required elements; or an inaccurate certification made by a jurisdiction (for example, failure of a jurisdiction to take appropriate actions to overcome impediments to fair housing).

(4) The Annual Performance Report. In this report, the jurisdiction shows what it did to meet housing and community development needs. The report must include a description of the money available and how it was spent, the location of projects and the number of families and individuals assisted broken down by income category, including those with incomes below 30% of the area median income (AMI).

There are several public participation features related to the Annual Performance Report. There must be reasonable notice that a report is available, and the report must be available to the public. The public has only 15 days to review and comment on it; nevertheless, the jurisdiction must consider public comments and attach a summary of the comments.

The Annual Performance Report contains a number of computer-based sets of records. Four of these are explicitly available to the public. One is the Grantee Performance Report (C04PR03). It applies only to CDBG, yet it provides detailed information about each activity funded by CDBG. Annual performance reporting requirements of the four

block grant programs are also merged into a set of documents called the CAPER. The CAPER (C04PR06), is a general, aggregate picture of what the jurisdiction accomplished.

(5) Amendments to the ConPlan. The ConPlan must be amended if there are any changes in priorities, or in the purpose, location, scope or beneficiaries of an activity, or if money is used for an activity not mentioned in the Action Plan. If there is a ‘substantial amendment,’ then public participation similar to that for Annual Performance Reports is required, but with a 30-day comment period. HUD allows the jurisdiction to define ‘substantial amendment.’ At a minimum, the regulations say that a substantial amendment must include a change in the use of CDBG funds and a change in the way a state allocates CDBG money to small towns and rural areas.

Public participation. In addition to the public participation requirements mentioned in the previous paragraphs, each jurisdiction must have a written “citizen participation plan” available to the public. The plan must provide for and encourage public involvement in the creation of the ConPlan, review of the Annual Performance Report and any substantial amendment. It must encourage involvement by people with low incomes, especially in low income neighborhoods and areas where CDBG money might be spent. Jurisdictions are expected to take whatever actions are appropriate to encourage involvement by minorities, people who do not speak English, and disabled people.

Jurisdictions must also encourage involvement by residents of public and assisted housing.

There must be reasonable and timely access to information and records relating to the ConPlan. The public must be able to review records from the previous five years that are related to the ConPlan and any use of federal money covered by the ConPlan. For local jurisdictions (not states) the public must have reasonable and timely access to local meetings, such as community advisory committee meetings and council meetings.

Public hearings must be held after adequate notice to the public. “Publishing small print notices in the newspaper a few days before the hearing is not adequate notice,” the regulations say, but “two weeks’ notice is adequate.” Public hearings must be held at times and places convenient for people with low incomes. Where there are a significant number of people who do not speak English, the citizen participation plan must show how they can be involved. The jurisdiction must give written, meaningful and timely responses to written public complaints (15 days is considered timely if the jurisdiction gets CDBG).

What Advocates Need to Know Now

The Administration’s FY11 budget indicates that it intends to redesign the ConPlan process in order to better target HUD resources “to produce maximum effect in the neediest jurisdictions.” Advocates will keep abreast of any updates.

Tips for Local Success

The ConPlan is a potentially useful advocacy tool for directing funds toward activities more beneficial to people with low incomes because jurisdictions must provide for and encourage public participation, particularly by people with low incomes. Advocates and residents should monitor the needs assessment and priority setting processes, making sure that all of the needs are identified and that these needs are assigned the level of priority they deserve. Through the Annual Action Plan’s public participation process, advocates and residents can strive to ensure that federal dollars are allocated to activities that will truly meet those high priority needs.

For More Information

National Low Income Housing Coalition · 202-662-1530 · www.nlihc.org

HUD’s Consolidated Plan web page is at: www.hud.gov/offices/cpd/about/conplan/index.cfm

See also: *Affirmatively Furthering Fair Housing: Analysis of Impediments to Fair Housing Choice.*

Continuum of Care Planning Process

By Jeremy Rosen, Executive Director, National Policy and Advocacy Council on Homelessness (NPACH)

The term ‘Continuum of Care’ can refer both to HUD’s local homelessness planning process, as well as the local organization responsible for homelessness planning.

The Continuum of Care planning process provides an outlet for government agencies, service providers, and advocates to meet to evaluate the needs of homeless persons in the community and plan to deliver housing and services to meet those needs. Once these plans are developed, Collaborative Applicants apply for and administer HUD McKinney-Vento funds for transitional housing, permanent housing, and supportive services programs. The Continuum of Care process was codified for the first time in the newly passed HEARTH Act of 2009.

The program is administered by HUD’s Office of Special Needs Assistance Programs, overseen by the HUD Assistant Secretary for Community Planning and Development.

History and Purpose

The Continuum of Care (Continuum) process was developed administratively in 1994, so that communities around the country would use a single, comprehensive planning process when applying for HUD’s homeless assistance funding. In introducing the Continuum, HUD recognized the importance of having all stakeholders – government agencies, service providers, and advocates – present when communities create plans to prevent and end homelessness. HUD also sought to create a uniform planning process for communities around the country.

On May 20, 2009, President Obama signed the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act (PL 111-22). The act codified the Continuum of Care for the first time.

Summary

Most local Continuums are organized by either a local government agency or a large community nonprofit. The Continuum’s goal is to create an annual plan to address homelessness. To do this, the Continuum must attempt to define the scope of homelessness in its community, develop an inventory of resources currently available to address homelessness, identify gaps in services, and then prioritize unmet needs.

HUD’s annual homeless assistance Notice of Funding Availability (NOFA) is typically issued in spring or early summer, with an application deadline in summer or early fall. Under the HEARTH act, agencies that participate in the Continuum of Care and apply jointly for HUD homeless assistance funding will now be called “Collaborative Applicants.” Once the NOFA application is submitted, Continuums begin planning for the following year’s NOFA. HUD’s McKinney-Vento funding awards are typically made in either December or January.

In recent years, HUD has required Continuums to coordinate with local planning bodies that are preparing “Ten-Year Plans to End Homelessness.” Ten-year plans are intended to provide community-wide strategies for ending homelessness, including use of McKinney-Vento funding but also including use of other HUD funding such as Section 8, the Community Development Block Grant (CDBG) program, or the HOME Investment Partnerships Program, as well as other federal, state, and local funding. This integration is critical, so that McKinney-Vento funding can be best leveraged with other funding that will be used to help end homelessness.

In 2009, the HEARTH act reauthorized the housing title of the McKinney-Vento act. HUD is required by statute to issue new program regulations during 2010. Draft regulations will be published in the Federal Register, for public comment. After reviewing comments, HUD will issue a final rule implementing the HEARTH act. The regulations are expected to address a number of important issues for communities, including administrative issues such as how communities apply for and administer homeless assistance funding, and policy issues such as the scope of HUD’s

newly broadened definition of homelessness and newly expanded eligibility for permanent housing assistance through the homeless programs.

Several key provisions of the HEARTH act will be implemented in the 2010 NOFA.

First, the HUD definition of homelessness has been expanded to include many people living in motels or living with others in unstable or temporary doubled up situations. This will permit homeless service providers to engage with these individuals and families, rather than waiting until they are forced to live on the streets or in emergency shelter.

In addition, the current Emergency Shelter Grant (ESG) program has been renamed the Emergency Solutions Grant (ESG), and eligible use of ESG dollars has been extended to a range of homelessness prevention activities, including short and medium term rental assistance. These new uses of ESG dollars served as the model for the currently operating Homelessness Prevention and Rapid Re-Housing Program (HPRP), funded through the American Recovery and Reinvestment Act (ARRA).

Also for the first time, HUD will implement a new program designed to offer more flexible homeless assistance to rural communities.

What Advocates Need to Know Now

There are several important policy issues with respect to Continuums of Care, including how to ensure broad community participation, how to ensure that Continuums do comprehensive planning with little funding and without overburdening smaller and more rural communities, and the degree to which HUD mandates that Continuums respond to HUD priorities.

Scope of work. In recent years, Continuums have been asked to take on additional responsibilities, such as reviewing local policies – including discharge planning practices of public systems of care (e.g., hospitals, jails and prisons, the foster care system), and access policies of mainstream programs serving low income people and local zoning policies – to ensure that those policies and practices are not resulting in people becoming homeless. Such a review is a critical part of any substantive community plan to end homelessness. However, HUD should implement these requirements in a reasonable way, to ensure that smaller Continuums are not penalized if they do not have the financial and staff resources to perform all of these duties.

HUD's role in priority setting. Finally, there is an ongoing debate about HUD's role in setting priorities for Continuums. Through much of the 1990s, HUD typically deferred to the project rankings done by local Continuums when making awards. However, in recent years HUD has provided incentives to Continuums that prioritize projects to provide permanent housing for the long-term, or "chronic," homeless population. Some advocates support this effort, arguing that communities would not serve that population without strong incentives, while other advocates believe that the new incentives prevent communities from best meeting their local needs. The HEARTH act codifies many of these incentives, including a focus on permanent housing, but leaves HUD with regulatory discretion in how to implement them.

Tips for Local Success

For Continuums to be most effective, it is important that all key stakeholders have a seat at the table. In many communities, groups such as child/education advocates, veterans advocates, youth advocates, and advocates for victims of domestic violence have not always been part of Continuums. These advocates should reach out to their local Continuums; likewise, Continuums should reach out and ensure participation from these groups. At the same time, rural Continuums should not be penalized if all the stakeholders present in a large urban center are not present in smaller communities.

Participation in the Continuum of Care is one of the only ways for advocates to push for their community to receive targeted federal funding for housing and supportive services targeted to people experiencing homelessness. By joining their local Continuum, advocates can shape a community's priorities in addressing homelessness for current and emerging populations.

Continuum of Care Planning Process

Advocates who participate in the Continuum of Care process should expect to have meaningful input in preparing the annual plan to be submitted to HUD, along with the corresponding ranking of new and renewal programs. Annual plans are prepared based on surveys and other forms of data collection. To effectively influence development of the plans, advocates must be prepared to submit data that supports their arguments.

Advocates not participating in the Continuum of Care should join as soon as possible. To find out what agency is coordinating a local Continuum, advocates can go to HUD's Homelessness Resource Exchange website at www.hudhre.info. Advocates should also seek to involve other community organizations in the Continuum of Care process - the best local planning and decision making takes place when all key stakeholders are at the table.

For More Information

National Policy and Advocacy Council on Homelessness · 202-714-5378 · www.npach.org

National Alliance to End Homelessness · 202-638-1526 · www.endhomelessness.org

National Coalition for the Homeless · 202-462-4822 · www.nationalhomeless.org

See also: *McKinney-Vento Homeless Assistance Programs, Ten-Year Plans to End Homelessness, Homelessness Prevention and Rapid Re-Housing.*

Disaster Housing Programs

By Jake Kirsch, Katrina Monitoring Project Coordinator, National Low Income Housing Coalition

Even though hurricanes Katrina and Rita hit the Gulf Coast of the United States more than four years ago, destroying hundreds of thousands of homes and displacing millions of people, a severe affordable housing crisis continues in many affected areas. The further devastation caused in 2008 by hurricanes Gustav, Dolly, and Ike highlights the vulnerability of that area.

As a result of the failings of housing assistance programs provided by the Federal Emergency Management Agency (FEMA) in the wake of the 2005 hurricanes, HUD played a more direct role in providing temporary housing for displaced people. Yet further changes are still necessary to ensure the nation's long-term disaster housing recovery plans adequately address the needs of all affected individuals.

Federal Programs

U.S. Department of Homeland Security

In 2003, FEMA, a federal agency since 1979, became part of the U.S. Department of Homeland Security (DHS). FEMA's mission under DHS is to lead the effort to prepare the nation for all potential disasters and to manage the federal response and recovery efforts following any national disaster – whether natural or manmade. Agencies and programs under its purview include the National Flood Insurance Program and the U.S. Fire Administration.

FEMA provides immediate, direct financial and physical assistance to those affected by disasters and has the responsibility for coordinating government-wide relief efforts, all based on the Stafford Disaster Relief and Emergency Assistance Act (Stafford Act, Public Law 100-707). The act was designed to bring a systemic means of federal natural disaster assistance to state and local governments.

Individuals and Households Program (IHP). The Stafford Act authorizes FEMA to provide four types of housing assistance under IHP:

1. Temporary housing assistance is split into two subsections:
 - a. Financial assistance provides lodging expenses reimbursement for hotel/motel stays or rental assistance for a temporary rental unit.
 - b. Direct assistance provides temporary housing units, such as trailers or mobile homes, when financial assistance can not be used due to a lack of sufficient available housing resources. Such assistance can last up to 18 months after a major disaster, but can be extended in extraordinary circumstances.
2. Home repair cash grants are available to homeowners for damage not covered by insurance and targeted to repair the home to a living condition, not necessarily the pre-disaster condition.
3. Home replacement cash grants are available to homeowners for damage not covered by insurance.
4. Permanent or semi-permanent housing construction grants are reserved for insular or remote areas, identified by FEMA, where the other types of housing assistance are unavailable, infeasible, or not cost-effective.

The total cash grant FEMA can provide per individual or household through IHP is statutorily capped, \$28,800 in 2008 (adjusted each year for inflation). Under this program, FEMA can also offer 'other needs assistance' to cover medical, dental and funeral expenses; transportation costs; and repair or replacement of personal property, such as household items and clothing.

Public Assistance for Permanent Work Program. FEMA offers grants to state and local governments for restoring damaged facilities, which could include repair funds for public housing agencies (PHAs).

Hazard Mitigation Programs. In order to reduce the risk of damage and reliance on federal recovery funds in future disasters, FEMA administers two programs of primary importance to housing: the Hazard Mitigation Grant Program (HMGP) and the Pre-Disaster Mitigation (PDM) program. HMGP provides state and local governments, along

Disaster Housing Programs

with certain eligible non-profit organizations, the opportunity for long-term mitigation funds following a federally declared disaster. Uses of HMGP include property acquisition and demolition or relocation, structure elevation, and structural retrofitting.

Unlike HMGP, PDM is available to state and local governments independent of the occurrence of a disaster. The program supports sustained pre-disaster mitigation work in communities and can generally be used in the same manner as HMGP funds. For FY10, Congress appropriated \$100 million for PDM and the Administration's FY11 budget request calls for that same level of funding.

Along with other government agencies, FEMA may provide disaster victims with low interest loans, veterans' benefits, tax refunds, excise tax relief, unemployment benefits, crisis counseling and free legal assistance.

HUD

Under current federal disaster response plans, HUD joins forces with other federal and state agencies to aid in the implementation of disaster recovery assistance. HUD provides housing and community development resources through: Federal Housing Administration (FHA) loans and forbearance policies; Public and Indian Housing (PIH) resources, including assistance to PHAs; and Community Planning and Development's (CPD) Community Development Block Grant (CDBG) and HOME funds.

Disaster CDBG. In recent major disasters, Congress specially appropriated CDBG funds, which became the primary source of housing recovery used by affected states. Only 50% of these recent disaster CDBG funds needed to benefit persons with low or moderate income (below 80% of area median income), lower than the requirement for the regular CDBG program, and HUD maintained the authority to waive that low or moderate income benefit.

Capital Fund Emergency/Natural Disaster Funding Program. HUD maintains a Capital Fund Emergency/Natural Disaster Funding Program within the Public Housing Capital Fund that can, among other uses, provide PHAs with assistance to rebuild public housing damaged in a disaster. FY10 appropriations allowed for funding not to exceed \$20 million, with the Administration's FY11 budget request calling for the same.

Disaster Housing Assistance Program (DHAP). In September 2007, due to the slow recovery from hurricanes Katrina and Rita, HUD created DHAP and took over management of FEMA's rental assistance for some 30,000 evacuee households, adding to that total a portion of those families still living in FEMA trailers. Local PHAs administered the rental assistance payments and case management services, but FEMA funded the program under an Interagency Agreement (IAA) with HUD.

Originally an 18-month program, HUD and FEMA extended DHAP. Assistance to the last participants ended in October 2009. However, while DHAP was still set to expire in March 2009, HUD announced an extension that included a process to transfer qualified recipients to the Housing Choice Voucher (HCV) program. Case managers would help find alternate housing assistance for those not qualifying for a HCV.

Based on DHAP, HUD and FEMA signed another IAA to administer DHAP-Ike to victims of hurricanes Ike and Gustav. DHAP-Ike began on November 1, 2008 and was initially scheduled to end in March 2010. In February 2010, HUD and FEMA announced an extension until May 27, 2010, with the intention to further extend the program once establishing additional grant authority. With \$66 million in its FY11 budget request, HUD also looks to create a DHAP-Ike to HCV transition program.

U.S. Small Business Administration

The U.S. Small Business Administration (SBA) can provide physical disaster loans to cover uninsured or uncompensated losses of a home or personal property. A homeowner can apply for a loan to repair or rebuild his primary residence to its pre-disaster condition based on the verified losses. The loan amount can increase by as much as 20% to help the homeowner rebuild in a manner that protects against damage from future disasters of the same kind, up to a maximum of \$200,000. Similar loans are available to business owners, including rental property owners and nonprofit organizations, for real estate and personal property loss up to a maximum of \$2 million. Both homeowners and renters can apply for loans, up to \$40,000, to replace personal property (anything not considered

real estate or part of the structure of the home) lost in a disaster. The interest rate on SBA physical disaster loans will depend upon the applicant's ability to secure credit from another source. The SBA is not able to provide grants or forgivable loans.

U.S. Department of Agriculture

The U.S. Department of Agriculture (USDA) provides loans, grants and loan servicing options to its single-family housing loan borrowers or grant recipients. Multifamily Housing loan borrowers and their tenants are eligible for rental assistance as well as priority occupancy in any USDA apartment complex. In addition, USDA provides community facility loan borrowers and business owners with a variety of assistance options, including grants, loans and an intermediary re-lending program.

U.S. Department of the Treasury

Though without a permanent disaster recovery program, the U.S. Department of the Treasury (Treasury) has provided special low income housing tax credits and other tax incentives after recent major disasters. In the case of hurricanes Katrina and Rita, Treasury established Gulf Opportunity (GO) Zone tax credits, GO Zone tax-exempt bonds, and additional New Markets Tax Credits to help rebuild housing.

Outlook for Future Disasters

Long Term Disaster Recovery Working Group. In October 2009, President Obama created a six-month Long Term Disaster Recovery Working Group, co-chaired by HUD and DHS and comprised of more than 20 federal departments. Gathering information through a series of stakeholder meetings and public comment collected online, the working group has two primary objectives: generation of a report to the President containing recommendations for improving disaster recovery in the future, and drafting of a National Disaster Recovery Framework (NDRF).

Based on review of existing recovery programs and best practices and lessons learned from previous situations, especially catastrophic disasters, such as Hurricane Katrina, the working group's report to the President will identify possible changes in order to improve recovery activities. Though not explicitly stated, advocates expect these recommendations to lead to legislative and regulatory reform. The initial due date for the report was April 1, 2010, but advocates expect that deadline to be extended until May.

On February 5, 2010, the working group released a draft of the NDRF. A companion to the National Response Framework, which focuses on immediate response, the NDRF provides guidance on roles and responsibilities of all stakeholders, from every level of government to affected individuals themselves. It calls for clearer, more comprehensive communication between stakeholders and local government leadership in all recovery, with the federal government providing support. The NDRF creates the concept of a Federal Recovery Coordinator for large disasters and Recovery Support Functions, each carried out by a variety of federal agencies. HUD would fill the coordinating role for federal support of housing recovery. The final NDRF will be available in June 2010.

National Disaster Housing Strategy & National Disaster Housing Task Force. FEMA released its National Disaster Housing Strategy (NDHS) in the waning hours of the Bush Administration, more than 18 months after it had been required to do so by Congress. The agency released an earlier version of the NDHS on July 21, 2008.

The final NDHS offers more detailed information on the role different federal agencies should play in responding to a disaster than did the earlier version and recommends that HUD operate any disaster rental assistance programs, but it still defers the bulk of responsibility for operational plans and implementation to the National Disaster Housing Joint Task Force at FEMA. This not-yet-finalized task force will consist of federal employees and will work full-time to provide technical expertise on housing recovery, with a focus on FEMA's housing activities.

Far From Home. In February 2009, the Senate Subcommittee on Disaster Recovery released a report on its nine-month investigation into the problems in the housing assistance programs for people displaced by Katrina and Rita. *Far From Home: Deficiencies in Federal Disaster Housing Assistance After Hurricanes Katrina and Rita and Recommendations for Improvement* details the federal housing response to the hurricanes, and the power struggle of determining which agency would take the lead role in administering housing assistance between HUD or FEMA.

Disaster Housing Programs

Important findings in the report include the fact that FEMA did not use its authority to spend disaster relief funds to repair damaged rental property in the Gulf Coast, which could have resulted in many more people returning home more quickly. The lack of available rental housing in the affected areas reduced the effectiveness of the FEMA rent assistance programs and caused an overreliance on trailers, which proved to be much more costly and fraught with health hazards. The report recommends establishing a standing rental repair program (FEMA has tested pilot programs) with corresponding Stafford Act authority.

Another recommendation is that HUD be required to develop a “National Housing Stock Plan” to identify available housing for rent with disaster housing assistance. In testimony at a hearing on the report, NLIHC noted the overall lack of rental housing affordable for households with extremely low incomes and suggested that expanding the supply of affordable rental housing was needed with or without another disaster.

What Advocates Need to Know Now

The National Low Income Housing Coalition and its many partners in the Katrina Housing Group continue to work on Gulf Coast housing recovery. Legislation to address remaining housing recovery needs from hurricanes Katrina and Rita may be introduced in 2010. Similar legislation was introduced in the 110th Congress, but died when the Senate failed to act after passage in the House.

Changes to laws concerning the GO Zone tax credits are necessary to ensure thousands of affordable rental units are not lost in the current market downturn. Bills introduced in both the House and Senate in 2009 seek to extend the placed-in-service deadline for GO Zone credits from January 1, 2011 to January 1, 2013. Separate legislation in both chambers would also clarify that GO Zone tax credits qualify for the Tax Credit Exchange Program (TCEP) created in the American Recovery and Reinvestment Act of 2009 (ARRA). Treasury currently clings to a technicality in ARRA language that prevents that qualification without legislative action.

NLIHC supports the recommendations in the Far From Home report, including a greater role for HUD and PHAs in responding to housing problems created by future disasters. NLIHC and the Katrina Housing Group have recommended that President Obama establish an Office of Gulf Coast Recovery at the White House to oversee the completion of the post Katrina and Rita recovery, including housing. One of the tasks recommended for the Gulf Coast Recovery Advisor is to propose changes to existing legislation needed for an improved response to future disasters, something advocates expect the federal Long Term Disaster Recovery Working Group recommendations to do as well.

As the Administration and Congress move forward with reform, advocates will need to be ready to weigh in on changes that will ensure the housing needs of the most vulnerable populations are adequately addressed in future disasters. Of particular importance will be decisions surrounding the future use of CDBG funds in recovery.

Excessive flexibility in the use of recent disaster CDBG funds by states led to disproportionate use for homeowner programs and, in some cases, the diversion of money to other projects while housing recovery remains incomplete. In Mississippi, the state swept away nearly \$600 million in 2005 disaster CDBG funds for an expansion to the port in Gulfport, while the coast still struggles with a housing affordability crisis. In Texas, the state attempts to use a weather model to determine how to distribute Ike CDBG funds to localities, a method that would grant areas with little remaining unmet needs a disproportionate share.

A January 2010 Government Accountability Office (GAO) report highlights how flexibility in use of 2005 hurricane recovery funds resulted in a discrepancy between homeowner and rental repair programs, both in the amount and pace of investment. Disaster Assistance: Federal Assistance for Permanent Housing Primarily Benefited Homeowners; Opportunities Exist to Better Target Rental Housing Needs clearly lays out the failure to prioritize rental housing, though a larger percentage of the Gulf Coast’s rental stock was damaged in the storms.

Under the Obama Administration, HUD has increased its presence in enforcing equitable use of disaster recovery funds. In November 2009, HUD rejected the state of Texas’ amended disaster CDBG plan due to its failure to include methods of distribution down to the final level of local government. As such, the public did not have adequate opportunity to provide comment on any proposed uses of the funds. HUD has also expressed concern over fair housing issues in disaster recovery and indicated its willingness to punish localities that allow discriminatory actions to persist.

Though the federal government is now emphasizing the importance of strengthening structures to avoid damage in future disasters, no dedicated grant programs exist to offer assistance to those with the greatest need. In June 2009, Representative Bennie Thompson (D-MS) introduced a series of bills designed to increase the federal government's investment in pre-disaster mitigation. Two of these bills would establish funds for grant assistance for housing that serves people with low incomes, with one specifically for public and HUD-assisted housing. Other legislation in both the House and Senate would create similar funds for homeowners with very low incomes.

What to Say to Legislators

Advocates should speak to their Members of Congress to deliver the following messages:

- Support Gulf Coast housing recovery legislation that addresses remaining need from hurricanes Katrina and Rita.
- Support the passage of legislation that provides an extension of the placed-in-service deadline for GO Zone tax credit projects and inclusion of GO Zone tax credits in Treasury's Tax Credit Exchange Program.
- Support legislation to create pre-disaster mitigation funds targeting people with low incomes.
- Support requirements on states to set aside a portion of federal disaster recovery funds for quick establishment of rental repair programs, with further requirement to address affordable rental needs.

For More Information

National Low Income Housing Coalition · 202-662-1530 · www.nlihc.org

Long Term Disaster Recovery Working Group · Disaster Recovery Resources · www.disasterrecoveryworkinggroup.gov/disasterresources.cfm

National Disaster Housing Strategy Resource Center · www.fema.gov/emergency/disasterhousing/index.htm

Earned Income Tax Credit

By John Wancheck, EITC Campaign Coordinator, Center on Budget and Policy Priorities

The Earned Income Tax Credit (EITC) is a federal tax credit that benefits low and moderate income workers. EITC benefits are particularly valuable for workers raising children, but very low income workers not raising children may also qualify for a smaller credit. The EITC has been expanded by Congress several times with the support of both Republican and Democratic presidents. In 2009, a substantial expansion of the EITC was enacted in the American Recovery and Reinvestment Act of 2009 (ARRA). Two new credits for lower income workers and an expansion of the Child Tax Credit were also enacted.

As a tax program, the EITC is administered by the Internal Revenue Service (IRS).

History

Congress established the EITC in 1975 under Section 32 of the Internal Revenue Code. The EITC was designed to offset the payroll and income tax burdens of low income workers raising children, and expansion of the EITC now also provides an income supplement to such workers earning very low wages.

The EITC reflects Congressional and public support for increased work efforts and less dependency on welfare programs by low income families. The EITC provides strong incentives for full-time work, and the tax credit has historically enjoyed bipartisan support.

Program Summary

The EITC is received as a refund from the IRS. Workers who claim children for the EITC must file tax form 1040 or 1040A and attach IRS "Schedule EIC." The amount of the EITC varies according to workers' earnings and the number of children. ARRA established special rules for 2009 and 2010, providing a new, larger benefit for workers with three or more children.

For 2010:

Earned income and adjusted gross income (AGI) must each be less than:

- \$43,352 (\$48,362 married filing jointly) with three or more qualifying children
- \$40,363 (\$45,373 married filing jointly) with two qualifying children
- \$35,535 (\$40,545 married filing jointly) with one qualifying child
- \$13,460 (\$18,470 married filing jointly) with no qualifying children

The maximum credit is:

- \$5,666 with three or more qualifying children
- \$5,036 with two qualifying children
- \$3,050 with one qualifying child
- \$457 with no qualifying children

In addition to biological children, qualifying children for the EITC may include grandchildren, step-children, adopted children, brothers and sisters (or their descendants), and foster children officially placed with workers.

Eligible workers with children may also choose to receive in their paychecks "advance payment" of a portion of the EITC for which they qualify in the current year; this represents a tax-free boost to take-home pay of as much as \$152 each month. Workers give a completed IRS Form W-5 to their employer to begin advance EITC payments.

Workers who do not claim children for the EITC may be eligible for a modest EITC of up to \$457. Such workers must be between 25 and 64 years old at the end of 2010, with income less than \$13,460 (\$18,470 for married couples). These workers are not required to file Schedule EIC with their tax form.

Families who work and also receive public benefits, such as cash assistance, food stamps, SSI, Medicaid, or federal housing assistance do not need to worry that receiving the EITC will affect these benefits. EITC is not counted as income to determine eligibility for these programs and will not immediately count against resource limits.

Related Tax Credits

Households eligible for the EITC may also be eligible for one or more additional tax credits:

State and local credits. For 2009, 23 states (including the District of Columbia) offer a state EITC in addition to the federal credit, and three localities – New York City, San Francisco, and Montgomery County, MD – offer a local EITC.

Child Tax Credit. Many workers who claim the EITC may also qualify for the Child Tax Credit (CTC), worth up to \$1,000 for each qualifying child under age 17. As a result of the expansion of the CTC in ARRA, many more families who earn too little to owe federal income tax may still receive a refund. To be eligible for this “Additional CTC” in 2010, workers must have taxable earned income above \$3,000.

Making Work Pay Credit. Millions of workers will also benefit from the new Making Work Pay Credit, enacted by ARRA, worth \$400 for an individual and \$800 for married workers. Dependents are not required to receive this credit. The maximum credit is available to single workers earning up to \$75,000 (couples earning up to \$150,000) before it begins to phase out at higher incomes. While most workers will have received this credit in 2009 through an IRS-ordered reduction in income tax withheld by employers, self-employed workers and workers whose spouse is not employed will need to file a tax return in 2010 to claim the credit.

New Education Tax Credit. The American Opportunity Tax Credit was enacted by ARRA as a revised version of the HOPE for Homeowners program credit for higher education expenses. It is worth a total of \$2,500, compared to \$1,800 for the HOPE credit, but the key new feature is that up to \$1,000 of the credit can be claimed even if the individual does not earn enough to owe income tax. Such filers could not claim the HOPE credit. Lower income parents of college students and adult students may now benefit.

Funding

The EITC is a component of the Internal Revenue Code. Consequently, the benefits of these credits do not require annual appropriations decisions. Funding for EITC administration is part of the IRS budget and is not separately appropriated. In 2008, about 24 million low and moderate income workers received more than \$49 billion from the EITC.

What Advocates Need to Know Now

The tax credit expansions above are in effect for tax years 2009 and 2010, and the President has proposed they be made permanent. Congress will need to act in 2010 to extend these provisions. Another proposal to increase the benefit of the EITC for workers not claiming a child may also be considered in 2010.

What to Say to Legislators

Advocates should ask Congress to make permanent the 2009 and 2010 changes to the EITC.

According to analyses of Census data by the Center on Budget and Policy Priorities, in 2009 the EITC lifted an estimated 6.6 million people out of poverty, including 3.3 million children. The poverty rate among children would have been nearly one-third higher without the EITC. The EITC lifts more children out of poverty than any other single program or category of programs. It enables near-poor parents and children to maintain incomes above the poverty line.

Tips for Local Success

Outreach campaigns. While participation in the EITC is higher than in public benefit programs with more burdensome eligibility procedures, each year several million eligible workers do not claim their EITC. CBPP provides local organizations with training and technical assistance in building tax credit outreach campaigns and local free tax filing assistance programs. CBPP annually distributes a tax credit community outreach kit with posters, flyers, fact sheets, and examples of effective outreach strategies. These materials, and flyers translated in 19 languages, are posted at www.eitcoutreach.org, as well as other materials for specific constituencies and analyses of the EITC.

For More Information

Center on Budget and Policy Priorities · 202-408-1080 · www.cbpp.org

The Center on Budget and Policy Priorities (CBPP) closely monitors Congressional action on the EITC and the other tax credits, publishes analyses of proposals and issues legislative action alerts to advocates.

National Community Tax Coalition · 312-252-0280 · www.tax-coalition.org

The National Community Tax Coalition provides information and technical assistance to free tax filing assistance programs. The Coalition supports expansion of the EITC and provides specific legislative action materials designed for state and local advocacy.

Also see resources available from the IRS at www.irs.gov/eitc. The IRS and HUD partner nationally to promote these credits and provide free tax filing assistance programs.

Emergency Food and Shelter Program

By Steve Taylor, Vice President and Counsel for Public Policy, United Way Worldwide

The Emergency Food and Shelter Program (EFSP) helps meet the needs of the nation’s hungry and homeless and those at risk of becoming homeless due to an economic emergency. Federal funds provided through the program supplement the work of local agencies providing food, shelter, and utility assistance. With the current challenges facing the U.S. economy, the EFSP program has received increased attention as a mechanism to distribute funds quickly to Americans most in need. This increased focus resulted in near doubling of funding for the program for FY09.

EFSP is unique in its administration. The U.S. Department of Homeland Security administers EFSP through the Federal Emergency Management Agency (FEMA), which serves as chair of the EFSP National Board. The Board is comprised of United Way Worldwide, the Salvation Army, Catholic Charities USA, National Council of Churches of Christ in the USA, the Jewish Federations of North America, and the American Red Cross. United Way is the Secretariat and Fiscal Agent to the Board, which relieves FEMA of the majority of the administrative burden. In this capacity, United Way maintains responsibility for the day-to-day operation of the program.

History and Purpose

Congress, responding to an increased need for services due to the recession of the early 1980s, established EFSP in 1983 and provided \$50 million for the program’s operation. Congress identified the National Board in the legislation. The board selected United Way to serve as the Secretariat to distribute the funding pursuant to the Board’s direction.

The original authorizing legislation specifically calls for “sensitivity to the transition from temporary shelter to permanent homes and attention to the specialized needs of homeless individuals with mental and physical disabilities and illness and to facilitate access for homeless individuals to other sources of services and benefits.”

Program Summary

EFSP distributes funds to the neediest areas of the country quickly. Although EFSP is a federal program with a National Board, one of the key elements to the program’s success is that it is locally focused.

The National Board uses a formula involving population, poverty, and unemployment data to determine the eligibility of a civil jurisdiction, usually a county.

In each civil jurisdiction funded by EFSP there must be a local board similar in composition to the National Board, with a local government official replacing the FEMA representative. Local boards may have additional members, and are required to include a homeless or formerly homeless person as a member. If a jurisdiction is located within or encompasses a federally recognized Indian reservation, a Native American representative must be invited to serve on the local board.

Once the National Board receives its EFSP allocation for a particular year and determines local funding amounts, local boards advertise the availability of funds, establish priorities among community needs, and distribute funds to local agencies that qualify for awards. These local groups are known as Local Recipient Organizations (LROs). After an LRO

More than 2,500 local boards provide funds to more than 14,000 LROs.

Since its inception, EFSP has distributed more than \$3.4 billion to over 2,500 local boards, which in turn provides funds to more than 14,000 LROs. This translates into more than 2 billion meals; 254 million nights of shelter; 4.7 million rent or mortgage payments; and 6.6 million utility payments.

Emergency Food and Shelter Program

receives the funds, it uses them for the services that the organization provides, which may include food pantries, served meals, nights of shelter, rent or mortgage assistance, and utility payments.

In 1985, the National Board created a state set-aside process to identify and fund jurisdictions that do not receive awards under the formula. State set-aside committees, with members mirroring local boards, receive funds based upon the number of unemployed people in counties within their state that do not qualify under the National Board's criteria.

Funding

In FY09, Congress increased appropriations for EFSP to \$200 million from \$153 million in FY08. In addition, the American Recovery and Reinvestment Act of 2009 (ARRA) included \$100 million for EFSP to be expended in FY09. Thus, 2009 saw a near doubling of funding for EFSP, to a total of \$300 million, compared to the previous year. The program was able to quickly and efficiently distribute the funds to communities nationwide at a critical time in the economic crisis.

In FY10, Congress again provided base funding of \$200 million for EFSP, as part of the Department of Homeland Security Appropriations Act of 2010. Unfortunately, the Administration's FY11 budget proposal recommended that Congress reduce EFSP funding to \$100 million. This is similar to budget proposals from the previous Administration.

Tips for Local Success

LROs apply directly to their local boards, which set local application criteria. Local organizations can find their local board by contacting the EFSP National Board Program. Local advocates and organizations should pay close attention to the information provided by their local boards and closely follow EFSP guidelines if their organization chooses to apply for funding.

What to Say to Legislators

For FY11, advocates should urge Senators and Members of Congress to fund EFSP at \$200 million, as Congress did in FY09 and FY10. Given the ongoing economic crisis, a dramatic increase in funding over \$200 million would be an efficient and effective way to help millions of Americans access basic needs.

For More Information

Emergency Food and Shelter National Board Program · 703-706-9660 · www.efsp.unitedway.org

Fair Housing Programs

By Ben Clark, Project Coordinator for Public Policy and Communications, National Fair Housing Alliance

The federal Fair Housing Act protects individuals and families from discrimination on the basis of race, national origin, color, religion, sex, familial status, and disability in all housing transactions, public and private. HUD's fair housing programs are the Fair Housing Initiatives Program (FHIP) and the Fair Housing Assistance Program (FHAP).

FHIP and FHAP are administered by HUD's Office of Fair Housing and Equal Opportunity (FHEO), which is also responsible for processing fair housing complaints. The Civil Rights Division of the U.S. Department of Justice is responsible for litigating on behalf of the federal government in cases of fair housing violations.

History and Purpose

Residential segregation contributes to economic disadvantage by reducing home appreciation, access to opportunity such as public benefits, social services, and employment opportunities, and perpetuating racially separate and unequal schools. Federal fair housing programs are intended to promote integration and the elimination of discrimination.

The federal Fair Housing Act was passed in 1968 and amended in 1974 and 1988. FHIP and FHAP were created as a means of carrying out the objectives of the act.

Programs Summary

There are two federal fair housing programs: One, FHIP, funds private fair housing centers, and one, FHAP, funds the fair housing enforcement programs of state and local agencies.

Fair Housing Initiatives Program (FHIP). FHIP funds private fair housing centers to provide education and outreach programs for housing consumers and housing providers; investigate allegations of rental, sales, homeowners insurance, and lending discrimination; and conduct studies to determine the nature and extent of housing discrimination in the regions they serve.

FHIP grants are administered by HUD through a competitive process, in which eligible groups apply for funding announced by HUD through a Notice of Funds Availability (NOFA). Each NOFA specifies ways in which HUD intends to distribute the funds that Congress has appropriated for FHIP.

Grantee eligibility for funding depends upon the specifications that are set forth in the annual NOFA and the category of funding for which each group is applying. In order to apply for fair housing enforcement money, groups must be Qualified Fair Housing Organizations with two years of fair housing enforcement work. Enforcement work may include the use of fair housing testing to uncover evidence of discrimination against members of a protected class. In a test, nearly-identically qualified testers - one of whom is a member of a protected class and the other of whom is not - will simulate a housing transaction for the purpose of comparing the responses given to them by housing providers.

Generally, NOFAs allow a broader swath of groups to apply for education and outreach funding.

Fair Housing Assistance Program (FHAP). State and local government agencies certified by HUD to enforce state or local fair housing laws that are substantially equivalent to the Fair Housing Act receive Fair Housing Assistance Program (FHAP) funds. HUD funds FHAP agencies by reimbursing them based upon the number of cases that they successfully process. In addition, FHAP funds help cover administrative expenses and training. New FHAP organizations receive three years of capacity building funding before moving to the reimbursement phase.

Analysis of Impediments to Fair Housing Choice/Affirmatively Furthering Fair Housing. FHIP and FHAP are not the federal government's only tools for ensuring that communities are integrated and remain free from discrimination. All federal housing and community development programs, including, notably, the Community Development Block Grant (CDBG) program and HOME, contain provisions requiring recipients to 'affirmatively further fair housing' as part of their Analyses of Impediments to Fair Housing Choice. This requirement is often under-utilized as a fair housing tool.

Fair Housing Programs

There are more than 1,100 CDBG entitlement jurisdictions in the country, all of which are required to 'affirmatively further fair housing.' As part of this obligation, these jurisdictions must identify impediments to fair housing choice and take steps to overcome these barriers to fair housing. It is difficult to enforce this requirement, however, because HUD has failed to promulgate regulations for its implementation, although the CDBG law was passed in 1974. Advocates should be on the lookout for forthcoming regulations, however, as HUD reports that it is currently at work on providing clearer guidance. Fewer than 10% of these recipients actually have programs to address fair housing concerns in their communities. Even fewer provide funding to private fair housing organizations serving their jurisdiction.

All other federal programs related to housing and community development are also required, by statute, to affirmatively further fair housing. This includes newer federal programs recently created to address the foreclosure crisis, including the Home Affordable Modification Program (HAMP) and the Neighborhood Stabilization Program (NSP).

In general, grantees should use federal fair housing tools to redress past discrimination, encourage future inclusion, be nondiscriminatory, incorporate the principles of integration, and overcome the effects or conditions that have kept communities from being open to all members of protected classes under the Fair Housing act.

Funding

FHIP received funding of \$42.5 million in FY10, a 55% increase over FY09 appropriations. Yet even with this modest increase, fewer than half of eligible fair housing centers are currently funded to carry out the daunting tasks of educating the community and enforcing the Fair Housing act with activities, such as testing. An increase in appropriations would allow FHIP to address additional complaints, encourage those encountering housing discrimination to come forward to file their complaints with greater hope of resolution, and provide fair housing groups with the capacity to address larger systemic issues, such as discriminatory sales practices and insurance policies, and thereby have a much broader impact on segregation in our country.

FHAP received \$29.5 million in FY10, a \$3.5 million increase over its FY08 funding level.

What Advocates Need to Know Now

Housing discrimination continues to be a significant problem, particularly due to the ongoing foreclosure crisis and increased housing advertising online. High-cost loans have had a dramatic impact on communities of color. Lenders have aggressively targeted African-Americans and Latinos for high-cost loans. These borrowers have been far more likely than their white counterparts to receive high-cost subprime loans, regardless of income. One Center for American Progress study analyzed the 2006 Home Mortgage Disclosure Act (HMDA) data of the 14 so-called systemically significant banks and their subsidiaries, and found that among borrowers whose incomes were more than twice the area median income for their metropolitan area only 10.5% of whites received higher-priced loans, compared to 29.1% of Latinos and 32.1% of African-Americans.

Housing advertisements in violation of the federal Fair Housing act permeate the internet on housing services websites such as Craigslist.org. Although print publications such as newspapers that publish discriminatory advertisements are liable under the Fair Housing act and therefore screen advertisements for discriminatory content, some courts have not held websites to the same standard. As a result, many housing websites post advertisements that specifically discriminate against families with children.

In spite of recent increases, violations continue to be underreported. HUD estimates that only 1% of fair housing violations committed are ever reported, but even this number is conservative. Every year, over 4 million fair housing violations are committed against members of protected classes under the Fair Housing act. The most complaints processed by fair housing centers are based on disability (35%), race (22%), and family status (13%). More than 95% are settled through administrative or conciliation processes.

The public relies upon private fair housing organizations to protect its fair housing rights. In FY08, private nonprofit fair housing organizations processed 20,173, or just over 65%, of the fair housing complaints in the United States, or twice as many complaints as the federal government processed. Public FHAP agencies processed 8,429, or 27% of complaints, and HUD processed 2,123, or 7%, of all complaints.

Even though HUD processed 2,123 housing discrimination cases in FY08, it issued only 48 charges following a determination that there was reasonable cause to believe that unlawful discrimination occurred. Although this number marks a slight increase from FY07's 31 charged cases, it still only comprises 2% of HUD's total complaint load. Of HUD's 2,123 cases, 841 were over 100 days old and did not have a HUD determination. The Department of Justice filed fewer fair housing cases in the past two years than in previous years. DOJ filed 33 fair housing cases in 2008 and 35 cases in 2007, compared to 42 in 2005, and 53 in 2001.

The small amount of FHIP funds has resulted in: education and outreach initiative grants being funded at only 75% and private enforcement initiative grants at only 80% of their typical size; an inconsistent funding stream for a national media campaign as mandated by HUD's authorizing statute; and little money for the creation of new groups.

In recent years, one-quarter of all fair housing organizations nationwide have closed their doors or severely reduced the size and scope of available services due to lack of funding. A number of other organizations have had to significantly curtail or eliminate their enforcement activities due to cutbacks, including reduction of staff. In some cases, groups served densely populated and large metropolitan areas; in other cases, groups served an entire state and their closing continues to have a drastic effect on a substantial geographic area.

Conflict of interest. Currently, when a complaint is filed against a HUD program, or a HUD-funded agency or organization (public housing authorities, for example), HUD's FHEO is responsible for investigating the complaint. This puts FHEO in a position of investigating its own agency. This compromises what should be independent, objective investigations, putting them through the litmus test of public policy considerations and the very real issue of being ranked lower than other HUD priorities. In addition, HUD collaborates with many actors in the real estate and lending communities, and its ability to effectively enforce the Fair Housing act with these industry players is compromised by these relationships.

FHEO should be designated an independent agency in order to be a truly objective and effective civil rights enforcement institution. This is the core recommendation of the National Commission on Fair Housing and Equal Opportunity.

Housing Fairness Act. The Housing Fairness Act (H.R. 476), introduced by Representative Al Green (D-TX), would provide private fair housing organizations with the necessary capacity to better address individual incidents of discrimination and systemic discrimination in the housing marketplace. It would reauthorize FHIP funding at an increased level of \$52 million, authorize an additional \$20 million for national fair housing enforcement funds meant to address systemic discrimination, and authorize \$5 million in research grants for the study of the causes and community effects of discrimination in the housing market

Tips for Local Success

Fair housing complaints can be filed with local fair housing centers, state or local fair housing agencies, or HUD.

In addition, all jurisdictions receiving funds through the CDBG and HOME programs (among other federal programs), including cities, counties, and states, are required to 'affirmatively further fair housing,' and advocates should monitor their participation.

What to Say to Legislators

Advocates should speak to legislators with the message that private fair housing organizations process two-thirds of all fair housing complaints each year - twice as many as all government agencies combined. This important service is historically underfunded, and as a result, fair housing and fair lending violations remain under reported and unaddressed. To help put an end to pervasive housing discrimination, funding for FHIP should be \$52 million and FHAP should be \$31 million in FY11.

Legislators interested in increasing housing opportunity for their constituents should also support the Housing Fairness Act, H.R. 476, which is currently being considered by the House Financial Services Committee.

For More Information

National Fair Housing Alliance · 202-898-1661 · www.nationalfairhousing.org

See also: *Affirmatively Furthering Fair Housing: Analysis of Impediments to Fair Housing Choice.*

Family Self-Sufficiency

By Jeffrey Lubell, Executive Director, Center for Housing Policy

Family Self-Sufficiency (FSS) is a HUD program that helps low income families in public housing and the Housing Choice Voucher program build assets and make progress toward self-sufficiency and homeownership.

The program is housed in HUD's Office of Public and Indian Housing.

History

FSS was enacted in 1990 as part of the Cranston-Gonzalez National Affordable Housing Act of 1990.

Program Summary

Family Self-Sufficiency helps housing choice voucher holders and public housing residents to build assets, increase their earnings, and achieve homeownership and other individual goals.

The FSS program is administered through public housing agencies (PHAs), which elect to participate in FSS by filing an FSS Action Plan with HUD. Housing agencies may also choose to apply for funding for FSS coordinator costs as part of an annual competitive grant process. Some agencies are required to continue to participate in FSS until they graduate sufficient families to satisfy mandates associated with receipt of incremental housing assistance in the mid-1990s. For all other agencies, and for mandated agencies once they satisfy their mandate, participation is voluntary.

FSS supplements stable, affordable housing (in the form of a housing voucher or public housing) in two ways: with case management to help families overcome barriers to work and develop self-sufficiency plans, and with escrow accounts that grow as families' earnings rise.

Case management. Each family in FSS works with a case manager who assists the family in developing an individual training and services plan and helps the family access work-promoting services in the community, such as resume building, job search, job counseling and education and training. The nature of the services varies based on families' needs and local program offerings.

Escrow account. The escrow accounts serve as both a work incentive and an asset-building tool. Like most families in public or assisted housing, participants in the FSS program must pay higher rental payments if their incomes increase. FSS participants, however, have an opportunity to obtain a refund of some or all of these increased rent payments. As the rent of an FSS participant increases due to increased earnings, an amount generally equal to the rent increase is deposited into an escrow account. Upon graduation, the participant receives all of the escrowed funds to meet a need he or she has identified. If the housing agency agrees, the participant also may make an interim withdrawal when needed to meet expenses related to work or other goals specified in the participant's FSS plan. A participant who fails to successfully complete the FSS program loses the funds in his or her escrow account.

FSS has four separate funding streams, two each for its voucher and public housing programs. In the voucher program, FSS escrow deposits are eligible expenses for reimbursement under the housing assistance payments that HUD makes to housing authorities, while limited funding for FSS coordinators is provided through an annual Notice of Funding Availability (NOFA).

In the public housing program, PHAs are compensated for FSS escrow deposits through the public housing operating subsidy calculation, and limited funding for FSS coordinators is provided through an annual NOFA included within the Resident Opportunities for Self-Sufficiency (ROSS) program

Funding

For FY10, Congress appropriated \$60 million for FSS coordinators working with families with housing choice vouchers, an increase of \$10 million over the prior year. Generally, \$10 million to \$12 million is available for FSS coordinators working with public housing residents as part of ROSS.

What Advocates Need to Know Now

Funding and application process. The key federal advocacy issue related to FSS is funding stability – principally for FSS coordinators. Congress should renew and expand funding for FSS coordinators. The American Association of Service Coordinators is advocating for an increase in funding for housing choice voucher FSS coordinators to \$85 million and for restoration of funding for the ROSS program (which the Administration proposes to eliminate) that funds public housing FSS coordinators at its historical level of \$50 million.

Shortfalls in Section 8 and public housing funding also hurt FSS by making it more difficult for housing agencies to rely on HUD funding to cover the costs of escrow deposits for FSS participants.

In addition to ensuring adequate funding for FSS coordinators, it is essential that HUD make the process of applying for funding as simple and consistent as possible. In some past competitions, HUD changed the criteria for applying for voucher FSS coordinator funding, leading to the loss of funding for more than 200 FSS programs.

SEVRA. The Section 8 Voucher Reform Act (SEVRA), as introduced in the prior Congress, included several provisions that would help the FSS program. One provision would change the housing choice voucher (HCV) FSS coordinator funding from an annual competition to an administrative fee. In addition to simplifying the process of receiving funds, this would open up funding to additional agencies that wanted to start or expand their FSS programs. The act would also help to stabilize funding for the housing choice voucher program generally, which would reassure housing agencies that they have sufficient funding to continue or expand their FSS programs.

In addition to passing SEVRA, there are a number of steps Congress and HUD could take to improve funding stability for FSS coordinators (and thus continuity of services for FSS participants). For FY11, Congress should allocate HCV FSS coordinators as an administrative fee add-on, as it did for FY09, rather than as a competitive program. For FY10, HUD is apparently required to issue a NOFA for HCV FSS coordinators, but should strive as much as possible to continue the formula allocation used in FY09.

Tips for Local Success

At the local level, the key issue is whether housing agencies are making effective use of the FSS program to help families build assets and make progress toward self-sufficiency. There is no limit to the number of families that may be enrolled in FSS, so one key goal for local advocacy is expansion of current programs to serve additional families. For housing agencies without an FSS program, or with a program for voucher holders but not public housing residents, advocates may wish to focus on starting a new FSS program.

At the same time, there is a limit to the number of families that can be effectively served with a given number of coordinators. (There is no formal caseload standard, but HUD generally uses 50 families per coordinator as a rule of thumb.) Caseloads vary dramatically from agency to agency, and in some cases, it may be more important to add coordinator staff to reduce caseloads to manageable levels than to expand the number of enrolled families. Advocates should work collaboratively with local housing agencies to find local in-kind or cash resources to expand the number of case managers to serve additional families.

According to HUD's FY11 Congressional Budget Justifications, some 55,231 families participated in the FSS program during FY09. Most of these (about 85 percent) were enrolled in Housing Choice Voucher (HCV) FSS programs. The balance were in public housing FSS programs. Over the years, more than 25,000 families have graduated successfully from the FSS program.

Approximately 1,125 housing agencies administer FSS programs for voucher-holders and approximately 425 agencies administer FSS programs for public housing residents.

Family Self-Sufficiency

What to Say to Legislators

Advocates should speak to the person in their Member of Congress's office who deals with housing policy with the message that:

- HUD's FSS program is critical for helping families in subsidized housing build assets and make progress toward self-sufficiency and homeownership.
- To better support FSS, Congress should increase funding for voucher FSS service coordinators to \$85 million and restore funding for the ROSS program at its historical level of \$55 million. To improve continuity of services for participants, Congress should also allocate the FY11 voucher FSS coordinator funding as an administrative fee add-on, rather than a competitive program.
- Congress should further pass the Section 8 Voucher Reform Act (SEVRA), which would improve the stability of funding for both the voucher program generally and FSS specifically.

For More Information

American Association of Service Coordinators · 614-848-5958 · www.servicecoordinator.org

See also: *Resident Participation in Federally Subsidized Housing*, *Service Coordinators in Multifamily Housing*, *Housing Choice Vouchers*, *Public Housing*.

Family Unification Program

By Ruth White, Executive Director, National Center for Housing and Child Welfare

HUD's Family Unification Program (FUP) is a federal housing program aimed at preventing family separation due to homelessness and easing the transition to adulthood for youth aging out of foster care. HUD provides FUP Section 8 vouchers to partnerships established between public housing agencies and child welfare agencies, and these vouchers can be used to prevent children from entering foster care, reunite foster children with their parents, and prevent homelessness among youth aging out of foster care. While recently funded after nearly nine years of inactivity, the program still reaches only a fraction of families and children in need.

FUP is administered by HUD's Office of Public and Indian Housing. It is funded out of HUD's Tenant Protection Fund.

History and Purpose

The Family Unification Program (FUP) was signed into law in 1990 by President George H. W. Bush. The program was created as a part of the Tenant Protection Fund within the Cranston-Gonzalez Affordable Housing Act.

FUP is designed to address the housing-related needs of children in the foster care system. Of the half million children who live apart from their families in America's foster care system, nearly 150,000 of these children are separated from their families because their parents lack access to safe, decent, affordable housing. Equally troubling are the housing challenges faced by the 29,500 youth who age out of foster care each year without the support of a permanent family. Nearly a quarter of these young people experience homelessness within a year of leaving care. Despite these staggering figures, child welfare workers seldom have access to the housing resources or supportive services necessary to prevent and end homelessness among vulnerable families and youth.

Program Summary

FUP is administered at the local level through a partnership between public housing agencies and public child welfare agencies. A public housing agency interested in administering FUP vouchers must complete and sign a memorandum of understanding (MOU) with its partner agency in order to apply to HUD in response to a Notice of Funding Availability (NOFA). FUP vouchers are awarded through a competitive process. In a typical year, an agency receiving funds is likely to receive an average of 50 vouchers.

PHAs receiving an allocation of FUP vouchers then administer these vouchers to families and youth who have been certified as eligible for FUP by the local public child welfare agency. The FUP vouchers work in the same way a typical housing choice voucher does. The child welfare agency is required to assist FUP clients in gathering the necessary Section 8 paperwork, finding suitable housing, and providing aftercare services to help maintain their housing. If a child welfare agency elects to refer a young person aging out of foster care with a FUP voucher, the child welfare agency must offer educational and training vouchers, independent living programs, counseling, and employment assistance.

Eligible families include those families who are in imminent danger of losing their children to foster care primarily due to housing problems and families who are unable to regain custody of their children primarily due to housing problems. Eligible youth include those who were in foster care anytime after the age of 16 who are currently between the ages of 18 and 21 (have not reached their 22 birthday) and are homeless or at risk of homelessness.

The more than 42,000 FUP vouchers that HUD has awarded since FUP's inception have enabled over 210,000 children to reunite with their families from foster care or avoid foster care placement altogether.

Each \$20 million investment HUD makes in FUP vouchers means that more than 9,000 children will avoid foster care placement or be reunited with their parents. This investment in affordable housing will result in a savings of nearly \$135 million in foster care costs annually.

Family Unification Program

Funding

Each year between 1992 and 2001, HUD awarded an average of 3,560 FUP vouchers to public housing authorities. Unfortunately, from FY02 through FY07, HUD used its rescission authority to avoid funding FUP, even though the Tenant Protection Fund out of which FUP is funded had carryover funds ranging from \$18 million to \$170 million. Thanks to the efforts of Appropriations Subcommittee Chair Senator Patty Murray (D-WA) and Ranking Member Christopher Bond (R-MO), a total of \$40 million in new funding has been awarded for new FUP vouchers in FY08 and FY09. HUD is currently reviewing applications for FUP and should be making an announcement of the latest round of funding in May or June of 2010.

The Senate Appropriations committee included \$15 million for the FY10 HUD appropriations bill, bringing the total for new FUP funding to \$55 million since FY08.

What Advocates Need to Know Now

In the absence of an adequate supply of affordable housing to intervene and end youth and family homelessness, child welfare agencies are placed in the unenviable position of separating families in order to protect the children from the lingering effects of homelessness. This is a costly solution to homelessness both in terms of the emotional impact upon each child and the cost to the taxpayer.

Given the government's growing interest in controlling spending, it is important to point out that placing children in the foster care system in lieu of a prudent investment in affordable housing is a poor use of federal money. Nationally, the average family involved in the child welfare system has 2.7 children. The cost of keeping the children of one family of this size in foster care is \$47,608 annually. The average cost for a FUP voucher and supportive services for a family of this size for one year would be a fraction of this cost, at approximately \$13,412. In fact, recent research has demonstrated that a federal investment to address the housing and social services needs of the families who are separated due to homelessness would save the United States \$1.94 billion annually.

Tips for Local Success

The FUP model and the elements included in the Memorandum of Understanding (MOU) that HUD requires is an excellent model for all community partnerships designed to share resources and information in an effort to prevent and end family and youth homelessness. Many seasoned administrators of successful FUP sites and other housing plus services efforts have worked with HUD over the years to develop the FUP model. PHAs in communities around the country have used this model to create local preferences and set aside regular Section 8 vouchers to serve hard-to-house families and youth leaving foster care. Over the years it has become clear the most successful FUP partnerships require cross-training, single points of contact (liaisons) within each partner agency, and ongoing communication.

What to Say to Legislators

Advocates interested in keeping families together and safe and those interested in ensuring that youth aging out of foster care have access to safe, decent, and affordable housing options should express their appreciation to Congress for including FUP in the HUD budget in recent years. Advocates should also encourage Congress to continue to provide no less than \$20 million annually for new FUP vouchers to prevent family separation and homelessness among aging-out youth.

For More Information

National Center for Housing & Child Welfare · 301-699-0151 · www.nchcw.org

See also: *Housing Choice Vouchers*.

Family Violence Prevention and Services Act and the Violence Against Women Act

By Monica McLaughlin, Housing Policy Specialist, and Anna Melbin, Housing Programs Manager, National Network to End Domestic Violence

The Family Violence Prevention and Services Act (FVPSA) and the Violence Against Women Act (VAWA) create federal protections and support lifesaving programs for victims of domestic violence, sexual assault, dating violence, and stalking. For these federal laws to realize their full potential in meeting victims' housing needs, FVPSA must be reauthorized, VAWA housing protections must be fully implemented, and both programs should be funded at their authorized levels.

FVPSA (pronounced Fipsa) is administered by the Department of Health and Human Services (HHS), while VAWA programs are administered by the Department of Justice's (DOJ) Office on Violence Against Women (OVW).

History and Purpose

FVPSA, originally passed in 1984, created the first federal funding stream for community-based domestic violence programs and shelters. This federal funding represented an important new source of core support for existing domestic violence programs and was instrumental in helping to develop services for underserved areas of the country. Reauthorized numerous times since, its current authorization expired in 2008. FVPSA remains the only dedicated federal funding stream for domestic violence programs, which rely on this funding to remain open and provide lifesaving support to victims trying to escape violence.

VAWA, originally passed in 1994 and reauthorized in 2000 and 2005, created the first federal law to encourage coordinated community responses to combat domestic and sexual violence. VAWA 2005 uses a holistic approach to address domestic violence, sexual assault, dating violence and stalking. This reauthorization includes continued funding for transitional housing services, new resources to prevent victims from becoming homeless, and landmark protections that ensure victims can access the criminal justice system without jeopardizing their current or future housing.

The need for each remains great. Domestic violence is consistently identified as a primary cause of homelessness (U.S. Conference of Mayors, December 2009). A staggering 92% of homeless women report having experienced severe physical and/or sexual assault at some point in their lives, and upwards of 50% of all homeless women report that domestic violence was the immediate cause of their homelessness.

Advocates and survivors identify housing as a primary need of victims and a critical piece in breaking the cycle of violence. Every day, thousands of abused adults and children are turned away from shelters and denied housing services due to lack of resources. The National Domestic Violence Census found that in just one 24-hour period in 2009, 5,537 requests for shelter and housing went unmet due to a lack of resources.

As a result, many victims face the impossible choice between returning to their abusers and becoming homeless. In fact, victims of domestic violence often return to their abusers because they cannot find affordable long-term housing. Victims consistently report that without available transitional housing services, they would either return to their abusers or be incarcerated for making ends meet through illegal behavior, such as prostitution.

Demand for services rises every year as more victims learn about the resources available to them and seek to leave abusive relationships. Unfortunately, transitional housing programs across the country report funding cuts in 2009 ranging from 15% to 50% of their total operating budgets.

Programs Summary and Funding

FVPSA and VAWA housing programs are a critical part of the effort to reduce homelessness and housing instability among victims of domestic and sexual violence. These essential programs respond to an array of victims' needs, from emergency shelter to permanent housing.

Family Violence Prevention and Services Act and the Violence Against Women Act

FVPSA. FVPSA funds approximately 1,500 emergency domestic violence shelters and programs across the country and is primarily distributed through a state formula grant. In addition to lifesaving emergency shelter, FVPSA-funded programs provide counseling, legal assistance, crisis intervention, and services for children.

Although authorized at \$175 million, FVPSA funding has never reached that level. In FY10, FVPSA was funded at \$130.05 million, \$45 million below its funding authorization. The President's FY11 budget proposes \$140 million for FVPSA, a \$10 million increase over FY10. Advocates recommend a minimum funding authorization level of \$250 million, to meet the growing demand for services.

VAWA. VAWA includes many discretionary grant programs, including several housing programs and programs to reduce and prevent homelessness. In addition, VAWA provides legal protections to victims from unfair eviction or denial of public and subsidized housing.

The Housing-Related Grant Programs in VAWA are:

VAWA Transitional Housing Grant. The primary VAWA housing program is the VAWA Transitional Housing Grant program, administered by the Office on Violence Against Women. The program distributes grants to over 200 organizations across the country, on a competitive basis. The grants may be awarded to states, units of government, Indian tribes, and other organizations, including domestic violence and sexual assault victim service providers, domestic violence and sexual assault coalitions, other nonprofit and nongovernmental organizations, or community-based and culturally specific organizations that have a documented history of effective work concerning domestic violence, dating violence, sexual assault, or stalking. Transitional Housing grants allow entities to offer direct financial assistance for housing and housing-related costs, operate transitional housing programs, and provide supportive services including advocacy securing permanent housing. With VAWA Transitional Housing funding, organizations can provide a critical bridge from crisis to stability for victims of domestic and sexual violence, stalking and dating violence.

VAWA Transitional Housing is authorized at \$40 million but received only \$18 million in FY10.

Grants to Combat Violence Against Women in Public and Assisted Housing. Another key VAWA housing-related program is one that has not been funded since being signed into law. Grants to Combat Violence Against Women in Public and Assisted Housing is to be administered by OVW. This program would support collaborative efforts between housing providers and victim service providers and/or state domestic violence coalitions. Once funded, this grant program would provide funding for a variety of assistive housing programs, including rural housing administered by the Department of Agriculture, housing funded by the HOME program, and projects supported through Low Income Housing Tax Credit collaborations.

- FVPSA-funded programs provided lifesaving shelter to almost 600,000 adults and children in FY07 and FY08.
- According to the National Domestic Violence Census, in just one day in 2008, FVPSA-funded programs provided emergency shelter to over 20,000 adults and children. (Domestic Violence Counts 08: A 24-hour census of domestic violence shelters and services across the United States. The National Network to End Domestic Violence. (Jan. 2009)).
- A recently released multi-state study shows conclusively that the nation's domestic violence shelters are addressing victims' urgent and long-term needs and are helping victims protect themselves and their children. (Lyon, E., & Lane, S. (2009). "Meeting Survivors' Needs: A Multi-State Study of Domestic Violence Shelter Experiences." National Resource Center on Domestic Violence and UConn School of Social Work. Found at <http://www.vawnet.org>.)
- VAWA saved over \$14.8 billion in its first six years alone, in net averted social costs. (Andersen Clark, K., et al. (2002). "A Cost-Benefit Analysis of the Violence Against Women Act of 1994." Violence Against Women, 8, 417.)
- On just one day in 2009 over 11,500 adults and children were housed in domestic violence transitional housing programs. (Domestic Violence Counts 09: A 24-hour census of domestic violence shelters and services across the United States. The National Network to End Domestic Violence. (March 2010).

Family Violence Prevention and Services Act and the Violence Against Women Act

The Long-Term Stability/Housing for Victims. The Long-Term Stability/Housing for Victims program, also currently unfunded, would be administered by HHS and would fund collaborative efforts to create permanent housing options for victims that support community development and leverage private dollars.

The VAWA Long-term Stability/Housing for Victims and the Grants to Combat Violence Against Women in Public and Assisted Housing are both authorized at \$10 million respectively, but are both currently unfunded.

VAWA Housing Protections. Too often, victims of domestic violence are punished for the actions of abusive partners. As an example, victims of domestic violence living in public housing sometimes faced unfair eviction and denial of housing benefits. The landmark housing provisions passed in VAWA 2005 are designed to protect victims from such housing discrimination and allow them to access the criminal justice system while maintaining their housing. The VAWA housing protections allow PHAs to prioritize victims for housing when their safety dictates it, prohibit PHAs from denying housing or evicting a victim based solely on grounds of domestic violence, and clarify portability of vouchers for victims in the Housing Choice Voucher program.

VAWA housing protections are designed to allow victims to maintain or access safe housing, and yet the lack of consistent implementation has limited the reach of these protections. Many of the housing provisions and protections under VAWA are not fully executed at the local level, and communities lack implementation guidance from HUD. While HUD issued an interim rule on VAWA housing protections in 2009, there remains a strong need for additional guidance and implementation.

What Advocates Need to Know Now

FVPSA Reauthorization. FVPSA authorization expired in 2008 and it is imperative that Members of Congress work toward an expedient reauthorization of this critical legislation. A bill to reauthorize FVPSA (H.R. 4116) was introduced in the House of Representatives in 2009. Representatives can show their support for FVPSA by co-sponsoring H.R. 4116. The Senate has not yet introduced a bill. The House Education and Labor Committee and the Senate Health, Education, Labor and Pensions (HELP) Committee should prioritize FVPSA's swift reauthorization.

Funding for VAWA and FVPSA. Fully funding FVPSA and VAWA programs in the FY11 budget is critical to ending both domestic and sexual violence and homelessness. To realize the benefits of FVPSA and these VAWA programs, which will help end domestic and sexual violence, VAWA must be fully funded in the FY11 budget, with \$60 million specifically for housing. Additionally, FVPSA must be reauthorized at \$250 million and fully funded to ensure that emergency domestic violence shelter is available when victims flee.

When fully funded, these acts actually serve to reduce the societal cost of violence against women. By supporting critical services for victims, VAWA saved \$14.8 billion in net averted social costs in its first six years alone.

Tips for Local Success

Advocates can play a key role in promoting safe housing for victims of domestic and sexual violence by encouraging consistent implementation of VAWA housing protections within local jurisdictions. Housing advocates should work in partnership with domestic violence advocates to familiarize themselves with VAWA housing protections, to improve advocacy for individuals, and to improve PHAs' policies and procedures. Domestic violence advocates can train PHA staff, hearing officers, Section 8 owners, and resident groups on VAWA and the dynamics of domestic violence. PHAs should be encouraged to institute a preference for victims when making admission decisions. Advocates should also get involved with their PHA's planning process to ensure that victims' needs are addressed and that VAWA housing protections are adequately communicated to consumers.

Family Violence Prevention and Services Act and the Violence Against Women Act

What to Say to Legislators

Advocates should tell Members of Congress why emergency shelter and longer-term housing are important for victims of domestic and sexual violence and ask for their support. Housing providers should talk about victims served by programs and the struggles faced in meeting victims' unique needs for safety. Advocates should share the latest information about the pervasive scarcity of emergency, transitional, and affordable long-term housing in communities.

FVPSA Reauthorization. In order to ensure the stability and viability of domestic violence programs across the nation, it is imperative that the FVPSA is swiftly reauthorized and fully funded. Advocates should urge Members of Congress, specifically those on the House Education and Labor Committee and the Senate Health, Education, Labor and Pensions (HELP) Committee to reauthorize FVPSA as a matter of priority. Tell them how crucial emergency shelters are to victims in your communities.

- Urge Representatives to co-sponsor H.R. 4116, a bill to reauthorization FVPSA, and encourage the House Education and Labor Committee to swiftly pass this bill.
- Tell Senators, especially those on the HELP Committee, to prioritize the swift reauthorization of FVPSA.

VAWA and FVPSA funding. Advocates should ask the House and Senate Appropriations Committees to fully fund FVPSA and all VAWA programs, including:

In the Labor, Health and Human Services Appropriation

- \$175 million for FVPSA programs/domestic violence shelters
- \$10 million for Long-term Stability/Housing for Victims

In the Commerce, Justice, Science Appropriation

- \$40 million and a distinct line item in the budget for VAWA Transitional Housing
- \$10 million for Grants to Combat Violence Against Women in Public and Assisted Housing

For More Information

National Network to End Domestic Violence · 202-543-5566 · www.nnedv.org

National Law Center on Homelessness and Poverty · 202-638-2535 · www.nlchp.org

National Housing Law Project · 510-251-9400 · www.nhlp.org

VAWA 2005 Housing Protections Fact Sheets: <http://www.ncdsv.org/images/ImpactofVAWAHousingFAQ.pdf>
http://www.nhlp.org/files/1.%20Introductory%20Outline_1.pdf

The National Domestic Violence Census: www.nnedv.org

Fannie Mae and Freddie Mac

By Danna Fischer, Legislative Director and Counsel, National Low Income Housing Coalition

The Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, government sponsored enterprises or GSEs) were established by Congress to provide liquidity and create a secondary market for residential mortgages, both single-family (one- to four-units) and multifamily (five- or more units). Financial troubles have beset both agencies in recent years, and in 2008 they were placed under the conservatorship of the Federal Housing Finance Agency. Because of their financial issues, the future of Freddie Mac and Fannie Mae is unclear.

Payments from the GSEs were to provide the initial source of funds for the National Housing Trust Fund, but the financial problems at both enterprises have caused these payments to have been suspended.

Fannie Mae and Freddie Mac are regulated by the Federal Housing Finance Agency (FHFA). This agency was created in the Housing and Economic Recovery Act of 2008 (HERA). The FHFA also regulates the 12 Federal Home Loan Banks, which are also housing government sponsored enterprises.

History

While Fannie Mae and Freddie Mac were created at different times and for different purposes, they have effectively had identical charters and responsibilities since 1992. Prior to September 7, 2008, when they were placed in conservatorship, Freddie Mac and Fannie Mae were privately owned and operated corporations.

Today, their regulator, FHFA, acting as conservator, has all the authority of each company's directors, officers, and shareholders. Until the conservatorship is ended, the FHFA operates the companies through appointed management in each company. During conservatorship the enterprises remain critically important to the housing finance system, by providing liquidity for new mortgages, assisting in resolving the mortgage crisis, and supporting the multifamily market.

Program Summary

Through their activities as financial intermediaries, Fannie Mae and Freddie Mac help provide liquidity and stability to the conventional (non-government insured) conforming (below applicable loan limits) single-family mortgage market and the multifamily market. By buying mortgages from lenders, Fannie Mae and Freddie Mac ensure that lenders always have funds available with which to make new loans. They primarily purchase single-family, 30-year fixed rate mortgages that are not insured by the federal government, but they also support the multifamily rental market.

The GSEs do not make mortgage loans directly to individual borrowers. Instead, they carry out their secondary market functions by buying mortgages from banks, savings institutions, and other mortgage originators. This allows lenders to free up dollars with which to buy new mortgages.

The GSEs either hold the mortgages they purchase in their portfolios or package them into securities, known as mortgage-backed securities (MBS), which they sell to investors. As of October 2009, Freddie Mac and Fannie Mae owned or guaranteed \$5.3 trillion worth of mortgages, 58% of the outstanding mortgages in this country. However, in any given year their share of the mortgage market can vary widely; in 2006 the GSEs' share of single-family mortgage originations was 54%, and through September 2009 their share was 78%. The GSEs also play a significant and growing role in the multifamily market. In 2006 their share of the multifamily financings was 33%, growing to 79% in 2008. In September 2009 their share was 64%.

Although Fannie and Freddie hold some mortgages in their portfolios, most mortgages are placed in mortgage pools to support mortgage-backed securities (MBS). When the GSEs securitize a mortgage, they are guaranteeing the timely payment of interest and principal to the purchaser of the MBS. In order for single-family mortgages to be packaged and sold as securities, they must meet certain standardized criteria set by the GSEs. As a result, the two GSEs set the lending standards for the conventional, conforming single-family mortgage market. This standardization has the

benefit of increasing the liquidity of mortgages meeting the GSE guidelines and thereby decreasing the interest rates on these mortgages and lowering costs for the homebuyer.

Single-family mortgages. Generally, the GSEs provide support for 30-year fixed-rate mortgages on single-family homes. Fannie and Freddie can only purchase mortgages whose principal balance is equal to or less than the conforming loan limit established annually by FHFA. For 2010, the limit is \$417,000 generally, with a maximum of \$729,750 in areas with high home prices. The limit is also adjusted for property size and different and higher limits apply in Alaska, Guam, Hawaii, and the U.S. Virgin Islands. Information about the loan limits in specific counties can be found at <http://www.fhfa.gov/Default.aspx?Page=185>.

Multifamily mortgages. The GSEs also purchase mortgages on multifamily dwellings (five or more units). These mortgages are generally held in portfolio, but they can be securitized and sold to investors. Currently, Freddie Mac and Fannie Mae hold about 30% of the outstanding multifamily debt, and in 2009 their combined purchases represented more than 60% of the multifamily market. In the past, Freddie Mac and Fannie Mae have also played a significant role in supporting the Low Income Housing Tax Credit (LIHTCs) market; however, since the institution of the conservatorships this support has decreased.

Housing goals. Because they are chartered by the federal government, the GSEs are required to meet certain 'percentage-of-purchase' goals to ensure that they serve the low and moderate income markets, underserved, and special affordable markets. In other words, the GSEs are each required to purchase a certain number of mortgages on properties that meet certain characteristics. These housing goals are set annually, as a percentage of the regulated entity's single family and multifamily business lines.

In 2008, both Fannie Mae and Freddie Mac missed almost all of these goals, but they did succeed in directing more than half their purchases to low and moderate income families. In March of 2009, FHFA determined that only the underserved areas goal and the special affordable multifamily goals were achievable in 2008 given the condition of the housing market. Fannie Mae met the 2008 underserved areas goal but Freddie Mac did not. Both entities met their special affordable multifamily goals.

HERA provided that the goals would remain at the 2008 levels for 2009, but directed FHFA to determine the feasibility of the GSEs meeting these goals and make appropriate adjustments. Based on market conditions and public comments, FHFA reduced most of the housing goals for 2009. Freddie Mac and Fannie Mae will be reporting their performance against these goals in March 2010.

Beginning in 2010, the GSEs will have a new goal structure as established in HERA. The new goals include a single-family purchase money goal for low income families, a single-family purchase money goal for families residing in low income areas, a single-family purchase money goal for very low income families, a single-family goal for the refinancing of mortgages for low income families and goal for the purchase of multifamily loans affordable to low income families. HERA also created a new duty to serve, which requires the enterprises to lead the industry in developing loan products and flexible underwriting guidelines for manufactured housing, affordable housing preservation, and rural markets. FHFA issued proposed regulations implementing the housing goals in February 2009 and announced at that time that it would be issuing additional regulations on the duty to serve at a later date.

National Housing Trust Fund. HERA also established Freddie Mac and Fannie Mae as sources of funding for the National Housing Trust Fund (NHTF; P.L. 110-289, division A, title I, subtitle B, section 1131). Fannie Mae and Freddie Mac are required to set aside an amount equal to 4.2 basis points for each dollar of 'total new business purchases.' Of these amounts 75% is to be used to fund the NHTF and the Capital Magnet Fund (CMF) maintained by the Treasury, with the NHTF receiving 65% of the allocation and the CMF receiving 35%. (The remaining 25% is transferred to the Treasury.) Through 2011, however, all or part of the allocated funds will be diverted to cover the costs of the Hope for Homeowners program. In 2008, FHFA suspended Fannie's and Freddie's contributions due to the financial conditions of the entities.

The GSEs have led on the issue of addressing the needs of renters in foreclosed properties. Both entities have adopted programs to allow renters in a property that they acquire through foreclosure to remain in the property in a month-to-month lease.

Freddie Mac and Fannie Mae have also been instrumental in addressing the foreclosure crisis and implementing the Obama Administration's Home Affordable Modification Plan.

Funding

Prior to their being placed in conservatorship, the GSEs had received no federal funds to support their operations. Instead, Fannie Mae and Freddie Mac raised money in the capital markets to fund their activities. The GSEs' incomes come from the difference between the interest they receive on the mortgages they hold and the interest they pay on their debt, from the fees they charge to investors for guaranteeing payment on the mortgage-backed securities they issue, and from income earned on non-mortgage investments.

Since the establishment of the conservatorship, Fannie Mae has realized losses of \$111 billion and Freddie Mac's losses are \$63 billion. These losses have exhausted each enterprise's capital and resulted in draws on the federal government in the amount of \$59.9 billion by Fannie Mae and \$50.7 billion by Freddie Mac. As of December 2009, the Treasury had committed to provide an additional \$300 billion in support for the GSEs as needed to ensure the strength and security of the mortgage market, to help maintain mortgage affordability and to help keep interest rates low.

In addition, both the Treasury Department and the Federal Reserve Bank have been actively purchasing mortgage backed securities issued by Freddie Mac and Fannie Mae, in an effort to increase investor confidence in the GSEs and lower mortgage rates. As of October 2009, the Treasury Department had purchased approximately \$192 billion in mortgage backed securities backed by Freddie Mac or Fannie Mae and the Federal Reserve had purchased \$831 billion worth of such securities. The Federal Reserve has purchased \$134 billion of debt issued by Freddie, Fannie, or the Federal Home Loan Banks. The Treasury and Federal Reserve have announced that their purchases of mortgage backed securities will end in March of 2010.

What Advocates Need to Know

Freddie Mac and Fannie Mae are likely to remain in conservatorship for some time, but not forever. In the near future, policymakers will have to determine if the functions Fannie Mae and Freddie Mac perform are needed by the housing finance system and, if so, in what form should those functions be carried out. As Congress and the Obama Administration look to reform the GSEs, advocates need to ensure that there is support for long-term fixed-rate mortgages for lower income families, affordable rental housing, and the National Housing Trust Fund.

What to Say to Legislators

Freddie Mac and Fannie Mae play important roles in both the single-family market and in the affordable multifamily market. These functions, as well as the contributions to the NHTF, need to be part of any future secondary market.

For More Information

www.fhfa.gov · www.freddiemac.com · www.fanniemae.com

See also: *Capital Magnet Fund*, *Federal Home Loan Banks*, *Foreclosure Intervention: Protecting Homeowners*, *Foreclosure Intervention: Protecting Renters*, *National Housing Trust Fund*.

Farm Labor Housing (Section 514/516)

By Leslie R. Strauss, Senior Policy Analyst, Housing Assistance Council

Farmworkers and their families experience high rates of housing problems. Yet the U.S. Department of Agriculture (USDA) Section 514/516 loan and grant program, which finances housing for farm laborers, has been underfunded for many years, and has suffered from the lack of funding for new USDA Rental Assistance as well as the erroneous impression that these units house people without legal residency status.

The program is administered by USDA's Rural Development Housing and Community Facilities Programs office.

History and Purpose

Farmworkers, both migrant workers and those who live in one place year-round, receive low wages and often lack full-time work. Given their high poverty levels, it is not surprising that farmworkers and their families often cannot find decent, affordable housing. They face a wide range of housing problems, including substandard housing quality, crowding, affordability issues, and low homeownership rates. These conditions are commonplace among migrant farmworkers who travel to different states and regions, following crop seasons and labor demand, as well as those farmworkers who reside in the same community year-round.

Congress created USDA's Section 514 Farm Labor Housing loan program in 1961, and in 1964 added the complementary Section 516 grant program.

Program Summary

Farm Labor Housing is a capital program; USDA provides both loans (Section 514) and grants (Section 516) to buy, build, improve, or repair farmworker housing. Both types of funds are awarded through an annual competition. Funds can be used to purchase a site or a leasehold interest in a site; to construct or repair housing, day care facilities, or community rooms; to pay fees to purchase durable household furnishings; and to pay construction loan interest.

Section 514 loans are made to farmers, associations of farmers, family farm corporations, Indian tribes, nonprofit organizations, public agencies, associations of farmworkers, and limited partnerships in which the general partner is a nonprofit entity. Section 516 grants are made to farmworker associations, nonprofit organizations, Indian tribes, and public agencies. A recipient must be obtaining a loan in order to be eligible for a grant. Funds may be used in urban areas for nearby farm labor, an exception to USDA's usual strictly rural service area.

To be eligible to live in Section 514/516 housing, tenants must be domestic farm laborers who receive a substantial portion of their income from farm labor and must be citizens or legally admitted for permanent residence. Legally admitted temporary laborers ("H-2A" workers) are not eligible. Retired or disabled farm laborers may remain as tenants if initially eligible. Farm laborers include not only field workers, but also those whose income is earned in aquaculture (fish and oyster farms). The 2008 Farm Bill expanded eligibility to include workers who process commodities, both agricultural and aquacultural, and both on and off farms.

USDA's Section 521 Rental Assistance. Developers of Section 514/516 housing report that, because of their tenants' low incomes, it is usually essential for these units to obtain rental assistance, most often through USDA's Section 521 Rental Assistance (RA) program. The RA program provides project-based subsidies, only to USDA-funded rental developments.

From their inception through FY08, the Section 514/516 programs together have committed over \$1.1 billion to create over 37,000 rental units for farmworkers and their families. Still, production has not been nearly high enough to meet the need. Section 514/516 has financed between 268 and 818 new units each year from 2000 through 2008.

Eighty-two percent of Section 514/516 tenants have very low incomes. The average income of all program tenants is just under \$20,000 (Data from RHS, as of April 2009). Sixty-two percent of tenants receive USDA Section 521 Rental Assistance. Despite the subsidies provided to reduce development costs and thus reduce rents, 9% of tenants pay more than 30% of their income for housing costs. Eighty percent of Section 514/516 tenants are Hispanic.

Funding

Funding for the Section 514 loan program has been around \$30 million in FY08, FY09, and FY10. Section 516 grant funding is approximately \$9.4 million in FY10, and the President's budget proposes \$10 million for FY11. The resulting housing production levels are not nearly enough to meet the need.

The Section 521 Rental Assistance program received \$980 million in FY10, with \$966 million proposed for FY11. Program costs vary from year to year based on changes in rent levels; it is expected that \$966 million will enable USDA to renew all expiring RA contracts in FY11 and provide a limited number of new contracts.

What Advocates Need to Know Now

It is important to note that Section 514/516 farmworker housing units comprise a relatively small percentage of all housing occupied by farm laborers. Still, as the only federal program specifically targeting the housing needs of farmworker households, Section 514/516 plays a significant role. Given the high program demand and the poor condition of farmworker-occupied housing in general, the current funding levels for these programs are not nearly adequate to address the tremendous need for decent, affordable farmworker housing.

Funding is an issue for the related Section 521 Rental Assistance program as well. As housing costs have risen in the recent past, RA costs have risen as well, and most of the Section 521 program's funding is used to renew expiring RA contracts. Very few new contracts have been available.

Some members of Congress have expressed concern about Section 514/516 units harboring illegal immigrants. The laws governing USDA's housing programs, however, make illegal residents ineligible for all USDA housing aid.

Tips for Local Success

A local organization that has not previously developed housing for farmworkers should consult with experienced organizations to learn about ways to overcome development challenges.

For example, farmworkers may have been paying less than 30% of their incomes for substandard housing. They may be reluctant to pay 30% of income to live in an affordable housing development, despite the higher quality of the units, especially if they are migrants whose home base is somewhere else.

If the property will house migrant workers, there may be challenges in calculating the market for the units and in marketing them to prospective tenants. Housing organizations may wish to contact farmworkers, farmworker organizations, the state department of labor, growers, and grower organizations for marketing suggestions.

Farmworker housing proponents should also anticipate community opposition and be prepared to head it off in advance. It can be very useful to include community leaders, as well as growers who will hire the farmworker tenants, beginning in the early stages of planning a project. It is important that units be attractive, not only for the benefit of the tenants, but to minimize community opposition. It is equally important to develop a project requiring as few variances from local codes as possible.

Farm Labor Housing (Section 514/516)

What to Say to Legislators

Advocates should speak to Representatives and Senators, particularly those who sit on the Appropriations Committees and Agriculture Appropriations Subcommittees in both houses, asking them to support full funding for USDA's farmworker housing and Rental Assistance programs in FY11.

- Support funding levels of \$50 million for Section 514 and \$50 million for Section 516 in FY11.
- Support funding for new Section 521 Rental Assistance units sufficient to provide RA for every newly constructed Section 514/516 unit.

For More Information

Housing Assistance Council · 202-842-8600 · www.ruralhome.org

Farmworker Justice · 202-293-5420 · www.fwjjustice.org

U.S. Department of Agriculture Rural Development · www.rurdev.usda.gov/rhs/mfh/brief_mfh_flh.htm

The Federal Home Loan Banks

By John von Seggern, President and CEO, Council of Federal Home Loan Banks

The Federal Home Loan Banks are 12 regional cooperative banks used by U.S. lending institutions to finance housing, community development, infrastructure, small businesses, and jobs in their communities. The Home Loan Banks are the largest single source of funds for community lending in the United States.

The Federal Home Loan Banks are regulated by the Federal Housing Finance Agency (FHFA). This agency was created in the Housing and Economic Recovery Act of 2008 (HERA). The FHFA also regulates Fannie Mae and Freddie Mac.

History

The Federal Home Loan Banks System was created by Congress in 1932.

Program Summary

The Federal Home Loan Banks, which are government sponsored enterprises, are cooperatives that provide funding for housing through all market cycles. More than 8,100 lenders are members of the Federal Home Loan Bank System, representing approximately 80% of the insured lending institutions in the country. Community banks, thrifts, commercial banks, credit unions, community development financial institutions, insurance companies, and state housing finance agencies are all eligible for membership in the Federal Home Loan Bank System (the System).

The 12 Home Loan Banks are located in: Atlanta, Boston, Chicago, Cincinnati, Dallas, Des Moines, Indianapolis, New York, Pittsburgh, San Francisco, Seattle, and Topeka.

Each Federal Home Loan Bank has its own board of directors, comprised of members of that Home Loan Bank and independent (non-member) directors. The boards of directors represent many areas of expertise, including banking, accounting, housing, and community development.

The primary purpose of the Federal Home Loan Banks is to provide their members with liquidity. In fact, the Federal Home Loan Bank System is the only source of credit market access for the majority of their members. Most community institutions do not have the ability to access the credit markets on their own.

Federal Home Loan Bank loans to members - called 'advances' - are a nearly instantaneous way for members to secure liquidity. The Federal Home Loan Banks go the debt markets several times a day to provide their members with funding. The size of the Federal Home Loan Bank System allows for these advances to be structured in any number of ways, allowing each member to find a funding strategy that is tailored to their needs.

In order to qualify for advances, a member must pledge high-quality collateral, in the form of mortgages, government securities, or loans on small business, agriculture, or community development. The member must also purchase additional stock in proportion to their borrowing. Once the member's Home Loan Bank approves the loan request, it advances those funds to the member institution, which then lends the funds out in the community for housing and economic development.

Each of the 12 regional Federal Home Loan Banks is self-capitalizing. During times of high advance activity, capital automatically increases. As advances roll off the books of the Federal Home Loan Banks, capital is reduced accordingly.

The Federal Home Loan Banks have distributed nearly \$4 billion in Affordable Housing Program funds since 1990. Close to 700,000 housing units have been built using AHP funds, including more than 400,000 units for very low income residents.

Under the Community Investment Program, the Banks have lent nearly \$60 billion for a variety of projects since its inception two decades ago, creating nearly 700,000 housing units and more than 80,000 jobs.

The Federal Home Loan Banks

Federal Home Loan Banks are jointly and severally liable for their combined obligations. That means that if any individual Federal Home Loan Bank would not be able to pay a creditor, the other 11 Federal Home Loan Banks would be required to step in and cover that debt. This provides another level of safety and leads to prudent borrowing throughout the System.

Affordable Housing Program (AHP). Federal Home Loan Banks contribute 10% of their net income to affordable housing through the Affordable Housing Program (AHP). This competitive grant program is the largest source of private sector grants for housing and community development in the country. Member banks partner with developers and community organizations seeking to build and renovate housing for low to moderate-income households. To ensure that AHP-funded projects reflect local housing needs, each Home Loan Bank is advised by a 15-member Affordable Housing Advisory Council for guidance on regional housing and community development issues.

AHP is a flexible program that uses funds in combination with other programs and funding sources, such as Low Income Housing Tax Credits and Community Development Block Grants. These projects serve a wide range of needs. Many are designed for seniors, persons with disabilities, homeless families and individuals, first-time homeowners, and others with limited resources.

Community Investment Program (CIP). Each Home Loan Bank also operates a Community Investment Program (CIP) that offers below-market-rate loans to members for long-term financing for housing and economic development that benefits low and moderate-income families and neighborhoods.

Funding

No taxpayer funds are involved in the operation of the privately owned Federal Home Loan Banks. The Federal Home Loan Banks' Office of Finance, the clearinghouse for Home Loan Bank debt transactions, accesses the global capital markets daily. Federal Home Loan Bank debt is sold through a broad, international network of about 100 underwriters.

What Advocates Need to Know Now

In the wake of the nation's financial crisis, concerns over systemic risk are on the minds of advocates and all Americans. In eight decades, the Federal Home Loan Banks have never incurred a credit loss on an advance. This record can be attributed to the collateralization of all advances, conservative underwriting standards, and strong credit monitoring policies.

In response to the crisis in the U.S. financial market, policymakers will be considering proposals to restructure the regulatory system for U.S. financial institutions. Advocates should look at how any proposed restructuring would affect the Home Loan Banks.

Tips for Local Success

The Affordable Housing Program is designed to help member financial institutions and their community partners develop affordable owner-occupied and rental housing for very low to moderate-income families and individuals. Project sponsors partner with financial institutions to seek the competitive grants or low-cost loans. Applicants are encouraged to leverage their awards with other funding sources, including conventional loans, government-subsidized financing, tax-credit equity, foundation grants, and bond financing.

Each Federal Home Loan Bank provides training and application assistance. See individual Home Loan Bank websites for details.

What to Say to Legislators

The role the Federal Home Loans Banks play in the financial system is vitally important. In any restructured housing finance system, the Federal Home Loan Banks must continue to function as steady and reliable sources of funds for housing and community development through local institutions.

For More Information

Council of Federal Home Loan Banks · www.cfhlb.org

Federal Housing Administration

By Danna Fischer, Legislative Director and Counsel, National Low Income Housing Coalition

The Federal Housing Administration (FHA) insures mortgages made by lenders across the United States, and in so doing helps provide single- and multifamily housing for low and moderate income families. In 2009, FHA insured nearly 30% of the single family mortgage market, and more than 50% of first-time buyers used FHA.

The FHA is part of HUD's Office of Housing. FHA is now the largest part of HUD, and the FHA Commissioner reports directly to the HUD Secretary.

History and Purpose

The FHA was established in 1934 under the National Housing Act to expand homeownership, broaden the availability of mortgages, protect lending institutions and stimulate home construction. In 1965, the FHA was consolidated into HUD's Office of Housing. FHA is now the largest part of HUD. The FHA Commissioner reports directly to the HUD Secretary.

Program Summary

The FHA provides mortgage insurance to lenders on both single-unit (one- to four-unit) dwellings and multifamily (five- or more unit) dwellings. FHA programs do not lend money directly, but instead insure private loans made by FHA-approved lenders. When a loan defaults, lenders make a claim to FHA, triggering a FHA payment to the lender for the claim amount. FHA then takes possession of the property securing the mortgage loan.

FHA consists of several insurance funds supported by premium, fee, and interest income; Congressional appropriations; funds borrowed from the U.S. Treasury; and other miscellaneous sources. In FY09, the total mortgage insurance-in-force (IIF) in the FHA insurance funds was \$757.2 billion, an increase of \$225.5 billion or 42.4% compared to FY08.

Mutual Mortgage Insurance. FHA's primary single-family programs are within the Mutual Mortgage Insurance fund, which is managed out of the Office of Single Family Housing. At the end of 2009, 89% of the FHA's IIF was in the MMI fund. The fund receives upfront and annual premiums collected from borrowers, as well as net proceeds from the sale of foreclosed homes. Each year, the MMI pays out claims to lenders and is able to cover administrative costs without federal subsidies.

FHA insurance allows borrowers to purchase a home with a lower downpayment than is often available in the non-governmental market. Borrowers pay a fee for FHA insurance. For single-family loans, this fee consists of an upfront amount collected at the time the mortgage is closed and an annual fee that varies with the loan-to-value ratio (LTV) and length of the mortgage. The annual fee is collected with the monthly mortgage payments. FHA borrowers are required to make a minimum downpayment of 3.5%.

FHA insures loans only in amounts under the set loan limits. Generally, the loan limits are set at 115% of area median home prices, with a floor of 65% of the Freddie Mac loan limit and a ceiling of 150% of the Freddie Mac limit. However, for calendar year 2010 the limit is \$729,750 in high cost areas and the floor is \$271,050. The mortgage amount also cannot exceed 100% of the property's appraised value.

The Federal Housing Administration has insured over 37 million home mortgages and 47,205 multifamily project mortgages since 1934. Currently, FHA has 5.2 million insured single-family mortgages and 13,000 insured multifamily projects in its portfolio.

Federal Housing Administration

In an effort to provide borrowers facing foreclosure with additional options to refinance their mortgage loans, Congress created a new FHA program, the Hope for Homeowners program, in the Housing and Economic Recovery Act of 2008 (HERA).

In addition to providing funds for the purchase of a home, FHA also insures loans for the purchase and rehabilitation of a home. FHA's Section 203(k) program allows for the purchase and renovation of properties with one to four units in one loan, using flexible underwriting guidelines and standards. The 'Streamlined (K)' Limited Repair Program permits homebuyers to finance an additional \$35,000 into their mortgage to improve or upgrade their homes prior to move-in.

Special Risk Insurance, General Insurance and Cooperative Management Housing Insurance funds. FHA also operates Special Risk Insurance, General Insurance Funds, and Cooperative Management Housing Insurance funds, which insure loans used for the development, construction, rehabilitation, purchase and refinancing of multifamily housing and health care facilities. Unlike the MMI Fund, these insurance pools have in the past failed to break even and have required subsidies from the federal budget.

Other FHA initiatives that fall under the insurance funds include:

Distressed Areas. FHA also has programs that specifically target distressed neighborhoods. The Asset Control Area (ACA) Program is designed to help stabilize distressed communities and overcome blight through expanded homeownership for low income families. Under this program, FHA foreclosed single-family homes in designated revitalization areas are sold to local governments and experienced nonprofits at a discount.

Manufactured Housing. FHA provides insurance for the purchase or refinancing of a manufactured home, a loan on a developed lot on which to place a manufactured home, or a manufactured home and lot in combination. The home must be used as the principal residence of the borrowers. The insured loan may not exceed \$69,678 for a manufactured home, \$23,226 for a manufactured home lot, or \$92,904 for a combined manufactured home and lot. These limits can be increased by 85% in high cost areas.

Ginnie Mae. The Government National Mortgage Association (Ginnie Mae), also a part of HUD, is an important sister agency to FHA. Ginnie Mae guarantees the principal and interest on privately issued securities backed by FHA, the U.S. Department of Veterans Affairs (VA) and Rural Housing Service mortgages, thereby enabling a constant flow of capital for mortgage loans. Since its creation in 1968, Ginnie Mae has guaranteed approximately \$2.9 trillion in mortgage backed securities (MBS).

What Advocates Need to Know Now

The FHA single-family program is in flux. On one side Congress has expanded the program's ability to refinance troubled mortgages in an effort to decrease foreclosures. At the same time, decreased home prices, and increased defaults (as of the end of January 2010, 9.4% of FHA loans were seriously delinquent, meaning they were 90 days or more late) have reduced FHA reserves below statutory minimum requirements and have forced FHA to tighten its underwriting requirements and take other steps to reduce losses.

For More Information

2009 FHA Fiscal Management Report: <http://www.hud.gov/offices/hsg/fhafy09annualmanagementreport.pdf>
Ginnie Mae 2009 Annual Report to Congress: <http://www.ginniemae.gov/ReportToCongress/>

See also: *Foreclosure Intervention: Protecting Homeowners.*

Foreclosure Intervention: Protecting Homeowners

By Danna Fischer, Legislative Director and Counsel, National Low Income Housing Coalition

Foreclosures devastate families and neighborhoods and hamper economic recovery. In an effort to reduce the number of foreclosures, Congress, the Administration, and the lending community have created programs to help borrowers modify their mortgages. These efforts include new programs to help troubled borrowers and additional resources for housing counseling programs. Unfortunately, with the rise in unemployment, the number of foreclosures has continued to grow and foreclosure prevention programs have not been as successful as hoped.

Foreclosure prevention and counseling programs are administered by a variety of entities, including Freddie Mac, Fannie Mae, HUD and the Federal Housing Administration. In addition, banks and mortgage servicers modify mortgages outside of the federal programs.

Making Home Affordable

On March 4, 2009, President Obama announced the details of his plan to address the mortgage crisis by providing additional tools to allow homeowners facing foreclosure to refinance their mortgages to a payment that is affordable. The program, called Making Home Affordable (MHA), is designed to help 9 million American families to refinance or modify their loans to a payment that is affordable.

There are two separate parts to the program: a refinance program and a modification program.

HARP Refinance Program. Through this program, the Home Affordable Refinance Program (HARP), Fannie Mae and Freddie Mac will allow the refinancing of mortgage loans that they own or that they placed in mortgage backed securities. This refinancing will allow borrowers to move to a less expensive fixed rate mortgage even if their mortgage is greater than the current value of their homes, a situation known as being 'underwater.' Currently, these underwater mortgages cannot be easily refinanced, leaving borrowers facing unaffordable increases on their adjustable rate mortgages with few options. To be eligible, the mortgage must be on an owner-occupied one- to four-unit home and the borrower must be current on his or her mortgage payments and be able to afford the new mortgage. The amount owed on the mortgage cannot exceed 125% of the current value of the house.

To determine if a mortgage loan is owned by Freddie Mac or Fannie Mae, the borrower can call his or her mortgage lender or servicer (the organization to whom monthly mortgage payments are made) and ask about the program. Contact information can be found on monthly statements or in mortgage coupon books. In addition, Fannie Mae and Freddie Mac have established toll-free telephone numbers and websites to help borrowers. The program expires June 30, 2011.

Fannie Mae, 1-800-7FANNIE (8am to 8pm EST) www.fanniemae.com/loanlookup
Freddie Mac, 1-800-FREDDIE (8am to 8pm EST) www.freddiemac.com/mymortgage

HAMP Modifications Program. The Making Home Affordable program also offers help to borrowers who are struggling to keep their loans current or who are already behind on their mortgage payments. The modification program, commonly known as the Home Affordable Refinance Program or HAMP, applies to all mortgages, not just those owned by Fannie or Freddie. By providing mortgage servicers with financial incentives to modify existing first mortgages, the Treasury hopes to help as many as 3 million to 4 million homeowners avoid foreclosure regardless of who owns or services the mortgage.

The modification program is available to owner-occupants in one- to four-unit properties at risk of default because of unaffordable mortgage payments. The unpaid principal balance on the mortgage loan must be equal to or less than \$729,750 for one-unit properties (there is a higher limit for two- to four-unit properties) and the mortgage loan must have been made on or before January 1, 2009. The mortgage payments must be unaffordable, i.e. exceed 31% of the borrower's pre-tax income.

Foreclosure Intervention: Protecting Homeowners

The modification will consist of a reduction of the interest rate to a point where loan payments do not exceed 31% of the borrower's income. This interest rate, which can be as low as 2%, will be in place for the first five years of the modified mortgage, at which time the interest rate will slowly increase to the market rate at the time the mortgage was modified. If a 2% interest rate does not result in a payment that is affordable, the servicer can take additional steps to make the mortgage affordable, including extending the loan term out to 40 years, deferring repayment on a portion of the amount owed until a later time, or forgiving a portion of the debt.

Borrowers who make timely payments on their modified loans will receive financial incentives. For every month a timely payment is made, the government will make a payment directly against the borrower's principal balance, up to total of \$5,000 in payments.

Under the modification program servicers are also required to evaluate borrowers for their eligibility under the FHA Hope for Homeowners program and offer that refinancing option to the borrower if they qualify. See below for a description of the Hope for Homeowners program.

The program expires on December 31, 2012.

In April and May 2009, Treasury added features to the MHA program to address second mortgages (liens) and encourage lenders and servicers to pursue short sales and deeds in lieu of foreclosure in cases modifications are not possible.

Second Liens. According to the Treasury Department up to 50% of at-risk mortgages have second liens, and many properties in foreclosure have more than one lien. Under the Second Lien Program, when a MHA modification is initiated on a first lien, servicers participating in the Second Lien Program will automatically reduce payments on the associated second lien. These changes to the second lien will be made according to a set of specific rules, or the servicer can extinguish the second lien in return for a lump sum payment from Treasury.

Short Sales and Deeds in Lieu. In a short sale, a servicer allows the borrower to sell the property at its current value, even if the sale nets less than the total amount owed on the mortgage. With a deed in lieu, the borrower simply voluntarily transfers ownership of the property to the servicer. While not desirable alternatives, these procedures allow the homeowner and the servicer to avoid the time and expense of a foreclosure. The Treasury Department offers financial incentives to encourage lenders and servicers to pursue these options.

Additional information about the Making Home Affordable initiative can be found at <http://www.makinghomeaffordable.gov/>

Fannie Mae. In November 2009, Fannie Mae introduced its Deed-for-Lease Program™ (D4L), which allows qualifying borrowers of properties transferred through deed-in-lieu of foreclosure (DIL) to remain in their home by executing a lease of up to 12 months in conjunction with a DIL. Investment properties that are tenant-occupied may also be considered as long as the borrower is cooperative in providing information from the tenant to facilitate the D4L.

For information on Fannie Mae's Deed in Lieu see <https://www.efanniemae.com/sf/servicing/d4l/>

Hope for Homeowners

In an effort to provide borrowers facing foreclosure with additional options to refinance their mortgage loans, Congress created a new FHA program, the Hope for Homeowners program, in the Housing and Economic Recovery

While numerous programs exist to assist borrowers avoid foreclosure, these programs have not been as effective as desired. It now appears that fewer than 2 million borrowers will receive permanent modifications under the HAMP program, which was initially expected to serve 4 million families.

Act of 2008 (HERA). The program was amended in the Emergency Economic Stabilization Act of 2008 (EESA) and again in the Helping Families Save Their Homes Act of 2009.

Under Hope for Homeowners, owner-occupants with a net worth of less than \$1 million, can refinance their current loan into a new FHA-insured 30-year fixed-rate mortgage. This refinance will allow the borrower to reduce his principal balance, interest rate, or both. Mortgages eligible for the program were those originated on or before January 1, 2008, and borrowers must have debt-to-income ratios greater than 3:1. The new loan to value ratio can be as high as 105% of the appraised value, and a recent appraisal is required. Borrowers pay an upfront premium of 2% and a monthly premium of .75%. The maximum mortgage amount that can be financed under this program is \$550,440 for a one-unit property. The new mortgage will be applied to the existing first mortgage and will extinguish all mortgage-related debts, including second liens. Borrowers must certify they did not intentionally default on the original mortgage or other debts or furnish false information (with five-year jail time for false statements) to obtain the FHA loan. Borrowers are required to share a portion of the initial equity with FHA when the property is sold or the loan is refinanced. The program runs from October 1, 2008 through September 30, 2011.

Housing Counseling Resources

HOPE NOW. HOPE NOW is an alliance composed of counselors, mortgage companies, investors, and other mortgage market participants. The HOPE NOW participants work together to reach out to homeowners in distress to help them stay in their homes and to create a unified, coordinated plan to help as many homeowners as possible. The alliance supports the HOPE for Homeowners Hotline, 1-888-995-HOPE, where borrowers can receive pre-foreclosure counseling.

National Foreclosure and Mitigation Counseling Program. This program was launched in December 2007 to increase the availability of counseling services counseling to homeowners at risk of foreclosure across the country. Under this program, NeighborWorks America makes grants to HUD-approved housing counseling intermediaries, qualifying state housing finance agencies (HFAs), and NeighborWorks organizations. The entities then provide counseling to troubled borrowers to assist them in exploring loan modification or refinance options, including those offered through the Making Home Affordable program.

NeighborWorks has distributed over \$350 million in counseling funds and expects to distribute more than \$59 million in additional funds before the end of the year. NeighborWorks maintains an interactive website to help borrowers identify a counselor in their area at: http://www.findaforeclosurecounselor.org/network/nfmc_lookup/

What Advocates Need to Know Now

The variety of efforts and programs targeted to helping stop foreclosures is indicative of the seriousness of the problem. If foreclosures cannot be reduced, the economy is likely to take longer to recover and more families and communities will suffer.

For More Information

National Low Income Housing Coalition · 202-662-1530 · www.nlihc.org

See also: *Foreclosure Intervention: Protecting Renters, Fannie Mae and Freddie Mac, Federal Housing Administration.*

Foreclosure Intervention: Protecting Renters

By Danna Fischer, Legislative Director and Counsel, National Low Income Housing Coalition

As the foreclosure crisis has taken hold, experience and research have revealed that rental properties and renters are at significant risk, with renters comprising 40% of the families affected by foreclosure. These families often have no idea that their landlord has fallen behind on mortgage payments, and have usually continued to pay their rent even as their landlord has failed to pay the mortgage. Under most state laws, these tenants were often required to move on only a few days' notice.

However, with the enactment of the Protecting Tenants at Foreclosure Act (PTFA) in May 2009, most tenants now have the right to remain in the home for the remainder of their lease, or at least 90 days. PTFA is set to expire at the end of 2012; advocates are now working to permanently extend its provisions.

The PTFA is self-executing; no agency is responsible for administering the act.

History and Purpose

In recent years, inappropriate lending, falling home prices, and high unemployment have led to a very high number of foreclosures across the United States. However, the impact of these foreclosures is not limited to homeowners; renters lose their homes every day when the owner of the home they are renting goes into foreclosure.

In fact, one in five properties in the foreclosure process is likely to be a rental. Further, research from the National Low Income Housing Coalition concludes that since these properties often contain more than one unit, and many owner-occupied homes also house renters, roughly 40% of the families facing eviction as a result of the foreclosure crisis were renters in 2008. And unlike homeowners, who have some indication that a foreclosure is coming, renters are often caught entirely off-guard.

As might be expected, very low income families and low income and minority communities are bearing the brunt of rental foreclosures. Data show that for four states in New England, the foreclosure rate on a per-unit basis is more than five times higher in largely non-white, poor neighborhoods than in largely white, low poverty neighborhoods. Even more striking, nearly 60 of every 100 foreclosed properties in high-poverty, non-white neighborhoods are multiunit, as compared to seven of every 100 in low poverty, white neighborhoods (Renters in Foreclosure: Defining the Problem, Identifying Solutions, Danilo Pelletiere, Ph.D., National Low Income Housing Coalition, January 2009).

Prior to May 2009, protections for renters in foreclosed properties varied from state to state, and in most states tenants had few protections. The National Law Center on Homelessness and Poverty and NLIHC issued a joint report on the foreclosure and eviction laws in each state and the District of Columbia. The report, *Without Just Cause*, can be found at http://www.nlchp.org/content/pubs/Without_Just_Cause1.pdf.

Recognizing the hardships experienced by tenants in foreclosed properties, Congress acted in early 2009 to provide a basic set of rights for such tenants. On May 20, 2009, President Obama signed the Protecting Tenants at Foreclosure Act (PTFA; P.L. 111-22, division A, title VII).

Program Summary

Protecting Tenants at Foreclosure Act. The PTFA requires the immediate successor in interest at foreclosure to provide bona fide tenants with a notice 90 days before requiring them to vacate the property, and allows tenants with leases to occupy the property until the end of the lease term.

A bona fide lease or tenancy is one in which the tenant is not the mortgagor or a member of the mortgagor's family, the lease or tenancy is the result of an arm's length transaction, and the lease or tenancy requires rent that is not substantially lower than fair market rent or is reduced or subsidized due to a federal, state or local subsidy. If the property is purchased by someone who will occupy the property, then that purchaser can terminate the lease on 90 days' notice.

Tenants with Section 8 housing choice voucher assistance have additional protections, which allow them to retain their Section 8 lease and require the successor in interest to assume the housing assistance payment contract associated with that lease.

The PTFA applies to all foreclosures on all residential properties; traditional one-unit single family homes are covered, as are multi-unit properties. The law applies in cases of both judicial and non-judicial foreclosures. Tenants with lease rights of any kind, including month-to-month leases or leases terminable at will, are protected as long as the tenancy was in effect as of the date of transfer of title at foreclosure.

The 90-day notice to vacate can only be given by the successor in interest at foreclosure. The “successor in interest” is whoever acquires title to the property at the end of the foreclosure process. It could be the financial institution that held the mortgage or it could be an individual that purchased the property at foreclosure. Notices of the pending foreclosure, while desirable, do not serve as the 90-day notice required by the PTFA.

The PTFA applies in all states, but does not override more protective state laws. The PTFA specifically provides that it does not affect “any [s]tate or local law that provides longer time periods or other additional protections for tenants.” Consequently, state law should be examined whenever there is a tenant in a foreclosed property to maximize the protections available to tenants. State and local law may also help fill some of gaps in the federal law, such as the form (e.g., written or oral) and delivery mechanism for the 90-day notice (e.g., in person, by mail, or by another method).

The PTFA provisions expire at the end of 2012.

Other protections. Prior to creation of the PTFA, some financial institutions and Freddie Mac and Fannie Mae independently developed programs to assist renters in foreclosed properties to remain in their homes and offered “cash for keys” programs that provide monetary assistance to occupants of foreclosed properties if the occupants agree to leave in a specified period of time, usually 30 days or less. While both the month-to-month lease programs and “cash for keys” program are options that tenants should consider, these options are in addition to, and not a substitute for, the rights provided under the PTFA. Tenants should seek the advice of counsel before accepting these options.

ARRA. The American Recovery and Reinvestment Act of 2009 (ARRA), which predates the PTFA, applied similar renter protections to any foreclosed property purchased with Neighborhood Stabilization Program funds. However, in addition to the 90 days’ notice requirement and the right to remain in the home for the remaining term of any lease, ARRA further prohibits recipients of NSP funds from discriminating against (i.e. refusing to rent to) holders of Section 8 assistance.

What Advocates Need to Know Now

On March 4, Representative Keith Ellison (D-MN) introduced H.R. 4766, which would repeal the sunset date for the PTFA.

Tips for Local Success

Implementing the PTFA provisions can be challenging. The law was effective upon enactment and no federal agency is charged with interpreting the law or with writing regulations to enforce it. Because the law is self-implementing, if challenged individual tenants need to be able to assert their rights. NLIHC, in conjunction with the National Housing Law Project, has developed a toolkit for renters in foreclosed properties. The toolkit contains sample letters, copies of the PTFA, and other materials designed to assist tenants and their advocates in implementing the law and protecting tenants’ rights.

Relying on individual tenants to assert their rights is a time-consuming process. A better approach is for the entities and institutions involved in the foreclosure process – financial institutions, lawyers, judges, and real estate professionals – to recognize and abide by the law. Advocates at the local level should make area courts and attorneys aware of the law through letters and other contacts.

All federally insured or chartered financial institutions have been informed of the law and instructed to comply

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with it. If a financial institution does not comply with the law, it is important that advocates identify the foreclosing institution and hold it accountable for the outcome. Federal financial institution regulators have information on their websites that will help identify the relevant regulator for a foreclosing institution and help tenants and advocates lodge a complaint against the institution. See below for contact information for federal banking regulators.

What to Say to Legislators

Legislators should be educated on the fact that as many as 40% of families faced with foreclosures are renters who are truly blameless in the situation. Federal lawmakers also need information on financial institutions compliance or lack thereof with the PTFA. Lawmakers should also be urged to consider changes to bankruptcy laws and other legislation that would encourage lenders to allow former homeowners and renters to stay in their homes.

In addition, because PTFA protections expire at the end of 2012, advocates should ask their lawmakers to support H.R. 4766, which would make the protections permanent.

For More Information

National Low Income Housing Coalition · 202-662-1530 · www.nlihc.org
NLIHC renter's toolkit can be found at www.nlihc.org/template/page.cfm?id=227

For HUD guidance see:

- General guidance: <http://frwebgate4.access.gpo.gov/cgi-bin/PDFgate.cgi?WAISdocID=729979120023+0+2+0&WAISection=retrieve>
- Guidance for Public Housing Agencies: www.hud.gov/offices/pih/publications/notices/09/pih2009-52.pdf

For regulatory agency guidance, see:

- Federal Deposit Insurance Corporation (FDIC): www.fdic.gov/news/news/financial/2009/fil09056.html
- Federal Reserve Board of Governors (FRB): www.federalreserve.gov/boarddocs/caletters/2009/0905/caltr0905.htm
- Office of the Comptroller of the Currency (OCC): www.occ.gov/ftp/bulletin/2009-28.html; add new guidance
- Office of Thrift Supervision (OTS): <http://files.ots.treas.gov/25319.pdf>.
- National Credit Union Administration (NCUA): www.ncua.gov/resources/RegulatoryAlerts/Files/2009/09-RA-08.docx

For information on the regulatory agency complaint process, see :

- FDIC: <https://www2.fdic.gov/starsmail/index.asp>
- FRB: www.federalreserveconsumerhelp.gov
- OCC: www.helpwithmybank.gov/complaints/index.html
- OTS: www.ots.treas.gov/?p=ConsumerComplaintsInquiries
- NCUA: www.ncua.gov/Resources/ConsumerInformation/Complaints/index.aspx

Information about the Freddie Mac program can be found at: http://www.freddiemac.com/news/archives/servicing/2009/20090305_reo-rental-initiative.html

Information about the Fannie Mae program can be found at: <http://www.fanniemae.com/newsreleases/2009/4581.jhtml?p=Media&s=News+Releases>

See also: *Neighborhood Stabilization Program, Foreclosure Intervention: Protecting Homeowners.*

Greening Affordable Housing

By Danilo Pelletiere, Research Director, National Low Income Housing Coalition

There are varying definitions of 'green housing,' but at its core the term refers to construction methods, materials, and designs that reduce the energy and resource use and toxicity of housing. Green housing grew in stature in Washington in the past year as the locus of the discussion shifted from environmental and technical concerns to the notion of 'green stimulus' and the opportunities for job creation within the field, and from producing and installing high-tech energy efficient systems to caulking and insulating. Several federal programs currently provide green building funds to low income housing.

In 2010, there continues to be considerable appetite among federal policy makers to link the objectives of green building and economic stimulus. The resulting policies have the potential to significantly affect low income housing.

Programs Summary

A variety of longstanding programs assist low income homeowners and the owners and operators of low income housing to improve resource efficiency; recent economic recovery efforts have greatly boosted these activities. The American Reinvestment and Recovery Act of 2009 (ARRA) provided an additional \$16 billion to the Department of Energy (DOE) and HUD to improve the energy efficiency of existing homes. In general, the recent activity in these programs reflects a new level of cooperation between HUD, DOE, and the Environmental Protection Agency (EPA) on green housing issues.

Weatherization Assistance Program (DOE). Weatherization is a DOE program that assists low income households, particularly the elderly, disabled, and those with children, invest in energy efficiency improvements such as caulking and insulation. Low income is defined as having an income at or below 200% of the federal poverty threshold. The program is distributed according to a formula, which is based in part on a set base allocation in statute and a revised formula based on the states' low income population, the heating and cooling degree-days for each state, and residential energy expenditures by low income households. Prior to ARRA the program served primarily homeowners living in northern states. Rental properties can be assisted if the assistance "primarily" benefits eligible tenants. Funds are distributed locally by state programs.

Weatherization, which has been funded in recent years at roughly \$250 million, received an additional \$5 billion in ARRA stimulus funding. After a Memorandum of Understanding (MOU) was signed between HUD Secretary Shaun Donovan and Department of Energy (DOE) Secretary Steven Chu in the spring of 2009, the DOE in March of 2010 released a list of HUD properties that do not have to independently certify that they meet income and other requirements when applying for DOE weatherization funds. This agreement will substantially reduce the time and energy that must be spent applying for these funds.

Public Housing Capital Funds (HUD). HUD also received \$4.5 billion in ARRA to renovate and upgrade public housing, with 'greening public housing' - one of the program's stated objectives. These funds can be used for a variety of purposes, including energy-efficient appliances, green space, surface water management techniques that retain runoff on site, water-conservation, energy-efficient new construction, and renewable energy resources. Of the funding, \$3 billion was released to 3,100 public housing agencies according to the standard public housing capital fund formula. An additional \$1 billion was awarded by competitive grants, \$600 million of which was specifically reserved for greening public housing. The competitive funds were distributed to more than 150 public housing agencies in September 2009.

Green Retrofit Program (HUD). ARRA provided \$250 million to HUD for the Green Retrofit Program, to retrofit privately owned, federally assisted housing in order to increase its energy efficiency and maintain energy efficient systems. This program is run out of HUD's Office of Affordable Housing Preservation (OAHP) and shares elements and of the pre-existing "Mark-to-Market Green Initiative," which worked to incorporate green building in Mark-to-Market projects. HUD began accepting applications in June 2009 and is offering assistance on a first-come, first-served basis.

Greening Affordable Housing

Additional DOE Programs. The remaining portions of the \$16 billion in ARRA are in two DOE programs. The first is the DOE Energy Efficiency and Conservation Block Grants (EECBG) program, which received \$3.2 billion and is modeled after the Community Development Block Grant program. The EECBG program provides funding to states, cities, counties, and tribal governments to undertake projects, including green building-related activities such as building energy audits and retrofits, including weatherization; financial incentive programs for energy efficiency; building code development, implementation, and inspections; installation of distributed energy technologies including combined heat and power; and district heating and cooling systems. The second was a \$3.1 billion infusion to DOE's State Energy Program (SEP), which is directed to state energy offices. These funds are used to address state energy priorities and to provide funding to adopt emerging renewable energy and energy efficiency technologies in the state. This funding has already been distributed.

Standards and Financing (DOE, HUD, and EPA). HUD and DOE have also pledged to work together, along with the EPA, on other projects including: a common set of guidelines and specifications for retrofitting public housing and privately owned, federally subsidized rental properties; a government-wide effort to develop a common baseline; and a tool for measuring home energy use and the gains from efficiency improvements.

The two agencies also pledged to explore developing new home green housing financing products such as revolving funds, Federal Housing Administration mortgage guarantees, and DOE loan guarantee authority in the residential sector.

Currently both DOE and HUD, along with the EPA, set standards for new green housing through DOE's Energy Star program and HUD's code for manufactured housing.

Issue Summary

Traditionally there have been three major motivations for integrating green features into affordable housing: a concern for the environment, lower operation costs, and improved health and comfort. More recently the objective of 'green-collar job' creation has been added.

Concern for environment. The first motivation is out of concern for the environment. The homes of low income families are often older and under-resourced and therefore less efficient due to design, construction, and deterioration. One recent analysis suggests that the 34 million households eligible for federal home energy assistance generated 276 million tons of carbon dioxide emissions, 27.5% of total emissions from all residential units. Another study found that weatherizing 12,000 low income homes in Ohio avoided more than 100,000 pounds of sulfur dioxide and 24,000 tons of carbon dioxide, while at the same time cutting average utility costs for low income homeowners by an average of several hundred dollars per year.

Lower operation costs. The second motivation to tie green and affordable housing together is to reduce the costs of operating the housing for low income families. Utility bills are one of the largest and most variable expenses low income families and the operators of affordable housing face. One survey found that approximately 28% of low income homes had had to skip a rent payment in order to pay a utility bill, and 48% said their ability to pay for health care or food had been affected for that same reason. An Ohio program to create 150 Energy Star-certified Habitat for Humanity homes generated an average annual savings of \$460 for the owners.

Improved health and comfort. The third motivation is concern for the health and comfort of the residents of affordable housing. These 'non-energy benefits' have been broadly estimated to be worth 50% to 300% of annual household energy bill savings.

Creation of green collar jobs. To these traditional motivations has been added creating good, domestic 'green collar' jobs. A recent study identified 22 different job sectors of the U.S. economy that currently provide workers with green collar jobs. Of these, 11 were directly related to green home rehabilitation, including several specifically tied to energy efficiency. Increased investment in green very low income home rehabilitation could create these jobs at scale. The DOE estimates that every \$1 million invested in weatherization programs creates 52 low income community jobs.

Even though the cost difference between green and traditional construction or retrofits may be small or even vanishing over time, green techniques often result in higher upfront costs. For example, developers need to pay for

more involved design and building analysis to implement green measures such as more effective building envelopes, and right-sized systems, especially in rehabilitation projects. Also greener technologies are likely to be newer and therefore have higher sticker prices. A lack of the skilled workforce to do the analysis and installation can further increase the costs in many markets, where the expertise needs to be imported from elsewhere. Similarly, using broader definitions of green housing such as Enterprise Community Partners' Green Communities Criteria, which consider neighborhood density and walkability measures, may lead to higher costs in less-urban communities. An analysis of 16 green affordable housing projects completed in 2005 found that, on average, the green housing cost 2.4% more as a result of the green features.

While this additional cost may not appear large, it has proved a significant barrier to the implementation of green techniques in affordable housing. In general the financing of affordable housing has little or no slack built in for "extras," particularly as developers attempt to produce the maximum number of units and meet low rent thresholds. That the benefits often accrue to the future residents and the society at large and not directly to the developer or the operator of the housing makes the additional cost especially difficult for the developer to finance.

These cost differentials are reduced, however, as regulations level the playing field and encourage green housing, and as developers and workers become familiar with the technologies and techniques. For this reason government plays an important role in green housing by providing regulations, incentives, and training.

What Advocates Need to Know

In recent years a variety of bills and initiatives related to green housing have been introduced in Congress. The future of these bills is primarily dependent on the fate of federal energy legislation.

In the House two green housing bills, the Green Resources for Energy Efficient Neighborhoods Act (GREEN Act; H.R. 2336) and the Retrofit for Energy and Environmental Performance (REEP; H.R. 1778) were incorporated wholesale into the House's Climate bill, the American Clean Energy and Security Act (H.R. 2454) when it passed the House in November 2009. The GREEN Act established a series of programs and standards to promote green building techniques and energy efficiency. Included in the bill was a pilot program aimed at making energy-efficiency improvements to 50,000 units of privately owned HUD housing. The REEP bill would have created a block grant program to the states for energy efficiency investments. When the REEP provisions were incorporated in to H.R. 2454, low income housing advocates were able to set aside a portion of the funds for public and assisted housing.

If comprehensive climate legislation does not pass, it seems likely that new energy and green housing legislation will emerge to set standards and fund projects. A number of recent bills have been introduced such as the Building Star Energy Efficiency Act of 2010. Introduced in March, this bill would provide financial incentives for owners of commercial buildings and multifamily residential buildings to retrofit their buildings with energy-efficient building equipment and materials.

Low income housing advocates need to pay careful attention to these bills. While low income families can benefit from green housing and investments in affordable housing likely represent some of the highest returns on investment for green housing, some recent proposals have looked to tenant rent increases to fund green features and retrofits or have taken the form of additional green requirements that simply add to the costs of affordable housing development. Low income housing advocates need to make sure that low income housing is not only considered eligible under any proposal but that it is low income households that ultimately benefit from these policies.

Tips for Local Success

Local advocates can encourage public housing agencies and private owners to pursue green housing in renovation, rehabilitation, and new development projects and make certain they are aware of available resources to implement these improvements.

Local advocates also have a role in making certain that residents are included in the planning and implementation of the green aspects of their developments. This will both assure that the proposals benefit residents, and will increase the likelihood that tenants will understand the changes and maximize the efficiency and other benefits, thus increasing the likelihood of success.

Greening Affordable Housing

Advocates should also reach out to environmental, energy, and transit advocates to find common ground to create a stronger progressive coalition for green communities and to assist in making certain green investments and benefits reach the lowest income households.

What to Say to Legislators

Advocates should say to legislators that:

- It is important to support increased green building and energy efficiency requirements in federally assisted housing that do not increase the housing cost burden of low income tenants, limit the usefulness of the properties to the lowest income households, or hinder the preservation of existing units.
- Funding for investments in green low income homes should be a priority in energy and climate change legislation.
- Energy-efficiency and other green investments in low income housing will provide considerable public and environmental benefits as it is likely to be older housing in need of maintenance with tenants and often owners who lack sufficient resources to make their own investments in greening.
- Investments in energy efficiency in programs such as public housing and Section 8 project-based housing provide an immediate return to the U.S. Treasury by reducing HUD and USDA's utility costs in these programs.

For More Information

EPA's Green Building website · www.epa.gov/greenhomes/index.htm

DOE's Green Building website · www.eere.energy.gov/topics/homes.html

HUD's Green Building website · www.hud.gov/offices/cpd/affordablehousing/training/web/energy/help/green.cfm

Enterprise Community Partners · www.greencommunitiesonline.org/

Global Green USA · www.globalgreen.org

U.S. Green Building Council · www.usgbc.org/

See also: *Weatherization Assistance Program, Climate Change and Affordable Housing.*

Healthy Homes

By Patrick MacRoy, Director of Community-Based Projects, National Center for Healthy Housing

Indoor pollution and hazards in our housing typically pose far greater risks to children's health than outdoor exposures, because children spend as much as 90% of their time indoors and because toxic substances can reach more concentrated levels than they do outside. Of particular concern are older, dilapidated homes that are more likely to pose the greatest hazards. Such homes also more often have a combination of health hazards, including: lead dust and deteriorated paint; conditions that cause and worsen asthma, such as dust mites, molds and pests; carcinogens, such as asbestos, radon and pesticides; and other toxins, such as carbon monoxide.

In 2010, the key legislative issue related to health and housing remains the passage of comprehensive healthy homes legislation in Congress to catalyze national leadership and accountability among federal agencies.

Issue Summary

Recent research confirms that housing policy has an important impact on public health and that any effective public health agenda must include a housing component. This research has produced several important findings that should inform housing and health policy.

The long-term effects of housing-related health hazards are alarming. Lead poisoning, chronic low-level carbon monoxide exposure and asthma all profoundly interfere with a child's ability to learn and perform in school. The economic costs to society for lead poisoning alone have been recently estimated to be \$44 billion. There are also substantial health effects, such as asthma and injuries that have significant costs as well encompassing lost learning and earning potential of children, lost work days for parents caring for ill children, medical expenses including emergency room visits, and special education costs. Asthma, for example, costs the U.S. economy \$16 billion each year in direct and indirect expenses.

The disparities in health impacts are striking, and the burden of housing-related health hazards falls disproportionately on our most vulnerable children and communities. African-American children are twice as likely to have asthma and are six times more likely to die from it than white children. Households with annual incomes less than \$30,000 are twice as likely as others to have lead hazards in their homes. Children from low income families are eight times more likely to be lead-poisoned than those from higher-income families, and African American children are five times more likely than whites to be lead-poisoned.

The coexistence and cumulative effect of multiple hazards demands careful attention, coordinated assessment and remediation activities, and a "whole-house" approach. Inadequate ventilation increases the concentration of indoor air pollutants such as radon and carbon monoxide, and exacerbates moisture and humidity problems. Moisture causes paint deterioration, which puts children at risk of exposure to leaded dust and paint chips. Moisture also encourages growth of mold, mildew, dust mites, and microbes, which contribute to asthma and other respiratory diseases. Asthma is an allergic reaction to certain triggers such as dust, mold, pests (such as cockroaches, rats and mice), cold air, and dry heat. Use of common pesticides to control infestations contaminates homes with known carcinogens.

The ballooning expenses for medical care and other costs of housing-related health hazards create justification for investments in primary prevention to address the panoply of unhealthy housing conditions before they cause illness. Attention to hazards in homes must shift to a comprehensive whole-house approach because housing-related health hazards often have overlapping effects, causes and solutions, and because solutions and opportunities may arise through weatherization and rehabilitation program work.

As the federal government continues to invest in weatherization and other energy saving measures, advocates should ensure these funds, at a minimum, avoid creating new health hazards, and at best help address existing hazards. Improperly disturbing lead-based paint may cause lead poisoning, for example, and appropriate controls

will be necessary. However, many weatherization treatments will have healthy homes benefits as well, such as window replacement that can also help with lead poisoning, and roof and insulation repair that may help reduce mold intrusion.

The good news is that much of the infrastructure to achieve healthy housing is in place. Unfortunately, numerous existing programs are routinely missing opportunities to make housing healthier. Modest adjustments in policies and practice could harness missed opportunities and maximize resources and results.

What Advocates Need to Know Now

Healthy Homes bill. In the last (110th) Congress, Senator Jack Reed (D-RI) introduced legislation (S.3654) that would help move the federal government towards an integrated approach in addressing health hazards in housing. In the current session of Congress, a similar proposal has been introduced in the House as H.R. 3891, and Senator Reed is expected to re-introduce his bill soon.

Senator Reed's bill emphasized cost-effective approaches and market-based incentives to make homes healthier and safer without detracting from their affordability. The multi-faceted legislation aimed to improve research, enhance the capacity of federal programs, and expand national outreach efforts. The Senate bill is expected to include provisions to:

- Provide funding for existing federal housing programs, such as the Community Development Block Grant program, the HOME Investment Partnerships Program, and the Low Income Home Energy Assistance Program, to add healthy homes components to their programs.
- Leverage private market interest in healthy homes by creating a voluntary "Healthy Homes Seal of Approval" modeled after the successful Energy Star program.
- Authorize \$7 million for each of the next five years for the National Institute of Environmental Health Science and the Centers for Disease Control and Prevention (CDC) to evaluate the health risks and human health effects of indoor exposure to chemical pollutants including carbon monoxide, chemical asthma triggers, and common household and garden pesticides.
- Authorize \$6 million for HUD to study methods for the assessment and control of housing-related health hazards.
- Provide \$10 million for HUD and CDC to study the indoor environmental quality of existing housing and to create a system for monitoring housing related hazards.

Community Building Code bill. Additionally, Congress is expected to consider S. 970, the Community Building Code Administration Grant Act of 2009. Introduced by Senator Mary Landrieu (D-LA), this bill would create a competitive grant program administered by HUD to support local code enforcement, including 'proactive' or 'systematic' enforcement that is based on routine inspections instead of complaint. Experience in many localities have shown that regular inspections, particularly of rental housing, can result in improved housing quality and decreased health risks.

Tips for Local Success

Many communities have improved the quality of and eliminated health hazards from their housing stocks by implementing or better enforcing minimum housing codes. For example, sanitary codes prohibit peeling paint, standing water, chronic moisture, roof and plumbing leaks, and pest infestation. Many localities have started requiring the presence of carbon monoxide detectors in new and existing housing and the International Code Council adopted changes to the model code requiring carbon monoxide detectors in new homes with fuel-burning appliances or attached garages. Increasing public awareness of mold and concern about other housing-related hazards is fueling increased attention to state and local regulation of healthy homes issues.

For more information on housing codes and how to help fight for a model building code that addresses health considerations, see http://www.afhh.org/pol/pol_housing_codes.htm

What to Say to Legislators

Call your Members of Congress and ask to speak to the person who deals with housing policy with the message requesting that she or he:

- Provide \$40 million for HUD's Healthy Homes programs, as proposed by the President, to identify, document, and implement effective methods of reducing hazards in the home environment.
- Add another \$100 million to the President's request for Lead Hazard Control and Lead Hazard Reduction Demonstration grants programs, for a total of \$194 million, through which communities can fix lead and other health hazards in homes.

For More Information

National Center for Healthy Housing · www.nchh.org

National Safe and Healthy Housing Coalition · <http://www.nchh.org/Policy/National-Safe-and-Healthy-Housing-Coalition.aspx>

See also: *Lead Hazard Control Programs*.

HOME Investment Partnerships Program

By Ed Gramlich, Regulatory Director/State Partner Liaison, National Low Income Housing Coalition

The HOME Investment Partnerships Program (HOME) is a federal block grant program designed to expand the supply of decent, affordable housing for lower income people.

The HOME program is administered by the Office of Affordable Housing Programs in HUD's Office of Community Planning and Development (CPD).

History

The HOME Program was authorized by Congress in 1990 as part of the Cranston-Gonzalez National Affordable Housing Act.

Program Summary

HOME is a federal block grant to participating jurisdictions (PJs, which are states and certain localities), that use the funds to provide affordable low income housing. States and localities use the funds for a variety of rental and homeownership activities. In general, all HOME money must benefit people with low incomes, rents must be affordable, and units must remain affordable for a period of time.

Eligible activities. HOME dollars can be used as a grant or a loan to meet a variety of development costs such as buying existing housing or vacant land for affordable housing, building new housing, rehabilitating existing housing, demolition to make way for affordable housing, relocation, site improvements, and various “soft costs” such as engineering plans, attorneys’ fees, title search and fair housing services. HOME can also be used to help people purchase and/or rehabilitate a home by offering loans, loan guarantees or downpayment assistance. Tenants can be given grants for security deposits and rental assistance, in order that they can pay no more than 30% of their income for rent and utilities. Although tenant-based assistance agreements are limited to two-year terms, they can be renewed without limit.

At least 15% of a participating jurisdiction’s HOME funds must be spent for housing that is developed, sponsored, or owned by a community-based housing development organization, or Community-based Housing Development Organizations (CHDO; see gray box for more information). Up to 10% of the CHDO set-aside can be used to provide loans for project-specific technical assistance and site control (such as feasibility studies and consultants) as well as for seed money to cover pre-construction costs (such as architectural plans and zoning approval). If a PJ fails to reserve any portion of the minimum 15% CHDO set-aside within two years, the PJ (and low income residents) lose that amount of money.

PJs can spend no more than 10% of their HOME dollars for overall program planning and administration, but there is no set limit on the use of HOME funds for project-specific administrative costs. Up to 5% of a PJ’s HOME funds can be given to CHDOs for operating expenses. (This amount is separate and apart from the minimum 15% CHDO set-aside and does not count against the PJ’s 10% cap on administrative uses.)

Community-based Housing Development Organizations (CHDOs). Any nonprofit can receive a HOME grant or loan to carry out any eligible activity. But not every nonprofit is a CHDO. In order to be considered a CHDO, the law requires accountability to low income community residents through significant representation on the organization’s governing board. However, the regulations merely require that one-third of a CHDO’s board members be elected representatives of low income neighborhood organizations, residents of low income neighborhoods, or other low income community residents. Since a low income neighborhood is one where only 51% of the residents have incomes below 80% of AMI, it is possible that more affluent people with very different priorities could be on a CHDO board. Also, because the regulations allow “community” to be defined as broadly as an entire city, county or metropolitan area, it is possible to construct a CHDO that is not accountable to low income residents in a HOME project’s neighborhood.

Among other limitations, PJs cannot spend HOME dollars on public or assisted housing modernization, operation, or preservation.

Formula allocation. A formula based on six factors reflecting measures of poverty and the condition and supply of the rental housing stock determines which local jurisdictions are PJs. Jurisdictions that do not meet the formula's threshold can get together with neighboring jurisdictions to form a 'consortium' in order to get HOME funding.

Each year, the formula distributes 60% of the HOME dollars to local governments and consortia; the remaining 40% is allocated to states. Local PJs are eligible for an allocation of at least \$500,000. Each state receives its formula allocation or \$3 million, whichever is greater. The state share is intended for small cities, towns, and rural areas not receiving HOME money directly from HUD. Every HOME dollar must be matched by 25 cents of state, local or private contributions, which can be cash (but not Community Development Block Grant funding), bond financing proceeds, donated materials, labor or property, and other non-cash contributions.

Beneficiaries. When HOME is used to assist renters, at least 90% of the units must be occupied by households with incomes below 60% of the area median income (AMI); the remaining 10% of the rental units can benefit those with incomes up to 80% of AMI ('low income'). If a rental project has five or more HOME units, at least 20% of the HOME units must be occupied by households with incomes below 50% of AMI ('very low income'). When HOME is used to assist people who are homeowners or who will become homeowners, all of that money must be used for housing occupied by households with incomes below 80% of AMI. These are minimum standards required by law.

Affordability. To qualify as affordable rental housing, rent can be no greater than the fair market rent (FMR) or 30% of the adjusted income of a hypothetical household with an annual income of 65% of AMI - whichever is lower. In projects with five or more HOME units in which at least 20% of the HOME units must be occupied by households with very low incomes, rent is affordable to them if it less than 30% of their adjusted income or less than 30% of the income of a hypothetical household with an annual income at 50% of AMI. Actual rent limit figures are posted on the HOME program web page at: www.hud.gov/offices/cpd/affordablehousing/programs/home/limits/rent.

A rental project must remain affordable for a minimum number of years. Newly constructed projects must remain affordable for 20 years. Existing housing that is either purchased or rehabilitated must remain affordable for 15 years if more than \$40,000 per unit is spent, 10 years if between \$15,000 and \$40,000 per unit is spent, and five years if less than \$15,000 per unit is spent.

Homeowner-assisted units are considered affordable if, in general, the value of the house after assistance is less than 95% of the median area purchase price. Homeowner units must remain affordable for the same periods mentioned above. PJs must have 'resale' and 'recapture' provisions to ensure affordability during the required periods. A resale provision must require purchase by an income-eligible household if an original homeowner sells before the end of the affordability period. A recapture provision must ensure that all or a portion of HOME assistance is recouped if an owner sells or is foreclosed upon.

Nationally, since 1992 (as of June 30, 2009) HOME has delivered 912,390 completed physical units and provided 210,203 tenant-based rental assistance contracts. Out of the 912,390 physical units, 38% (345,563) were rental units, 20% (181,543) were homeowner units and 42% (385,284) were home buyer units.

Households with incomes below 30% of AMI occupied 25.3% of the physical units, 43.4% (149,974) of the physical rental units, 31.4% (57,000) of the homeowner units, and 6.3% (24,273) of the home buyer units. Nearly 79% (165,220) of the tenant-based rental assistance units were occupied by extremely low income people.

HOME Investment Partnerships Program

Funding

In FY10, Congress appropriated \$1.825 billion for HOME formula grants. The Administration's FY11 budget request is for \$1.65 billion.

What Advocates Need to Know Now

HUD career staff have long held ideas for changes to HOME regulations. In January of 2010, two informal listening sessions were held to get input regarding improving CHDO performance, facilitating use of HOME as part of transit oriented development, fostering energy efficiency, and ensuring quality rehabilitation. As of the date of publication, changes to the regulations have not been proposed. In any proposal, advocates should work to improve HOME's targeting to people with 'extremely low' incomes, incomes below 30% of AMI.

Tips for Local Success

At the local level advocates will want to continue to be actively involved in the Consolidated Plan (ConPlan) Annual Action Plan public participation process in order to influence the type of housing, location, and beneficiaries of HOME dollars.

Advocates can best influence how HOME dollars are allocated if they know how a jurisdiction has spent its allocations. To monitor your PJ's accomplishments, there are several reports on HUD's web site: www.hud.gov/offices/cpd/affordablehousing/reports, that are useful to local advocates.

- The monthly Open Activities report lists each HOME project in a PJ, indicating tenure type (renter or homeowner), type of activity (such as rehabilitation, acquisition or new construction), zip code, number of units, and amount budgeted and spent.
- The Vacant Unit Reports identify units marked 'vacant' in HUD's reporting system.
- SNAPSHOT is a quarterly cumulative report that shows, in the aggregate, income category, race, household size, and household type of beneficiaries, as well as the number of units completed for each type of housing.
- Dashboard Reports are quarterly reports intended to provide a quick overview of a jurisdiction's use of HOME dollars. Using charts and graphs, Dashboard Reports show:
 - Cumulative HOME dollars received and percentage disbursed, committed, and uncommitted;
 - Cumulative number of units completed, and percentage of rental, homeowner rehab, and home buyer units;
 - Net number of units completed in the most recent quarter, with percentage of rental, homeowner rehab, and home buyer units;
 - Cumulative number and the last quarter's net new number of tenant-based rental assistance units;
 - Race and ethnicity percentages among rental, homeowner rehab, and home buyer projects; and
 - Average total development cost per unit for rental, homeowner rehab, and home buyer projects.

What to Say to Legislators

The major responsibility of advocates is to continue pushing for increased federal appropriations. Advocates should also work to improve HOME's targeting to people with 'extremely low' incomes.

For More Information

National Low Income Housing Coalition · 202-662-1530 · www.nlihc.org

HOME Program Information · 202-708-2470 · www.hud.gov/offices/cpd/affordablehousing/programs/home/index.cfm

See also: *Consolidated Plan*.

Homelessness Prevention and Rapid Re-Housing

By Norm Suchar, Senior Policy Analyst, National Alliance to End Homelessness

The American Recovery and Reinvestment Act of 2009 (ARRA) included \$1.5 billion for a new Homelessness Prevention and Rapid Re-Housing Program (HPRP). The program distributed funds by formula to city, county, and state governments for the purpose of preventing homelessness and quickly re-housing people who become homeless.

HPRP is operated by HUD's Office of Community Planning and Development.

History

In February 2009, Congress passed ARRA, its economic stimulus bill that provided nearly \$800 billion to help improve the economy. One provision was a new Homelessness Prevention Fund, which became HPRP. HUD quickly created guidelines for the program, and most communities began operations in the fall of 2009.

Program Summary

HPRP funding was distributed, through a formula similar to the one that HUD uses for the Community Development Block Grants (CDBGs) program, to city, county, and state governments. However, some of the smaller CDBG grantees did not receive awards.

Eligible activities include: short- or medium-term rental assistance; housing relocation and stabilization services; housing search assistance; mediation or outreach to property owners; security or utility assistance; case management; and other activities.

Local and state governments have a great deal of flexibility with respect to the design of their programs and how funds are distributed. Eligible recipients include people with income below 50% of area median who are likely to become homeless without assistance. HUD strongly encourages communities to provide assistance to people most likely to become homeless "but for" the assistance that HPRP provides.

Grantees have until September 2011 to expend 60% of funds and until September 2012 to expend all funds. Information about people served and how funds are spent is tracked in Homelessness Management Information Systems (HMIS) or similar databases used by communities for their HUD homeless assistance programs.

HPRP is very similar to the new Emergency Solutions Grant (ESG) program that was included in the Homeless Emergency and Rapid Transition to Housing Act of 2009 (HEARTH). As the new ESG program is implemented, many lessons will be taken from HPRP.

Funding

Congress provided \$1.5 billion for HPRP through ARRA. HPRP is not expected to become a permanent program; the Administration has not sought additional funding in its FY11 budget proposal.

What Advocates Need to Know Now

HPRP is the government's primary response to combat the increasing homelessness being caused by the recession. Because the recession is much more severe than was originally anticipated, advocates are seeking an additional allocation of \$1 billion for HPRP in the jobs bills that are being considered in Congress.

Tips for Local Success

After the initial implementation of HPRP, many communities are evaluating their programs and seeking to improve the impact of the homelessness prevention and rapid re-housing programs created by HPRP. Advocates should encourage their HPRP providers to focus on people who are already homeless or those at highest risk of becoming homeless, especially those with little or no income and who have been forced to double up.

Homelessness Prevention and Rapid Re-Housing

What to Say to Legislators

HPRP was a perfectly timed response to the current recession. Thanks to HPRP many thousands of episodes of potential homelessness have been averted. HPRP has also helped create and retain jobs for case managers and housing location specialists.

With the recession being much worse than expected, additional HPRP resources are needed to serve the millions of people who are being placed at risk of homelessness as a result. Advocates should ask their legislators to provide an additional \$1 billion for HPRP in jobs legislation considered in 2010.

For More Information

National Alliance to End Homelessness · 202-638-1526 · www.endhomelessness.org

See also: *The McKinney-Vento Homeless Assistance Programs*.

HOPE VI/ Choice Neighborhoods Initiative

By Linda Couch, Vice President for Policy, National Low Income Housing Coalition

The HOPE VI public housing program provides funds to revitalize the nation's severely distressed public housing stock through demolition, construction, rehabilitation, and other physical improvements; development of replacement housing; and the provision of community and supportive services. Legislation to reauthorize the HOPE VI program could bring much-needed reforms to HOPE VI, which has resulted in the demolition of more than 155,000 public housing units but the rebuilding of only 50,000 of these public housing units.

The Choice Neighborhoods Initiative (CNI) is HUD's proposed successor to the HOPE VI program. Like HOPE VI, CNI would focus on severely distressed public housing properties and expand HOPE VI's reach to also include assisted housing properties and entire neighborhoods. In FY10, Congress continued to fund HOPE VI and also included \$65 million for a CNI demonstration.

Both HOPE VI and CNI grants are awarded through HUD's Office of Public and Indian Housing.

History and Purpose

The HOPE VI program. In 1989, Congress established the National Commission on Severely Distressed Public Housing. The commission was charged with identifying severely distressed public housing and devising a plan to address the problem, and the commission submitted its findings to Congress in 1992. The commission found that 6% of public housing units, or 86,000 units, were severely distressed and recommended that Congress create a revitalization plan.

As a result, in 1992, Congress created the HOPE VI program in an appropriations act, with the goals of revitalizing dilapidated public housing units. Funds allocated to the HOPE VI program are used for eligible activities under the program, including demolishing public housing units, rehabilitating units, and relocating residents. The program was funded in annual appropriations bills.

In 1999, Congress for the first time passed authorizing legislation for HOPE VI within the Quality Housing and Work Responsibility Act of 1998 (QHWRA; pronounced kwharra). Under QHWRA, the purposes of the program were to improve the living environment of public housing residents, to revitalize the sites on which severely distressed public housing units were located, to decrease concentrations of poverty, and to build sustainable communities.

HOPE VI has since been reauthorized in various pieces of legislation for one- to three-year periods.

In 2003, protections were added for tenants, such as requiring the HUD Secretary to involve affected public housing residents at the beginning and during the planning process. In addition, during the grant selection process, a criterion was added to reward minimizing the permanent displacement of current residents of public housing and prioritizing tenants of the existing developments to return to the revitalized development.

Advocates have been troubled that, under the HOPE VI program, public housing agencies (PHAs) have demolished viable units and displaced families.

The Choice Neighborhoods Initiative. HUD first proposed CNI in its FY10 budget request to Congress, when it sought \$250 million for CNI and no funding for HOPE VI. Congress did end up appropriating \$250 million, but \$135 million of this was for HOPE VI and the other \$65 million for CNI in FY09. HUD is expected to release a Notice of Funds Availability (NOFA) in the spring of 2010 detailing program guidelines for this first round of CNI funding.

Programs Summary

The HOPE VI program. The HOPE VI program is intended to benefit the current residents of severely distressed public housing, residents of the revitalized units, and communities surrounding the revitalized sites. The program is supposed to improve families' quality of life by moving them closer to jobs and better quality schools, which has occurred for some families. But HOPE VI has not been beneficial to everyone. Approximately 30% of residents surveyed continue to live in high-poverty and high-crime neighborhoods. A 2010 report from the University of Illinois at Chicago showed that most former residents of Chicago's now-demolished public housing still live in segregated, low income neighborhoods despite using housing vouchers to subsidize their rents.

HOPE VI grants are awarded annually on a competitive basis, generally to five or six housing agencies a year. HUD evaluates grants based on four factors: demonstrated need for revitalization assistance, capacity of applicants to use grants effectively, quality of proposed revitalization plans, and potential for applicants to use grants to leverage funds from other sources.

Any PHA that operates public housing units is eligible for a HOPE VI grant. HOPE VI grants are used for the capital costs of demolition, construction, rehabilitation and other physical improvements, development of replacement housing, and community and supportive services. PHAs administer the program and can use the grants in conjunction with modernization funds or other HUD funds, as well as municipal and state contributions, public and private loans, and Low Income Housing Tax Credit (LIHTC) equity.

The Choice Neighborhoods Initiative. While HOPE VI focused on grants to revitalize severely distressed public housing, CNI will focus its resources on transforming entire neighborhoods. The purposes of CNI, as laid out in HUD's draft 2009 proposal, are:

- To transform neighborhoods of extreme poverty into mixed-income neighborhoods of long-term viability by revitalizing severely distressed housing;
- To improve access to economic opportunities, and investing and leveraging investments in well-functioning services, educational opportunities, public assets, public transportation, and improved access to jobs;
- To grow communities and metropolitan areas by concentrating and coordinating federal funding for public transportation, education, housing, energy, supportive services, and environmental programs and initiatives; and
- To support positive outcomes for families, including improvements in educational achievements and economic self-sufficiency.

HUD would award CNI grants competitively to local governments, public housing agencies, community development corporations, assisted housing owners, and other for-profit and nonprofit entities.

In 2010, HUD released a revised CNI proposal, which at least the House Committee on Financial Services is expected to consider. NLIHC has recommended that the CNI program do more to preserve and expand public and private affordable housing in targeted neighborhoods; that the proposal's requirement to replace all revitalized units be strengthened to ensure one-for-one replacement of homes affordable to extremely low income people; have more explicit resident participation requirements; and provide additional supportive services funds for residents, among other suggestions.

Funding

HOPE VI funding had been at \$100 million a year for several years. For FY10, the program received \$135 million. HUD is seeking no funding for HOPE VI in FY11.

For FY10, the CNI demonstration program received \$65 million. HUD is seeking \$250 million for CNI in FY11.

What Advocates Need to Know Now

As the annual funding public housing agencies receive continues to be seriously insufficient for capital repair needs, the competition for funds from a program like HOPE VI is great. The Center on Budget and Policy Priorities estimates that at least several hundred public housing developments, out of about 14,000 developments, would qualify for the 'severely distressed' status required by the HOPE VI program.

Previous attempts at reform. Before the Obama Administration introduced its proposal to turn HOPE VI into CNI, advocates were working to improve the HOPE VI program. In a victory for low income housing tenants and advocates, the House passed a bill in 2008 (H.R. 3524) that would make major improvements to the HOPE VI program, including requiring the one-for-one replacement of units revitalized through HOPE VI (with a limited waiver) and providing that residents of the original housing can live in the revitalized housing without having additional screening or eligibility requirements imposed on them.

The bill would have also established 'mandatory core components' of any proposed revitalization plan in order to be considered by the HUD Secretary for HOPE VI funding. The mandatory core components are: evidence of severe distress, resident involvement and services, a temporary relocation plan, resident right to expanded housing opportunities, one-for-one replacement, fair housing, and green developments. The bill would have also required PHAs to provide comprehensive relocation assistance to each household living at the site until two years after the development period under the HOPE VI plan or the date on which all funding for community and supportive services has been expended, whichever comes first.

Senate-sponsored legislation, which would not have improved the HOPE VI program in these key areas, did not move in the 110th Congress.

HOPE VI reauthorizing legislation is unlikely in the 111th Congress, as Congress is expected to take up HUD's CNI proposal. HUD is expected to release an updated CNI proposal, based on comments it received on its draft 2009 proposal, in the spring of 2010.

Regardless of the program, the goals of public housing preservation, such as preserving viable units, protecting residents' rights and providing affordable housing to extremely poor people, should be applied to all public housing, including those going through demolition and disposition.

Tips for Local Success

Because Congress provided funds for both HOPE VI and CNI in FY10, advocates should be aware of local housing agencies' plans to apply for funding for either program. Advocates should keep an eye on local HOPE VI plans and object to elements that place public housing residents at a disadvantage. Insist that residents be involved in decision-making. Advocates should request an objective assessment of the viability of any public housing that is threatened with demolition and should also demand one-for-one replacement of the public housing units that are lost.

What to Say to Legislators

Legislators should be urged to:

- Support a CNI proposal that includes one-for-one replacement of units, a right of return for residents, meaningful resident participation, and significant supportive services and relocation assistance.
- Do not fund the HOPE VI program until reforms are enacted to ensure a one-for-one replacement of units, increased residents rights to return and other pieces of H.R. 3524 from the 110th Congress.

For More Information

National Low Income Housing Coalition · 202-662-1530 · www.nlihc.org

National Housing Law Project · 510-251-9400 · www.nhlp.org

Center on Budget and Policy Priorities · 202-408-1080 · www.cbpp.org

See also: *Public Housing*.

NLIHC's Public Housing Principles

1. There is an intrinsic value of public housing being publicly owned. Public housing has a critical place among a community's array of housing choices. Public housing serves extremely low and very low income households, groups that most state and local housing resources do not reach.

2. Full resident participation is critical to successful public housing. Involved tenants share responsibility for maintaining their community, have a vested interest in the future of their homes and have a first-hand understanding of how their housing is managed. There must be regular opportunities for meaningful resident input into the operations of public housing. In order for resident participation to be meaningful, residents must be equipped to organize and participate in decision-making processes.

3. At a minimum, current income targeting requirements must be met. At least 40% of new annual admissions must have incomes below 30% of area median income. This is significant because this below 30% AMI population has the nation's most significant housing cost burdens. Nationally, 71% of renters and 64% of owners in this income group pay more than half of their incomes toward housing costs. Public housing serves our nation's most critical housing needs. In 2006, 73% of households in residence had incomes at or below 30% of area median income.

4. Tenant contributions for rents must be affordable. Tenant contributions for rents must be tied to individual household incomes and must be affordable to each household.

5. The need to raise private capital should not drive other decisions that are contrary to the interests of residents and others in need of affordable housing. Where there is private funding of public housing redevelopment, the ongoing federal subsidies must be adequate to ensure that these interests, including the need to serve extremely low income households, the necessity that tenant contributions for rents be affordable to each household and the right of residents and others to participate in the decisions impacting public housing, can be met.

6. Admission criteria should be directly related to an applicant's ability to fulfill the obligations of an assisted lease and individual circumstances must be considered for each applicant who is not categorically excluded.

7. Every revitalization, demolition, and replacement plan must take into account the extent to which public housing in that housing market area has operated to create and perpetuate racial and economic segregation of low income families. Public housing redevelopment, where units are demolished and replaced, must endorse a policy of expansion of public housing opportunities - sufficient to provide realistic public housing opportunities both throughout non-minority communities within the same or other jurisdictions, while at the same time offering newly developed housing in minority, low income communities. Redevelopment of severely distressed public housing, demolition and disposition must provide for the one-for-one replacement of all hard units lost with waivers for extraordinary circumstances. Residents impacted by redevelopment must have the right to choose to return to a redeveloped on-site unit, or to choose to move to an assisted unit in a low poverty, racially integrated neighborhood. Existing residents should fully benefit from any redevelopment, whether on-site or off-site, and must not be subject to admission screening criteria.

Housing as a Human Right

By Eric Tars, Human Rights Program Director and Children and Youth Staff Attorney, National Law Center on Homelessness & Poverty

Recent polling indicates that three-quarters of Americans believe that adequate housing is a human right, and two-thirds believe that government programs need to be expanded to ensure this right. As President Obama has stated, “It is not acceptable for children and families to be without a roof over their heads in a country as wealthy as ours.”

Housing advocates in the United States can and should use international human rights standards to reframe public debate, craft and support legislative proposals, supplement legal claims in court, advocate in international fora, and support community organizing efforts. A new tool to bolster these efforts is the comprehensive report released by the UN Special Rapporteur on the Right to Adequate Housing. Following a mission to the United States, the Rapporteur issued a report in March 2010 that covers the state of affordable and public housing, homelessness, and the foreclosure crisis in the United States, and provides detailed recommendations for federal and local policy reforms.

History

In his 1944 State of the Union address, Franklin Roosevelt declared that the United States “ha[s] accepted, so to speak, a second Bill of Rights under which a new basis of security and prosperity can be established for all regardless of station, race, or creed.” Among these rights, he said, is “[t]he right of every family to a decent home.” While Congress never formally adopted such a bill of rights, President Roosevelt’s speech laid the framework for the idea of economic rights in the United States.

In 1948, the United States signed the Universal Declaration of Human Rights, recognizing housing as a human right. (Eleanor Roosevelt served as a member of the UN’s Commission on Human Rights during this process.) The Universal Declaration was a non-binding declaration, so the right was codified in binding treaty law in the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1966. The United States has signed, but not ratified, the ICESCR, and thus is not strictly bound to uphold the right to housing as framed in that document. However, the United States ratified the International Covenant on Civil and Political Rights (ICCPR) in 1992 and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) in 1994, both of which recognize the right to be free from discrimination, including in housing, on the basis of race, gender, disability, and other status.

The United States signed another declaratory document, the Habitat Agenda in 1996, committing itself to more than 100 housing-related goals. In 2006, the United States approved the UN Basic Principles and Guidelines on Development-Based Evictions, which provide useful standards for ensuring participation of poor and minority groups in zoning and development decisions affecting them.

Other countries have made significant headway in making the right to housing real and legally enforceable. France, Scotland, South Africa, and other countries have adopted a right to housing in their constitutions or legislation, leading to improved housing conditions, and should serve as models for domestic advocates.

Issue Summary

According to UN Committee on Economic, Social and Cultural Rights, which oversees the ICESCR, the human right to housing consists of seven elements: security of tenure; availability of services, materials, and infrastructure; affordability; accessibility; habitability; location; and cultural adequacy.

In the human rights framework, every right creates a corresponding duty on the part of the government to respect, protect, and fulfill the right. Having the right to housing does not mean that the government must build a house for every person in America and give it to them free of charge. It does, however, allocate ultimate responsibility to the government for ensuring all people have access to adequate housing.

Housing as a Human Right

The government can choose how it will implement the right, whether through devoting resources to public housing and vouchers; by creating incentives for private development of affordable housing such as inclusionary zoning or the Low Income Housing Tax Credit; through market regulation such as rent control; through legal due process protections from eviction or foreclosure; by ensuring habitable conditions through housing codes and inspections; or by other means. Contrary to our current framework which views housing as a commodity to be determined primarily by the market, the right to housing framework gives advocates a tool for holding each level of government accountable if those elements are not all satisfied.

Scotland provides us with a good example of the difference the right to housing approach can make. The Homeless Etc. (Scotland) Act of 2003 includes the right for all homeless persons to be immediately housed and the right to long-term, supportive housing for as long as it is needed for priority groups – and by 2012, for all. (Priority groups include particularly at-risk individuals, such as former prisoners, who are excluded from much housing assistance in the United States.) The law also includes an individual right to sue if one believes these rights are not being met, and requires jurisdictions to plan for development of adequate affordable housing supply. Complementary policies include the right to purchase public housing units and automatic referrals by banks to foreclosure prevention programs to help people remain in their homes. All these elements work together to ensure the right to housing is upheld.

What Advocates Need to Know Now

U.S. groups are using international mechanisms to promote housing rights. In 2009, advocates organized two high-profile visits by human rights officials to the U.S. to examine housing issues. The UN Habitat Advisory Group on Forced Evictions visited New Orleans in July, 2009, and the UN Special Rapporteur on the Right to Adequate Housing visited New York, Chicago, New Orleans, Pine Ridge Indian Reservation, Los Angeles, and Washington, DC, in October and November, 2009. In both visits, officials met directly with local and national advocates and government officials. Each visit drew national and local news coverage and helped spur the growth of local movements for housing rights.

The report of the Special Rapporteur on the Right to Adequate Housing on her U.S. mission, issued in March 2010, is an extraordinarily detailed assessment of housing policies in the United States. The report contains six pages of specific conclusions and recommendations, based in large part on recommendations from U.S. advocates. These recommendations range from one-for-one replacement of subsidized housing units to the condemnation of the criminalization of homelessness.

The report of the Advisory Group on Forced Evictions on New Orleans, to be issued in April 2010, makes a similar detailed assessment of the post-Hurricane Katrina housing rights situation in New Orleans and provides recommendations for their implementation.

Advocates should review both these documents and use them in supporting their own policy initiatives.

In December 2010, the UN Human Rights Council will review the United States under the Universal Periodic Review mechanism. It will examine the country's compliance with the recommendations of the Advisory Group and Special Rapporteur reports, as well as other treaty body recommendations. U.S. housing advocates can participate in this process, and should take advantage of this and similar opportunities to raise these recommendations with their local, state, and federal officials and hold them accountable to human rights standards. The National Law Center on Homelessness & Poverty (contact below) is coordinating housing advocates in participating in this process.

Representative Maxine Waters (D-CA), Chair of the House Subcommittee on Housing and Community Opportunity, introduced H.R. 582 in June 2009, recognizing a child's right to housing together with their families, as a first step toward broader recognition of the right to housing. Representative John Lewis (D-GA) introduced H.R. 416 in May 2009, recognizing the sense of the House that the Senate should ratify human rights treaties, including the ICESCR. Groups are currently seeking co-sponsors for both bills.

Tips for Local Success

Local groups wishing to build on the movement to recognize the human right to housing can use international standards in many different ways to promote policy change, from rallying slogans to concrete legislative proposals. Groups can start with a non-binding resolution stating that their locality recognizes housing as a human right in the context of the ongoing economic and foreclosure crisis. Advocates can then build on that commitment to help pass more substantive legislation, or use international standards to measure local violations of housing rights. Using international mechanisms, such as the Special Rapporteur visit and Universal Periodic Review process described above, can also help cast an international spotlight on local issues.

What to Say to Legislators

It is important for legislators and their staff to hear their constituents say, “Housing is a human right,” as an initial step in reframing the conversation around housing. In talking about human rights, it is often helpful to start with the U.S. origins of these rights in President Roosevelt’s “Second Bill of Rights” and the polling data cited above.

At the federal level, advocates should ask their Representatives to cosponsor H.R. 582, recognizing a right to housing for children, and H.R. 416, calling on the Senate to ratify all outstanding human rights treaties. In the Senate, advocates should encourage Senate staff to ratify the ICESCR as a basis for grounding economic recovery efforts in a rights-based framework.

For More Information

National Law Center on Homelessness and Poverty · 202-638-2535 · www.nlchp.org · wiki.nlchp.org

The report of the Special Rapporteur on the Right to Adequate Housing on her mission to the United States is available at: http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A.HRC.13.20.Add.4_en.pdf

The report of the Advisory Group on Forced Evictions mission to New Orleans will be available, once formally released, at: <http://wiki.nlchp.org/display/Manual/New+Orleans+and+Gulf+Coast>

Housing Bonds

By Mindy La Branche, Legislative and Policy Associate, National Council of State Housing Agencies

Housing bonds are used to finance low-interest mortgages for low and moderate income homebuyers, as well as for the acquisition, construction, and rehabilitation of multifamily housing for low income renters. Investors purchase housing bonds at low interest rates because the income from them is tax-free. The interest savings made possible by the tax exemption is passed on to homebuyers and renters in reduced housing costs. Unfortunately, the financial crisis has made it nearly impossible for housing finance agencies (HFAs) to sell housing bonds at rates that allow them to lend the proceeds affordably.

The housing bond program is overseen by the Department of Treasury.

History

Private activity bonds were established under the Tax Code of 1954. These bonds were known as Industrial Development Bonds until the Tax Reform Act of 1986 and other legislation changed their name.

Program Summary

Private activity bonds, a category that includes housing bonds, are distinct from other tax-exempt bonds because they are issued for private activities as opposed to governmental activities. However, they must fulfill public purposes, and each private activity bond issuer must hold public hearings to demonstrate such public purposes. Private activity bonds are tax-exempt for the purchaser and are issued by state and local governments to support the stated public purpose. Purchasers, or investors, of private bonds can include individuals and corporations. In addition to housing, private activity bonds can be issued for public purposes that include student loans, infrastructure, and redevelopment activities.

In the case of housing bonds, HFAs issue have the authority under the Internal Revenue Code to issue bonds that support affordable housing activities in their states, and they do so as a way to access private financing. The individual and corporate investors that traditionally purchase housing bonds include Fannie Mae and Freddie Mac (the housing government sponsored enterprises). HFAs sell the tax-exempt bonds to these investors, who are willing to purchase bonds paying lower than market interest rates because of the bonds' tax-exempt status. This interest savings is passed on through private lenders to support housing purchase and development.

There are two main types of housing bonds: Mortgage Revenue Bonds (MRBs) finance single-family home purchases for qualified low income homebuyers. Multifamily housing bonds finance the acquisition, construction, and rehabilitation of multifamily housing.

Mortgage Revenue Bonds. Proceeds from MRBs finance discount mortgages to support the purchase of single-family homes. Investors purchase housing bonds at low interest rates because the income from them is tax-free. The interest savings made possible by the tax exemption is passed on to homebuyers in reduced housing costs.

By lowering the interest rate, MRBs make homeownership affordable for families who would not be able to meet mortgage payments on a conventional loan. Congress limits MRB mortgages to first-time homebuyers who earn no more than the greater of statewide or area median income (AMI); families of three or more can earn up to 115% of the greater of area or statewide median income. The average MRB borrower earns two-thirds of the national median income and half the average conventional homebuyer's income. Homes purchased with MRB mortgages are limited to 90% of the average area purchase price.

Interested borrowers should contact their state or local HFA for information on obtaining an MRB loan.

Under the the Housing and Economic Recovery Act of 2008 (HERA), MRBs can temporarily be used to refinance adjustable rate mortgages originated after December 31, 2001 and before January 1, 2008. The additional bond and refinancing authority expire on December 31, 2010.

Multifamily bonds. Multifamily bonds provide funding for multifamily housing development that reaches income groups the market might not otherwise serve.

Multifamily housing bonds finance the acquisition, construction, or rehabilitation of affordable rental housing. Developments financed with multifamily housing bonds must set aside at least 40% of their apartments for families with incomes of 60% of AMI or less, or 20% for families with incomes of 50% of AMI or less. These apartments must remain affordable for at least 15 years.

States increasingly combine multifamily bonds with other resources, such as Low Income Housing Tax Credits (LIHTC) and HOME Investment Partnerships Program funds, to serve even lower income families for longer periods of time than the law requires. Furthermore, many multifamily bonds finance special needs housing, such as housing for the homeless, transitional housing, senior housing, assisted-living housing, housing for persons with disabilities, housing for persons with AIDS, migrant worker housing, and rural housing.

Funding

Under law, the annual issuance of private activity bonds, including MRBs and multifamily bonds, is capped based on population and indexed to inflation. The 2010 cap is \$90 per capita, with a minimum of \$273.8 million in private activity bonding authority allowed each state.

In 2008, under HERA, Congress provided \$11 billion in additional housing bond authority to the states. HERA also allows states to use MRBs for refinancing adjustable rate mortgages originated after December 31, 2001 and before January 1, 2008. The additional bond and refinancing authority expire on December 31, 2010. States have been largely unable to utilize this three-year (available in 2008-2010) authority in 2008 and 2009 due to the housing bond market freeze.

What Advocates Need to Know Now

In 2008, the most recent year for which data are available, MRBs provided \$10.1 billion to support the purchase of nearly 96,500 homes nationwide. This represents a decrease of \$7.7 billion and more than 30,500 homes from 2007, due to severe disruptions in the capital markets.

States issued over \$4.7 billion in multifamily bonds, and those bonds financed more than 37,800 units in 2008. This represents a decrease of \$1.1 billion in volume and 3,507 units from 2007. The decrease in housing bond volume was caused by a lack of investor activity due to the financial crisis.

HFA Initiative. In October 2009, the Administration announced its HFA Initiative. The two-point plan was designed to help HFAs expand their affordable lending efforts and strengthen their financial standing by overcoming obstacles to both created by the financial crisis. The plan created a temporary housing bond purchase program, through Fannie Mae and Freddie Mac, to fund home loans and finance rental production at affordable rates. It also created a temporary liquidity facility for outstanding HFA Variable Rate Debt (VRD) to strengthen HFA lending capacity. The Initiative required the housing GSEs and HFAs to execute all transactions under it by January 12, 2010.

Under the Initiative, the U.S. Department of Treasury facilitated the sale of \$15.3 billion in housing bond from 49 state HFAs and more than 50 local HFAs. The bond proceeds, in combination with the almost \$9 billion in retail housing bonds the Initiative requires HFAs to issue, will allow HFAs to finance more than 200,000 affordable homes.

The Initiative also provided a dozen state HFAs \$8.2 billion in liquidity to support outstanding bond issues, strengthening their financial footing and freeing more of their resources for housing investment.

Using MRBs, Housing Finance Agencies have made homeownership possible for 4 million low and moderate income

Housing Bonds

families. They help another approximately 100,000 families buy their first homes each year with MRB mortgages. The average income of an MRB borrower in 2008 was just \$46,518, 68% of the national average income.

HFAs have financed an additional 1 million affordable rental apartments with multifamily bonds. More than 40% of all Low Income Housing Tax Credit (LIHTC) apartments are financed with housing bonds. HFAs have produced approximately 2 million rental apartments for families earning 60% of area median income or less with the LIHTC. They add another 140,000 LIHTC apartments every year.

What to Say to Legislators

As a tax program, housing bonds fall under the jurisdiction of the House Committee on Ways and Means and the Senate Committee on Finance. Advocates should speak with the persons in their members' offices responsible for housing and/or tax policy with the message that support is needed for the housing bond market to get affordable mortgage money flowing again to first-time homebuyers, to aid distressed homeowners, and to spur rental housing production.

The Representative or Senator should continue to work with the Administration to encourage its support for housing bond programs through Treasury, Fannie Mae, and Freddie Mac:

- Extend, through 2012, the term during which states may use the additional \$11 billion in housing bond authority HERA provided to stimulate the housing market and support the recovery. States have been largely unable to utilize this three-year (available in 2008-2010) authority in 2008 and 2009 due to the housing bond market freeze;
- Allow housing bond issuers to carry forward unused bond authority from one year to another without designating how they will use that authority; and
- Extend the Housing and Economic Recovery Act's (HERA) Alternative Minimum Tax (AMT) exemption to prior-year housing bond authority carried forward to 2009 or future years and to bonds issued to refund prior-year housing bond. This will increase the attractiveness of these bonds to investors by lowering their tax liability.

For More Information

National Council of State Housing Agencies · 202-624-7710 · www.ncsha.org

Housing Choice Vouchers

By Linda Couch, Vice President for Policy, National Low Income Housing Coalition

Housing Choice Vouchers help people with the lowest incomes find affordable housing in the private housing market by reimbursing the landlord for the difference between what a household can afford to pay in rent and the rent itself. The Housing Choice Voucher program is HUD's largest rental assistance program; it also serves the lowest income people because of deep income targeting guidelines.

In FY11, advocates will seek sufficient resources to renew all vouchers in use as well as funds for at least 250,000 new vouchers. Advocates will also seek passage of reform legislation, known as the Section 8 Voucher Reform Act (SEVRA).

The voucher program is administered by HUD's Office of Public and Indian Housing.

History and Purpose

Federal tenant-based rental assistance was established as part of a major restructuring of federal housing assistance for low income families in 1974. President Richard Nixon supported the creation of the tenant-based Section 8 program as an alternative to the government's involvement in producing affordable multifamily apartments. The program grew incrementally between 1974 and 2002, the first year when no new, incremental vouchers were appropriated.

In FY08, about 15,000 new vouchers were appropriated for special populations, but only after the nation lost more than 150,000 vouchers between FY04 and FY07 due to HUD mismanagement of the program. These new vouchers were the first new vouchers since FY02. About 13,000 and 11,000 new vouchers were provided for in the FY09 and FY10 HUD budgets, for HUD's Family Unification Program and for veterans, respectively.

Program Summary

Today, about 2 million households have HUD Housing Choice Vouchers, also called Section 8 tenant-based assistance. Housing vouchers are one of the major federal programs intended to bridge the gap between the cost of housing and the incomes of low wage earners and people on limited fixed incomes. The Housing Choice Voucher program provides flexibility and options by issuing vouchers to eligible households to help them pay rent in privately owned apartments of the households' choosing.

The housing voucher program has deep income targeting requirements. That is, a majority of its resources must assist extremely poor households. Since 1998, 75% of all new voucher holders must have extremely low incomes, at or below 30% of the area median income (AMI). The remaining 25% of new vouchers can be distributed to tenants with incomes up to 80% of AMI.

HUD has annual contracts with agencies that administer vouchers. Funding provided by Congress is distributed by HUD to these agencies based on the number of vouchers in use in the last year, the cost of vouchers, an increase for inflation as well as other adjustments.

Locally, vouchers are administered by state and local housing agencies, public housing authorities, and community-based organizations. Approximately 2,500 local and state housing agencies administer housing vouchers. These agencies (generally PHAs) distribute vouchers to qualified families who then conduct their own housing searches and identify private apartments with rents within the PHA's rent payment standards. The agency's inspection of the unit must also demonstrate that the unit meets HUD's housing quality standards.

To receive a voucher, residents put their names on the waiting lists of local PHAs. The housing choice voucher program, like all HUD affordable housing programs, is not an entitlement program. Many more people need and

Housing Choice Vouchers

qualify for vouchers than actually receive them. The success of the existing voucher program and any expansion of the voucher program because of new vouchers depend on sufficient annual appropriations.

Generally, voucher-holding tenants pay 30% of their income toward rent. The value of the voucher then makes up the difference between the tenant's rent payment and the housing agency's rent payment standard.

Housing vouchers are portable, meaning families can use them to move nearly anywhere in the country where there is a functioning voucher program; their use is not limited to the jurisdiction of the administering agency. A PHA is permitted to impose some restrictions on portability in the first year if a family did not live in the jurisdiction of the PHA when it applied for assistance. Portability has been restricted or disallowed by some PHAs due to cost constraints of the overall voucher program.

Beginning in 2004, the program went through almost three years of upheaval and poor federal management, which resulted in the loss of more than 150,000 vouchers nationwide. The 110th Congress, in its FY07 appropriations bill for HUD, turned HUD's voucher mismanagement around and began to restabilize the program.

Funding

For FY10, the housing choice voucher program is funded at \$18.18 billion. In FY11, advocates will continue to seek adequate funds for the renewal of all vouchers in use. As the improvements made to the program since 2007 have been implemented, the rate at which vouchers are actually leased up, 'the utilization rate,' is increasing. Increased utilization rates, rising rents and decreasing tenant incomes during the recession have resulted, in some housing markets, in increased funding needs for the voucher program. Advocates will work to ensure all vouchers are renewed in 2010 and in the FY11 HUD budget.

In addition to sufficient funds to ensure PHAs can renew all vouchers currently in use, advocates are calling for a significant infusion of new, incremental vouchers into the housing assistance pool. Advocates are requesting 250,000 new, incremental vouchers in FY11 to meet rising family homelessness and the historic, unmet needs of extremely low income households with severe housing cost burdens.

What Advocates Need to Know Now

Section 8 Voucher Reform Act (SEVRA). In July 2009, the House Committee on Financial Services approved H.R. 3045, the House's SEVRA bill, out of committee. The bill built on earlier iterations of similar legislation to improve the voucher program. The bill includes improvements to how voucher funds are distributed to administering agencies; improves how fair market rents are set; expands and improves the use of project-based vouchers; provides reforms to actions taken to alleviate high rent burdens and improve voucher subsidy levels; provides reforms to the voucher program's inspections process; authorizes funding for 150,000 new, incremental vouchers for FY10; and simplifies the rent-setting process for HUD's voucher, public housing and project-based Section 8 programs while incentivizing increased earned income of residents, among other improvements. The House bill also includes an expansion of the Moving to Work/Housing Innovation Program. A SEVRA bill is expected to be introduced in the Senate in 2010.

Incremental vouchers. For many years, the primary source of increased federal housing assistance for very poor people was new annual appropriations for additional vouchers, called 'incremental' vouchers. Between FY95 and FY98, however, no incremental vouchers were funded. Congress then approved the following incremental vouchers: 50,000 new vouchers for FY99; 60,000 for FY00; 87,000 for FY01; and 26,000 for FY02. Congress approved no new vouchers in FY03, FY04, FY05, FY06 or FY07. In FY08, Congress appropriated funding for 15,000 incremental vouchers; in FY09, for 13,000 new vouchers, and in FY10, for 11,000 new vouchers. For FY11, HUD is requesting funds for about 10,000 new vouchers, all for people who are homeless or families who are homeless or at risk of becoming homeless. Advocates will urge Congress to appropriate funds for 250,000 new, incremental vouchers in FY11 with the goal of securing 2 million new vouchers over the next 10 years.

Project-basing vouchers. Since January 2001, PHAs have been permitted to attach up to 20% of their vouchers to particular units of housing through project-basing of vouchers. Project-basing vouchers allows families with

extremely low incomes to afford to live in otherwise unaffordable housing, such as low income housing tax credit units, and can be an effective way to build affordability into developments.

In October 2005, HUD issued a final rule providing the specific guidelines for project-basing vouchers, and the Housing and Economic Recovery Act of 2008 (HERA) made additional changes to the project-based voucher program. When vouchers are attached or “project-based” into a specific property, the subsidy attached to these vouchers stays with the unit, as opposed to the household. Families in these units can move out of the unit and receive a voucher from the housing agency’s waiting list. In these cases, the project-based voucher continues to stay with the unit as well. No more than 25% of the total units in a property may receive project-based voucher assistance, with certain exceptions. The decision about where to project-base vouchers must be consistent with the goal of deconcentrating poverty and expanding housing opportunities. If a housing agency is interested in establishing project-based units, it enters into a contract with the owner of the property for a specified term. The initial contract for the project-basing of vouchers can be for up to 15 years, subject to appropriations.

The House’s SEVRA bill would make improvements to the project-basing of vouchers: It would allow a housing agency to project-base up to 25% of its vouchers, plus more in some instances, and would allow rent in units funded by the National Housing Trust Fund to be lower than standard project-based vouchers. Since an NHTF-funded unit’s rent would be less expensive than a private unit with no capital subsidies, these vouchers could be less expensive to the PHA than a regular project-based voucher in non-subsidized unit.

Fair Market Rent and the payment standard. Voucher holders are limited to housing that meets HUD housing quality standards and is owned by landlords willing to enter into a Housing Assistance Payment (HAP) contract with the PHA. Under the voucher program, the subsidy covers the difference between 30% of the tenant’s income and the ‘payment standard,’ which is the total rent and utility costs that the PHA will cover. The PHA has the authority to modify the payment standard to as low as 90% of the Fair Market Rent (FMR) and as high as 110%. Subject to certain limitations, a qualified tenant can rent a unit for any amount of money so long as the PHA finds the rent to be reasonable. A tenant new to the voucher program or moving to a new unit may not rent a unit that would require him or her to pay more than 40% of adjusted monthly income for rent and utilities.

Originally, FMRs were set at the median rent. FMRs were then ratcheted down to the 45th percentile of rents and are now set at the 40th percentile of the value of rental housing in most jurisdictions as determined by HUD. Starting in January 2001, HUD increased the FMRs in some metropolitan areas to the 50th percentile rent due to concerns about the concentration of poverty and low income housing in these areas.

The level at which the FMR is set by HUD is important because the determination of the PHA’s payment standard relies on the FMR, so the higher the FMR, the higher the rents that can be covered by a voucher. To set its payment standard outside of the range of 90% to 110% of FMR, the PHA must receive a waiver from HUD to use ‘exception payment standards.’ A PHA may set payment standards at different percentages of the FMR in different neighborhoods or for units of different bedroom sizes.

The PHA’s determination of the payment standard for the voucher program has important implications for housing affordability. As tenants renting units for more than the payment standard pay 30% of their income plus the difference between the payment standard and the actual rent (up to 40% of adjusted income, for new and relocating voucher holders), a higher payment standard would mean that fewer families would pay more than 30% of their income. The payment standard proposed by the PHA for the voucher program is subject to tenant and community review as part of the PHA planning process.

The House’s SEVRA bill would require HUD to set FMRs in a way that reflects local costs in metropolitan or rural areas and to avoid concentration of voucher holders. The bill would also allow HUD to establish ways for housing agencies to request separate FMR areas for all or part of their jurisdiction. The goal is to allow vouchers to be used in as wide a range of communities as possible, including low-poverty communities.

Rent simplification. Calculating rents can be a complicated process, for both PHA staff and residents. There is general agreement that the rent-setting process can be simplified. While some would like the entire system to be

Housing Choice Vouchers

reformed, the overwhelming policy thrust has been to maintain the historic policy of keeping rents tied to incomes and retaining the ‘Brooke Amendment,’ which caps rents of public and assisted housing residents at generally 30% of adjusted gross income. That said, some simplifications are included in the House’s SEVRA bill. These provisions would apply to voucher holders, public housing residents and project-based Section 8 residents.

Among these rent simplification reforms in the House’s SEVRA bill, for example, is the requirement that the recertification of incomes be required only every three years (instead of the current annual recertification) for elderly and disabled families on fixed incomes (at least 90% of their incomes from Social Security, Supplemental Security Income (SSI) or some similar source). In addition, the bill provides that interim income recertifications would be required, at the tenant’s request, for annual income decreases of at least \$1,200. Interim income recertifications for earnings increases would no longer be required. The bill would also increase the standard deduction for elderly and disabled households to \$725 from the current \$400, while narrowing medical individual deductions to those expenses exceeding 10% of income from the current 3% of income. The bill would also allow 10% of all employment earnings to be deducted from income.

The House’s SEVRA bill would also allow PHAs to set ‘alternative rent structures’ for the voucher and public housing program (for non-elderly and non-disabled tenants) as long as the amount paid toward rent stayed within the Brooke requirements that tenants pay no more than 30% of their adjusted income toward rent.

Moving to Work/Housing Innovation Program. Moving to Work (MTW) is a demonstration program for public housing agencies that provides flexibility from most statutory and regulatory rules. Its provisions impact everything a participating PHA does, including administration of its voucher and public housing programs. Under MTW, a PHA may combine its public housing operating, capital and voucher funds to assist substantially the same total number of families as otherwise would have been served. Current MTW sites can, and do, serve higher income people, impose time limits and work requirements on residents, and change their rent policies (for example, rents may no longer be income based but must merely be ‘reasonable’).

Because many of the original 30 MTW demonstration sites are still running their initial demonstrations, adequate evaluation of the MTW program has not occurred, and, critically, because the potential for harm to residents and the long-term health of the PHAs are at stake, NLIHC believes the MTW program is not ready for expansion or permanent authorization. Various legislative vehicles seek to maintain and expand the current MTW program.

The House’s SEVRA bill would rename this demonstration the “Housing Innovation Program” and authorize it for 10 years. The bill would allow HUD to admit up to 60 housing agencies to HIP and up to another 20 housing agencies to a HIP-lite program established by the bill. Unlike HIP agencies, the HIP-lite agencies could not alter rent setting procedures, or impose time limits or work requirements.

What to Say to Legislators

The House and Senate should be encouraged to:

- Enact Section 8 Voucher Reform Act (SEVRA) legislation that brings reliability to voucher funding and improves the program without expanding or expanding the Moving to Work program or allowing alternative rent structures.
- Fully fund all vouchers currently in use.
- Appropriate additional funds to provide 250,000 new, incremental vouchers in FY11.
- Double the size of the voucher program, from 2 million to 4 million, over the next decade.

For More Information

National Low Income Housing Coalition · 202-662-1530 · www.nlihc.org

Center on Budget and Policy Priorities · 202-408-1080 · www.cbpp.org

National Housing Law Project · 510-251-9400 · www.nhlp.org

Housing Opportunities for Persons with AIDS

By Nancy Bernstine, Executive Director, National AIDS Housing Coalition

The Housing Opportunities for Persons with AIDS (HOPWA) program provides funding to eligible jurisdictions to address the housing needs of persons living with HIV/AIDS and their families.

HOPWA is administered by the Office of HIV/AIDS Housing (OHH), which is located in the Office of Community Planning and Development at HUD.

History and Purpose

HOPWA was created in the AIDS Housing Opportunities Act, a part of the Cranston-Gonzales National Affordable Housing Act of 1990, to provide housing assistance and related supportive services for low income persons living with HIV/AIDS and their families.

There remains the perception that the HIV/AIDS epidemic in the United States is under control, but in reality, AIDS is still an active crisis. According to data released by the Centers for Disease Control and Prevention (CDC) in 2008, about 56,000 Americans become newly infected with HIV each year, which translates to about 40% more cases than originally estimated. The CDC also estimates that there are now 1.2 million people living with HIV/AIDS in the United States, and one-fourth of those are unaware they have the virus.

For people struggling with the disabling and impoverishing effects of HIV/AIDS, housing is the cornerstone of health and stability. Maintaining health and stability is essential when managing HIV. For people living with HIV/AIDS, housing is healthcare. It has been estimated that as many as half of all people living with HIV/AIDS will need housing assistance at some point in their illness. For many of those, short-term assistance with rent, mortgage, or utility costs alone will provide the necessary support to remain healthy and in stable housing. But for others, more intensive supportive services are needed. HOPWA facilitates community efforts in developing comprehensive strategies to address HIV/AIDS housing need.

HOPWA assists communities in devising long-term housing strategies for persons living with HIV/AIDS that prevent them from becoming homeless. As with other chronic conditions that prevent people from finding or maintaining gainful employment, HIV/AIDS can be an impoverishing disease, requiring public subsidies for basic needs, including housing. With improvements in drug therapies and medical care reducing the number of deaths from AIDS, more people are living longer with HIV/AIDS, thus increasing the demand for supportive housing.

Program Summary

The HOPWA program provides housing assistance and related supportive services for low income persons living with HIV/AIDS and their families, and supports communities in the development of long-term housing strategies for persons living with HIV/AIDS that prevent them from becoming homeless. As a supportive housing program, HOPWA helps ensure that persons living with HIV/AIDS have access to and can adhere to necessary medical care and other services.

HOPWA consists of two grant-making programs. Ninety percent of the funds are distributed as formula grants to states and localities, which must serve the metropolitan area in which they are located. The formula is based on population size and the number of people living with HIV/AIDS as confirmed by the CDC. Currently, 133 formula grantees receive funding based on AIDS surveillance data for their metropolitan areas and areas of states outside of eligible metropolitan areas, for three quarters of available formula funds. In addition, one-quarter of the formula allocation is awarded to metropolitan areas that have a higher-than-average per capital incidence of AIDS. Funds can be used for a wide range of housing, social services, program planning, and development costs. These include, but

The highest level at which HOPWA has been funded is \$335 million in FY10, but this permits service to only around 56,627 households. HOPWA grantees report meeting only 29.3% of need with current funding.

Housing Opportunities for Persons with AIDS

are not limited to, the acquisition, rehabilitation, or new construction of housing units; costs for facility operations; rental assistance; and short-term payments to prevent homelessness.

The other 10% of HOPWA funds are distributed through a competitive process to states and localities that do not qualify for a formula allocation, or to states, localities, or nonprofit organizations that propose projects of national significance. During FY10, 105 HUD competitive grants are operating. This funding supports projects that demonstrate model, replicable approaches to providing permanent or transitional housing assistance.

In the competitive program, grantees can distribute funds to projects that provide one or more of the following services: housing information and referral; housing search assistance, shelter or rental assistance; the development or operation of single room occupancy (SRO) housing and other community-based residences; and technical assistance. HOPWA also provides technical assistance to help support sound management in local programs as well as develop strategies to address HIV/AIDS housing need.

Eligibility for HOPWA assistance is limited to low income individuals with HIV/AIDS and their families. Approximately 91% of the clients assisted through HOPWA funds have family incomes of less than \$1,000 per month. Sixty-five percent of people living with HIV/AIDS cite stable housing as their second-greatest need, exceeded only by health care. Preliminary data from 40 HOPWA grantees, reporting under a new performance measurement format on client outcomes, demonstrates that 90% of clients receiving rental assistance have stabilized their housing.

Funding

The HOPWA program is funded at \$335 million in FY10.

What Advocates Need to Know Now

The current economic climate puts the most vulnerable low income people with HIV/AIDS at risk, including those who are multiply diagnosed with substance abuse, mental illness, and other co-infections. A funding level of \$410 million in FY11 would permit housing assistance and housing-related supportive services to an additional 14,000 households. (HUD was able to extend assistance to an additional 3,000 households with a \$14 million increase received in FY08.) The Senate Appropriations Committee recognized the absence of additional funding for higher rents and other costs associated with inflation in approving a \$25 million increase over the FY09 funding level.

For FY11, the National AIDS Housing Coalition (NAHC) requests \$410 million for the HOPWA program, an increase of \$75 million above the FY10 appropriation. This recommended funding level, while meeting only a fraction of need, would sustain existing programs, permit small program expansions at the local level, and support newly added jurisdictions.

Three new jurisdictions become eligible for formula funding during 2010.

HOPWA remains sorely underfunded relative to the need. The program would need \$3.2 billion to serve all those living with HIV/AIDS in need of housing assistance.

For More Information

National AIDS Housing Coalition · 202-377-0333 · www.nationalaidshousing.org

Housing Plus Services

By Melissa Quirk, Housing Policy Analyst, National Low Income Housing Coalition

The term Housing Plus Services was coined by NLIHC and is used to describe permanent affordable housing that incorporates various levels of services provided by trained professionals. Service providers' primary responsibility is caring for tenants rather than managing a property. NLIHC's Housing Plus Services principles describe the basic philosophy underlying the combination of these two resources, housing and services, for extremely low income people.

History

While providing services within homes is not a new concept, the importance of services in helping low income households to maintain stable tenancies has gained increased attention and recognition in recent years. NLIHC has been using the term Housing Plus Services for approximately 10 years.

Issue Summary

Households that include members with disabilities, who are elderly, or who have experienced homelessness frequently can benefit from services to help maintain their tenancies and enhance their quality of life. These services may range from minimal to comprehensive depending on the needs of households, and can include programs and activities, assistance in accessing community resources, assistance with life skills, case management, or crisis intervention (see the adjacent chart). It is critical that these services, at whatever the level provided, be financially linked to the units in order to create consistency for tenants and guarantee services will remain with the housing assistance.

Rather than represent a single program funded by a federal agency, Housing Plus Services units are found in a variety of housing models with a assortment of service offerings. Some public housing agencies (PHAs) provide youth activities, childcare, job training, and transportation assistance. Units serving people with disabilities that are integrated into mainstream developments may come with comprehensive case management and in-home health care services. Federally funded service coordinators, whose job is to link residents of HUD-assisted housing to services in the community, represent yet another implementation of the Housing Plus Services concept. Increasingly, even private affordable housing developers are collaborating with nonprofit service providers to include a service component in housing.

These models are illustrated in NLIHC's revised services typology based on housing type, target population, role of addressing homelessness, eligibility, service plans, practices and staffing (see chart on the following page).

As Housing Plus Services programs developed organically, project by project, no common language or generally agreed upon definitions for services exists. This causes communication problems among groups who could be more effective in both advocacy and service delivery if they worked together. NLIHC's typology of programs offers a three-tiered framework for defining and implementing Housing Plus Services programs in an effort to find common ground. The NLIHC Housing Plus Services Policy Committee recently revised the typology chart to clarify the service types that may cross multiple categories.

NLIHC Housing Plus Services Principles for Program Design and Implementation

- Housing is a basic human need, and all people have a right to safe, decent and affordable permanent housing.
- All people are valuable and capable of being valuable residents and valuable community members.
- Housing and services should be integrated to enhance the social and economic well-being of residents and to build healthy communities.
- Residents, owners, property managers and service providers should work as a team in integrated housing and services initiatives.
- Programs should be based on assessment of residents' and community strengths and needs, supported by ongoing monitoring and evaluation.
- Programs should strengthen and expand resident participation to improve the community's capacity to create change.
- Residents' participation in programs should be voluntary, with an emphasis on outreach to the most vulnerable.

Housing Plus Services

- Community development activities should be extended to the neighboring area and residents.
- Assessment, intervention and evaluation should be multi-level, focusing on individual residents, groups and the community.
- Services should maximize the use of existing resources, avoid duplication and expand the economic, social and political resources available to residents.

Funding

As there is no single program for creating Housing Plus Services units, this housing has developed as developers and service providers have learned to cobble together a variety of funding sources. The portfolio of units is varied by type and service level, and is not tracked by HUD or other federal as a single discreet category of housing.

Depending on the population served, housing providers piece funding together through various HUD and Department of Health and Human Services (HHS) sources, Medicaid, Medicare, Transitional Assistance for Needy Families (TANF) funds, state funds and private foundations. Common sources include HUD's self-sufficiency initiative and service coordinator programs and TANF work and training programs. While multiple funding sources creates flexibility in program design and targeting, it is often difficult for developers and managers of properties to secure and coordinate a comprehensive and consistent services program.

There is some concern among housing advocates about using HUD funding for services. While many housing advocates support providing services to sustain tenancies, most would prefer that HUD utilize its funds for permanent housing and have services funded by HHS, the U.S. Department of Veterans Affairs (VA), and other sources that have service provision as their primary function. HUD's homeless assistance funds, which provide a significant source of existing services funding, require that 30% of funds be allocated to creating permanent housing, ensuring that housing resources are part of addressing homelessness.

What Advocates Need to Know Now

Providing services in housing is not only a supportive service, but can also be a homelessness prevention resource. In several pieces of current legislation introduced in the House and Senate, service dollars are presented as 'prevention' resources. Additionally, services are recognized as a necessary component in assisting many households who are currently experiencing homelessness end their homelessness.

- Senate bill S. 1481 proposes changes to the Section 811 Supported Housing for People with Disabilities program that would allow the program to serve more households in integrated housing settings.
- Senate bill S. 118 would implement changes to the Section 202 Supported Housing for the Elderly program, making development of these units linking housing and services easier.
- Senate bill S. 1523/House bill H.R. 3636 proposes amending the public health act to provide substance abuse and mental health services to assist individuals and families who are exiting homelessness and need comprehensive services to secure and maintain a tenancy.

In addition, numerous bills currently in both the House and Senate that focus on veterans experiencing homelessness also incorporate both services and affordable housing resources.

What to Say to Legislators

Advocates should urge legislators to support collaborations between HUD and HHS and other agencies that can provide services within HUD funded housing. This will ensure that services dollars are tied to permanent affordable housing units to support stable and self sufficient tenancies.

Legislators should also know that HUD's homeless assistance, self-sufficiency, and service coordinator funds are all critical to providing services in housing. The bills mentioned above would improve existing resources and provide additional integrated housing and service resources for the most vulnerable populations.

For More Information

National Low Income Housing Coalition www.housingplusservices.org

See also: *Service Coordinators in Multifamily Housing, Family Self-Sufficiency.*

**Differentiating Three Models of
Permanent Affordable Rental Housing Plus Services (HPS)**

	SERVICE-ENRICHED HOUSING	SUPPORTIVE HOUSING	SPECIAL NEEDS HOUSING
Overview of Housing Models			
Housing and Service Combination	<ul style="list-style-type: none"> Housing with coordinated access to optional services and community resources for all residents. Services address moderate or temporary housing stability problems or assist households in pursuing social or economic improvement goals. Units are in multi-unit developments Examples include: (1) <i>public housing with a day-time resident services coordinator</i>; (2) <i>a project based development with a service coordinator providing crisis intervention and resource and referral.</i> 	<ul style="list-style-type: none"> Housing with a comprehensive array of intensive and case managed services for all residents. Services address moderate to severe housing stability problems and assist households in integrating into the local community. Units may be in multi-unit developments or in scattered-site settings. Examples include: (1) <i>project-based developments with 24-hour on site staff providing intensive services</i>; (2) <i>scattered site units with access to assertive community treatment (ACT) teams.</i> 	<ul style="list-style-type: none"> Housing where specific types of services are provided on site for specific residents. Services may include independent or assisted living resources or accessibility modifications. Units may be facility-based in group homes, set aside in multi-unit buildings, or individually accessed with tenant-based rental assistance. Examples include: (1) <i>rent-subsidized group homes for people with mental retardation with services for all residents</i>; (2) <i>individual project-based subsidized units within a mainstream building where independent living assistance is available only to residents of these units.</i>
Target Population	<ul style="list-style-type: none"> Low-income families and individuals with low to moderate service needs. 	<ul style="list-style-type: none"> Low-income families and individuals of all ages with moderate to high service needs. 	<ul style="list-style-type: none"> Low-income individuals with disabilities; older adults or youth with specialized needs.
Role in Addressing Homelessness	<ul style="list-style-type: none"> Prevents loss of tenancies by increasing housing stability through access to as needed services and community resources. 	<ul style="list-style-type: none"> Ends homelessness for people with significant housing barriers; prevents loss of tenancies through housing stabilization services. 	<ul style="list-style-type: none"> Prevents loss of tenancies through housing stabilization services.
Property Management and Housing Operations Practices			
Eligibility, Preferences and Priorities	<ul style="list-style-type: none"> Income-based eligibility based on type of housing subsidy, between 0-60% of AMI. May have preferences or priorities for particular populations such as seniors, families or formerly homeless. 	<ul style="list-style-type: none"> Income based eligibility, between 0-30% of AMI. Homeless and formerly homeless households. Based on an evaluation of need for services to maintain tenancy including persons with disabilities or chronic health conditions. 	<ul style="list-style-type: none"> Income based eligibility varies depending upon subsidy or funding requirements. Based on an evaluation of need for specialized services for people with disabilities and other target populations.
Rent Levels	<ul style="list-style-type: none"> Subsidized either based on income so that tenant pays no more than 30% of income or at levels affordable to households at specific AMI levels. 	<ul style="list-style-type: none"> Subsidized based on income so that tenant pays no more than 30% of income. 	<ul style="list-style-type: none"> Subsidized either based on income so that tenant pays no more than 30% of income or according to licensing or funding agreements.
Marketing, Screening, and Leasing	<ul style="list-style-type: none"> Marketed to households with qualifying incomes. Screens out households with significant credit or CORI issues, except when units are set aside for formerly homeless households. Lease agreement provides the same rights and obligations as other renters in the jurisdiction. 	<ul style="list-style-type: none"> Marketed through referral and outreach systems for homeless or recently institutionally discharged persons. Screens in households with high service needs and challenges to obtaining and retaining units. Lease agreement may or may not provide similar rights and obligations as other renters. 	<ul style="list-style-type: none"> Marketed through referral and outreach systems for people with defined "special need." Screens in households with specific types of service needs. Lease agreement may or may not provide similar rights and obligations as other renters, per licensing or funding agreements.

	SERVICE-ENRICHED HOUSING	SUPPORTIVE HOUSING	SPECIAL NEEDS HOUSING
Property Management and Housing Operations Practices			
Marketing, Screening, and Leasing Continued	<ul style="list-style-type: none"> Participation in services is voluntary 	<ul style="list-style-type: none"> Participation in services may be voluntary or a requirement of ongoing tenancy depending on program guidelines. 	<ul style="list-style-type: none"> Participation in services may be voluntary or a requirement of ongoing tenancy depending on program guidelines.
Supportive Services Plans, Practices and Staffing			
Service Provision	<ul style="list-style-type: none"> Service coordination provides access to community based services and crisis intervention. Service coordination includes: <ul style="list-style-type: none"> referrals to community services for childcare, child educational enrichment, youth development, adult educational and vocational activities, financial literacy, as well as organizing of community building activities. Service coordination can be provided through in-house resident services staff or an external agency. 	<ul style="list-style-type: none"> Service plans emphasize: <ul style="list-style-type: none"> case management with community based service referral; meeting lease obligations; accessing non-emergency health care; obtaining public benefits; accessing employment or vocational training; peer support; counseling; life skills training and community building; mental health and substance use crisis intervention; Case management is provided through in-house supportive staff and additional specialized services may be contracted through an external agency. 	<ul style="list-style-type: none"> Services are specialized to the needs of the target tenant population and may include some or all of the resources described for supportive housing. Additional services may include special or interdisciplinary services for the full length of the tenancy. For group homes case management is provided by in-house staff and additional specialized services may be contracted through an external agency; for scattered site units services are provided by one or more external agencies.
Staffing Levels	<ul style="list-style-type: none"> Service coordinator to household ratio ranging from 1:50 to 1:150 depending upon coordination complexity. Service coordinator has only periodic contact with households and primarily in group settings. 	<ul style="list-style-type: none"> Case management to household ratio of 1:10 to 1:25 depending upon service delivery intensity. Service provider staff has daily or frequent one-on-one contact with tenants and assertively engages tenants in available services. 	<ul style="list-style-type: none"> Case management to household ratio of 1:10 to 1:25 depending upon service delivery intensity. Service provider may have daily one-on-one contact with households or may only be on call for periodic assistance. Depending upon need, services may phase out over time.
Staff Qualifications	<ul style="list-style-type: none"> Service coordinators may or may not need advanced degrees. 	<ul style="list-style-type: none"> Case managers often need advanced degrees. Service providers often need clinical training/licensing. Other staff may include peer counselors who have experienced homelessness, mental illness, and/or recovery from addiction. 	<ul style="list-style-type: none"> Varies by disabling condition. Case managers often need advanced degrees. Service providers often need clinical training or licensing.

Interagency Council on Homelessness

By Melissa Quirk, Policy Analyst, National Low Income Housing Coalition

The U.S. Interagency Council on Homelessness (ICH) is an independent federal agency that coordinates the homeless policies of 19 federal departments, including HUD, the Department of Health and Human Services, the Department of Labor, and the Department of Veterans Affairs. The ICH also coordinates with state and local governments on developing and implementing strategies to end homelessness.

Following the arrival of a new executive director, current activity at the ICH includes developing, coordinating, and overseeing a new federal plan to end homelessness.

History

While the federal government invests tens of billions of dollars in health, education, housing, and other programs serving low income households, including households experiencing homelessness, these programs often operate in isolation from one another, from programs in other departments, and from mainstream resources. The connection between the federal administration of these programs and state and local efforts to end homelessness has also lacked accountable coordination.

Created in 1987 through the Stewart B. McKinney Homeless Assistance Act (later renamed the McKinney-Vento Homeless Assistance Act), the Interagency Council on Homelessness (ICH) was reestablished in 2002 after a period of dormancy and understaffing. A full time executive director was first hired in 2002; the second appointed executive director since the reestablishment began work in 2009.

Program Summary

The Council's mission is to plan for and oversee the use of federal resources to end homelessness in the United States. The Council is comprised of 19 cabinet secretaries and agency heads and is currently chaired by HUD Secretary Shaun Donovan for a one-year term. The secretaries of HUD, Health and Human Services, Labor, and Veterans Affairs rotate responsibility for chairing the Council.

The new executive director of the Interagency Council on Homelessness has created a new staffing structure that includes three deputy directors focused on policy, national programs, and accountability management. These staff, along with regional coordinators, will work with groups across the country in developing the federal plan to end homelessness, initiating and supporting efforts to end homelessness in local communities, and monitoring and evaluating the progress of the plan and local endeavors.

Among its roles, the Council is responsible for organizing and supporting local governments in implementation of local ten-year plans to end homelessness, maintaining relationships with every federal agency, communicating with congress, promoting research and evaluations on ending homelessness, and engaging private sector stakeholders in ending homelessness. The ICH promotes states establishing and implementing ten-year plans to end homelessness and provides Regional Coordinators throughout the country to support state and local governments, advocates, providers, and consumers in this work. These state and local plans, begun during the last administration, are developed by governments in partnership with nonprofit providers, foundations, private businesses, faith-based groups, and other important community organizations. The plans can bring attention to the issue of homelessness, focus state and local funds on targeted strategies to reduce the need for shelter by creating housing resources, and attract new private investment from foundations and private sector business.

Federal Plan to End Homelessness. Currently, the main charge of the Council is to develop and implement a new federal strategic plan to end homelessness, based on the success of state and local plans. The federal plan will outline goals and priorities for federal agencies to pursue between FY10 and FY14. ICH is in the process of developing the plan and gathering input from local communities and stakeholders. The agency is holding regional stakeholder dialogues across the country, reaching out to special focus groups, and collecting feedback through

Interagency Council on Homelessness

an online forum. ICH has formed five working groups, on families, youth, veterans, chronically homeless, and community supports. Staff of agencies participating in the Council make up the membership of the work groups, and national experts in the private sector were invited to share perspectives and knowledge. The Council's plan is due to Congress on May 20, 2010.

Funding

In FY10 the ICH was funded by Congress at \$2.45 million dollars, to support the staffing and initiatives of the Council. The President's FY11 budget proposes increasing funding the ICH to \$2.68 million.

What Advocates Need to Know Now

The new director and staff at ICH are looking to build on the last ICH administration's achievements of reducing chronic homelessness and encouraging implementation of ten-year plans to end homelessness throughout the nation. Their new approach and extensive outreach in developing the new federal plan to end homelessness are promising and require advocates to stay engaged with the work of ICH. As described above, advocates should provide input in developing the federal plan to end homelessness, and when the plan is released, should provide feedback on the strengths and weaknesses of the plan.

Advocates should also pay attention to the President's FY11 budget proposal for new vouchers targeted to homeless households, the Housing and Services for Homeless Persons Demonstration. Advocate should ensure that these proposed demonstration funds are included in the final FY11 budget. If they are included, monitoring their use to achieve the goals of the new federal plan to end homelessness and evaluating their effectiveness will be an important role for advocates.

Achieving goals of the new federal plan to end homelessness will require additional funding for HUD programs including new incremental vouchers and full funding of homeless assistance programs. Advocates should urge HUD and Congress to significantly increase funding for HUD programs to ensure that there are sufficient resources to end homelessness.

For More Information

Interagency Council on Homelessness · 202-708-4663 · www.ich.gov

National Alliance to End Homelessness · 202-638-1526 · www.endhomelessness.org

National Coalition for the Homeless · 202-462-4822 · www.nationalhomeless.org

National Low Income Housing Coalition · 202-662-1530 · www.nlihc.org

See also: *McKinney-Vento Homeless Assistance Programs, Ten-Year Plans to End Homelessness.*

Lead Hazard Control Programs

By Jane Malone, Policy Director, National Center for Healthy Housing

Two almost identical programs, the Lead-based Paint Hazard Control (LHC) and the Lead Hazard Reduction Demonstration (LHRD) grant programs, comprise the HUD’s grant-making efforts to lessen the effects of lead-based paint on children’s health.

Both programs and enforcement of related regulations are housed in the HUD Office of Healthy Homes and Lead Hazard Control.

History and Purpose

More than 100,000 U.S. children have an “elevated blood level,” which causes many harmful lasting health and developmental problems, and hundreds of thousands of other children have enough lead exposure to impair their learning and permanently decrease their IQ. Paint that has deteriorated due to maintenance issues and invisible lead dust caused by work that disturbs lead-based paint remain the dual dangers in the home environment that are causing most lead poisoning. The vast reservoir of lead hazards that lingers in 24 million homes continues to need vigilant monitoring and targeted intervention.

The Residential Lead-Based Paint Hazard Reduction Act, or Title X of the Housing and Community Development Act of 1992, was enacted to move the nation beyond preoccupation with the presence of lead-based paint to focus on strategies to make housing safe for children by preventing exposure to paint that has deteriorated due to poor maintenance and invisible lead dust caused by repair and painting work that disturbs lead-based paint. The law established the Lead Hazard Control grants program to provide grants to state and local governments to control lead-based paint hazards in privately owned, low income owner-occupied and rental housing. In 2003, Congress added the Lead Hazard Reduction Demonstration grant program to target additional lead hazard control grants to the nation’s highest risk cities.

Programs Summary

The two grant programs are very similar, and a few jurisdictions have grants from both programs. While the 110,000 homes made lead-safe under the Lead Hazard Control programs represent just a fraction of the estimated 25 million U.S. housing units with lead-based paint hazards, the programs have rendered some of the nation’s highest risk homes safe for future occupants and built lasting capacity to continue to prevent and control lead hazards. The programs’ funds are awarded via a competitive combined Notice of Fund Availability (NOFA).

The beneficiaries of the lead hazard grant programs must be low income households. Rental units must be available on a priority basis for families with children under age six for at least three years; 90% of owner-occupied units must house or be regularly visited by a child under age six. Each grantee develops its local plan and is permitted, since the funds do not cover all housing eligible under federal policy, to target investment of grant funds based on factors such as the presence of a lead-poisoned child, location in high-risk neighborhood, etc.

Lead Hazard Control. The typical award of \$3 million received by a state or local government addresses hazards in several hundred homes and provides needed outreach and capacity building services. At least 65% of the grant must be used for direct activities such as abatement, interim control, clearance, and risk assessment. Grantees are required to partner with community groups, typically by awarding sub-grants, and provide a match of 10% from local or Community Development Block Grant (CDBG) program funds. More than \$1 billion has been awarded since the program started in 1993.

Lead Hazard Reduction Demonstration Grants. This program targets funds for lead hazard control to the nation’s

More than 110,000 homes have been made lead-safe under the Lead Hazard Control programs.

Lead Hazard Control Programs

100 highest risk cities as defined by the prevalence of lead poisoning and the number of pre-1940 rental housing units. The operation of the program mirrors the core lead hazard control program in that grants can only be awarded for lead hazard control in private housing to states, counties, and cities. Grants may be as high as \$4 million, but 80% of the funds must be spent on direct activities and HUD requires a 25% local match from local or CDBG program funds, which can be waived based on well-justified need. High-risk cities can (and do) receive demo grants in addition to basic lead hazard control grants.

Disclosure Law Enforcement. Title X also directed HUD to enforce the required disclosure of lead hazards to the potential renter or purchaser of every pre-1978 home. As a result of disclosure enforcement actions, 200,000 dwelling units in multifamily rental properties have received ordered repairs. The regulation is published at 24 CFR 35 Subpart A.

Lead-Safe Housing Rule. At least 1 million homes owned or assisted by the federal government have been made and kept safe due to requirements under the Lead Safe Housing Rule (24 CFR 35 Subparts B-R). The rule requires in all subsidized housing: reduction of lead-based paint hazards; post-work dust testing to prove hazards are not left behind; and lead safe work practices during the conduct of repairs.

New EPA Rule. The U.S. Environmental Protection Agency (EPA) is implementing a major new lead rule, the Renovation, Repair, and Painting Rule, which requires contractor certification and use of lead-safe work practices for all work in all pre-1978 residences. The rule will come into full effect on April 22, 2010. Although many advocates think the rule should be as strong as HUD's Lead Safe Housing Rule, it provides a framework for educating and regulating the construction industry to work safely, and will help to increase awareness of health hazards in housing.

Funding

The budget authority for lead hazard control and demonstration combined dropped from \$197 million in FY09 to \$114 million in FY10, and the proposed FY11 total is \$94 million.

What Advocates Need to Know Now

- Efforts are underway to introduce companion House and Senate bills to provide HUD with subpoena authority to add power to its disclosure enforcement. With subpoena power, HUD can investigate and prosecute cases against rental property owners who are not revealing knowledge of lead to new tenants.
- Comprehensive healthy housing legislation, introduced at S.3654 in 2008 and H.R. 3891 in 2009, advances important safety issues.
- Advocates believe that HUD should be provided the resources to advance lead safety without sacrificing the opportunity to increase healthy homes programs.

What to Say to Legislators

Call your Members of Congress and ask to speak to the person who deals with housing policy with the message that funding is needed in FY11 to correct lead hazards and ensure that privately owned affordable housing is safe and healthy. Advocates should inform legislators on how they can lend support for reducing childhood lead poisoning and other health problems caused by housing-based hazards.

- Add another \$100 million to the President's request for Lead Hazard Control and Lead Hazard Reduction Demonstration grants programs, for a total of \$194 million, through which communities can fix lead and other health hazards in homes.
- Provide \$40 million for HUD's Healthy Homes programs, as proposed by the President, to identify, document, and implement effective methods of reducing hazards in the home environment.

For More Information

National Center for Healthy Housing · www.centerforhealthyhousing.org · 202-580-7208

National Safe and Healthy Housing Coalition · <http://www.nchh.org/Policy/National-Safe-and-Healthy-Housing-Coalition.aspx>

See also: *Healthy Homes*.

LEGACY: Living Equitably: Grandparents Aiding Children and Youth

By Ana Beltran, Special Advisor, Generations United

The LEGACY Act of 2003 – Living Equitably: Grandparents Aiding Children and Youth – is the first federal affordable housing program specifically aimed at ‘grandfamilies’ or families where the children are being raised by grandparents or relatives other than their parents. This initial legislative step involves two demonstration projects under Section 202 for specially designed housing for grandfamilies with caregivers age 62 or older. After a competitive process, a rural and an urban project were funded by HUD in December 2008 and, as of March 2010, are in development.

LEGACY is administered by HUD’s Office of Housing Assistance and Grant Administration.

History and Purpose

LEGACY became law as part of the American Dream Downpayment Act of 2003. It was conceived and became law on the heels of several important advancements in affordable housing for grandparents and other relatives and the children they raise. In 1998, GrandFamilies House in Dorchester, MA, opened its doors as the first housing program specifically designed for grandparents raising grandchildren. At the same time, Generations United (GU), the national intergenerational nonprofit membership organization, conducted a national survey and discovered that affordable housing was one of grandfamilies’ most serious concerns.

Although the lack of affordable housing is an issue for many Americans, there are several unique barriers related to grandfamilies’ circumstances. These caregivers frequently take on such responsibilities with no warning whatsoever. They may be living in small apartments that are not suitable for children and that do not satisfy child welfare occupancy requirements. If they live in senior housing, they may be subject to eviction if the children are discovered. Presence of additional children may violate private lease agreements and/or occupancy standards, especially if they are in public or assisted housing. Even if their housing is suitable, caregivers may no longer be able to afford housing after taking on the extra expenses of raising children. If it is not suitable, and the caregivers lack a legal relationship to the children, they are often unable to convince public housing authorities to recognize their need for a larger apartment as a “family.”

Data from the U.S. Census Bureau reflect these challenges: more than one in four grandparent caregivers live in overcrowded conditions, more than one in six pay more than half their income on rent, and 60% of qualifying renters are not receiving housing subsidies. Over 6 million children across the country are being raised by relatives other than their parents.

LEGACY legislation authorized \$10 million to accomplish the program’s objectives, but because it lacked a specific appropriation, HUD failed to take significant steps to implement it. In November 2005, \$4 million was earmarked for its implementation.

Program Summary

LEGACY, as enacted, contains three provisions:

- (1) Develop and distribute grants for no less than two and no more than four demonstration projects to create housing for grandparents and other relatives raising children;
- (2) Provide training to HUD personnel on issues facing relatives raising children; and
- (3) Work with the U.S. Census Bureau to conduct a national study of the housing needs of grandparents and other relatives raising children, and make recommendations to Congress based on that study.

Demonstration Projects. In December 2008, HUD awarded \$3.9 million in Capital Advance and Project Rental Assistance Contract (PRAC) funds to two Section 202 projects for demonstration projects, one in urban Chicago and the other in rural Tennessee. The Chicago development will have 10 units consisting of three and four bedrooms; the project received a firm commitment from HUD in March 2010 to proceed to closing. The Smithville, TN, development will have 9 two-bedroom units plus a manager’s unit; as of March 2010, it is under construction. Both projects must ensure that residents are provided a range of supportive services tailored to meet the needs of seniors, children, and the families as a whole.

Training. In 2007, HUD - with its subcontractor GU - broadcast a three-hour training to HUD's regional and headquarters' staff. In addition to covering LEGACY, the training provided an overview of the affordable housing issues faced by grandparents and other relatives raising children, how other housing programs and supportive services can help these families, and housing developments designed specifically for them.

National study. After the training, HUD released its Intergenerational Housing Needs and HUD Program Options Report to Congress, fulfilling the last requirement of the LEGACY law. That report can be accessed at <http://www.huduser.org/Publications/pdf/intergenerational.pdf>

As originally drafted and introduced, the LEGACY act contained two additional provisions that have never been enacted. One called for the modification of the Elder Cottage Housing Opportunity (ECHO) program to allow for the addition of bedrooms to caregivers' small homes to accommodate children who come into their care unexpectedly. The other provision that was not enacted calls for "grandfamilies" to be specifically included as "families" for purposes of the Family Unification Program (FUP). FUP provides Section 8 vouchers to families whom the child welfare agency has certified are families for whom the lack of adequate housing is a primary factor in the imminent placement of the family's children in foster care or in the delay of discharge of a child from foster care to his/her family. Some local housing authorities qualify grandfamilies as families, whereas others do not.

Funding

LEGACY was specifically funded with \$4 million in 2005 and has not received additional earmarked funding. Once the demonstration programs are completed, and their anticipated success documented, advocates will seek an expansion of the program.

What Advocates Need to Know Now

There are no urgent advocacy issues with regards specifically to LEGACY. However, there are existing areas of policy that could be modified to help facilitate grandfamilies' access to affordable housing.

Family composition. We know that many housing authorities are unlawfully requiring relative caregivers to have legal custody or guardianship of the children in their care in order to qualify for assisted housing. Family composition can be verified by other means, as listed in the Appendix 3 of the HUD Occupancy Handbook. To explain the policy to local housing actors, local jurisdictions should address legal custody issues in their Public Housing Administrative Plan, Section 8 Administrative Plan, and Consolidated Plan.

Family Unification Program. FUP is another housing opportunity that is underutilized by relative-headed households because of the interpretation of what constitutes a family. Clarification that this program should allow relatives raising children to use these vouchers would help the program continue to meet its goal of preventing children from entering foster care due to housing conditions.

Tips for Local Success

At the local level, advocates interested in developing new, specially designed housing for grandfamilies should work both to educate lenders, and state and local governments about this still relatively unknown population and their housing needs, and to help local officials use existing programs to build grandfamily housing.

Education on the issue. Despite advances, many housing officials and advocates remain unfamiliar with the specific needs of this population and the current housing developments serving these families, most notably GrandParent Family Apartments in the South Bronx, NY. That building - the nation's first ground-up development for grandfamilies - has been serving the families since 2005 and consists of 50 units of two and three bedrooms with extensive on-site supportive services for all ages.

LEGACY has funded two national demonstration programs for grandfamilies, one in rural Tennessee and the other in urban Chicago. The two demonstrations combined will build 19 new units of two, three, and four bedroom apartments designed with these families in mind. In addition, hundreds of HUD headquarters and regional staff were trained on the challenges faced by grandfamilies and housing programs that can assist them.

In order to successfully advocate around the country for an increase in housing specifically for these families, materials need to be developed on the existing housing programs and those funded by LEGACY, so that more programs can be pursued in additional jurisdictions. This housing is difficult to develop in part due to the complex public-private financing required; consequently, the replication materials need to include an extensive discussion on financing. Furthermore, more housing actors – not just HUD staff – need to be trained on grandfamilies and the housing issues they face. The HUD training materials could be used as a basis for that training.

Use of existing programs. LEGACY is a limited program, but existing federal, state, and local housing programs can be tapped or tailored to meet this demand. Once potential funders of grandfamilies housing are aware of the needs of these families, they can adjust their funding plans and priorities accordingly. State housing finance agencies will then know to include such projects in Qualified Allocation Plans, thus making proposals competitive for Low Income Housing Tax Credits. Local and state governmental agencies that administer the HOME and Community Development Block Grant programs can include housing for relatives raising children in their yearly Consolidated Plans and Action Plans as priorities or eligible types of housing to be assisted. Lenders who are involved in the Federal Home Loan Banks' Affordable Housing Program (AHP) can include special criteria in their plans for grandfamilies housing. No source of funding will include criteria that encourage housing for grandparents and other relatives raising children unless the funders know about the families.

Localities wanting to expand affordable housing opportunities for grandfamilies can contact GU and reach out to the existing housing developments for grandfamilies, to benefit from lessons learned including funding ideas.

As examples of the complexity of this housing, here are some policies that need to be considered early in the process when developing housing for these families:

- What will the grandparents and other relatives have to prove concerning their relationship to the children in order to qualify for housing? Do they need legal custody of the children?
- How will residents be transitioned to other housing when youth age out and caregivers are no longer raising them?
- Will the program also be open to aunts and uncles raising children?
- Will birth parents be allowed to reside on the property?
- How will family crises, such as a sickness or death of the grandparent/relative, be handled?

On-site supportive services are an integral part of these developments, and need to be designed with the age of the residents in mind. From the experience of the existing developments, essential supportive services include case management; support groups for grandparents and other relative caregivers; before and after-school programs for children and youth; and transportation for families.

What to Say to Legislators

In order to increase affordable housing opportunities for grandparents and other relatives raising children, housing advocates and experts on the issues facing grandparents and other relatives should combine their unique expertise and collaborate in advocacy efforts at the national, state, and local levels.

Advocates should speak to state and federal legislators with the message that LEGACY is the first step in helping support the affordable housing needs of grandparents and other relatives who are stepping forward to raise children. At this stage, LEGACY is a limited demonstration program, so federal legislators need to monitor the success of the two demonstrations and explore ways to expand this program to fund additional sites. More than 6 million children in all regions of the country are being raised by relatives other than their parents. Numbers specific to each legislative district are available at www.gu.org and should be accessed prior to talking to legislators.

While developing housing policies and funding, HUD should keep in mind the unique population of grandparents and other relatives and the children they raise.

For More Information

Generations United · 202-289-3979 · www.gu.org

See also: *Family Unification Program*

Low Income Home Energy Assistance Program (LIHEAP)

By Olivia Wein, Staff Attorney, National Consumer Law Center

The regular Low Income Home Energy Assistance Program (LIHEAP) is a federal block grant program to the states to help low income families meet the costs of heating and cooling their homes. In addition, the LIHEAP emergency contingency fund is separately funded from the block grant of the regular LIHEAP and funding can be released by the President when needed. The main ongoing challenge for the LIHEAP program is securing adequate funding, especially in light of the steady and dramatic rise in residential energy costs.

LIHEAP is administered by the Office of Community Services, under the Administration for Children and Families at the Department of Health and Human Services.

History and Purpose

The LIHEAP program was created in response to rising energy prices in the 1970s and the decreasing purchasing power of low income households. In 1980, LIHEAP was part of the Crude Oil Windfall Profit Act and since then it has been reauthorized several times, targeting the assistance within the pool of eligible households, adding new program components, and expanding authorization levels for funding.

Program Summary

The regular LIHEAP is a federal block grant program to the states to help low income families meet the costs of heating and cooling their homes.

LIHEAP is intended to “assist low income households, particularly those with the lowest incomes, that pay a high proportion of household income for home energy, primarily in meeting their home energy needs.” (42 U.S.C. § 8621(a)). States are to target assistance to low income households with the lowest income and highest energy needs (i.e., those who pay a large percentage of their income on home energy) and households with populations vulnerable to extreme heat or cold. These are households with very young children, individuals with disabilities, and/or frail elderly. The LIHEAP program focuses on ‘home energy’ which is defined as a source of heating or cooling in residential dwellings.

In order for a state to receive LIHEAP funds, each state must submit an application to the Secretary of Health and Human Services. All 50 states, the District of Columbia, numerous tribes, and the territories participate in the LIHEAP program. In the majority of states, LIHEAP is administered by the state social services agency. In many of the states, the state agency contracts with local providers such as community action agencies to handle intake.

While states have a great deal of flexibility in designing their program each year, the vast majority of states’ LIHEAP grants are used to provide bill payment assistance to eligible low income households to help with heating and cooling costs. LIHEAP benefits cover all forms of residential heating or cooling fuels. This covers a range of fuels from natural gas and electricity (for heating or cooling) to home heating oil, propane, kerosene, and wood. Assistance can be in the form of a vendor payment or a two-party check, or direct assistance to the LIHEAP households (for example to a tenant whose heat is covered in the rent).

States also have the flexibility to set their program’s eligibility criteria in the annual state LIHEAP plan. States must set income eligibility above 110% of the poverty level, and the maximum eligibility for LIHEAP is 150% of poverty or 60% of state median income. For FY10, the maximum eligibility is 75% of median income.

Low income households are also eligible for LIHEAP through participation in the following programs: the Temporary Assistance for Needy Families (TANF) program, the Supplemental Security Income (SSI) program, Food Stamps (now called Supplemental Nutrition Assistance Program or SNAP), and certain needs-tested veterans’ benefits.

There are several additional components to LIHEAP:

- **Crisis grants.** Each fiscal year, states must reserve a reasonable amount of their regular LIHEAP block grant until March 15 for individual crisis intervention grants. States have the discretion to define what constitutes a crisis for this component. Common definitions include an imminent shut-off, empty heating fuel tank, or

broken furnace. The state crisis intervention funds must be made available to a household within 18 hours if the household is in a life-threatening situation and within 48 hours in other circumstances. The state crisis intervention component is different than the LIHEAP emergency contingency funds that are at the discretion of the President to release.

- **Low-cost weatherization or other home energy-related repairs.** States may use up to 15% of their annual LIHEAP block grant (or 25% with a waiver) for low-cost residential weatherization or other home-energy related repair. In 32 states, the same agency administers LIHEAP and the Department of Energy's Weatherization program.
- **Self-Sufficiency.** States can use up to 5% of their block grant to provide services to encourage and enable households to reduce their home energy needs through activities such as needs assessments, counseling, and assistance with energy vendors.

LIHEAP emergency contingency fund. The LIHEAP emergency contingency fund is separately funded from the regular LIHEAP block grant. The President can release LIHEAP emergency contingency funds to help meet low income home energy needs arising from a natural disaster, a significant increase in the cost of home energy, or other emergency.

Funding

The Consolidated Appropriations Act of 2010 (PL 111-117) funded LIHEAP at a total of \$5.1 billion: \$4.509 billion for the regular formula and \$590 million for the LIHEAP emergency contingency fund. This is the same record-high level for LIHEAP funding as provided in FY09.

On January 20, 2010, the Administration released \$490 million of the available \$590 million in LIHEAP emergency contingency funds under the regular block grant formula that was weighed for unemployment rates in the state. Thus, \$100 million in LIHEAP emergency contingency funds remains for the President to release.

What Advocates Need to Know Now

While the authorized funding level for LIHEAP is \$5.1 billion for the regular block grant program and \$600 million in LIHEAP emergency contingency funds, the President's FY11 budget blueprint slashes states' guaranteed LIHEAP funding to \$2.5 billion for the regular program (a \$2 billion cut from FY10). The Administration also proposes \$790 million in LIHEAP emergency contingency funds.

The FY11 budget blueprint once again proposes a new 'trigger' mechanism to provide automatic increases in LIHEAP whenever there is a substantial increase in energy prices or an increase in poverty as measured by SNAP enrollment. For FY11, the Administration estimates the trigger will cost \$2 billion. There is concern in the LIHEAP advocacy community that this budget proposal is not as protective as the FY10 LIHEAP appropriations. This proposal will likely result in states cutting back on the size of their energy assistance benefits, serving substantially fewer households and driving more households to rely on crisis assistance because any additional funds from the trigger will be uncertain and would occur sporadically. The states set their annual benefits level prior to the start of the winter heating season (the new fiscal year) and must work from what they are certain they will receive.

LIHEAP advocates expect that there will be Congressional efforts to secure additional FY10 LIHEAP funding. The LIHEAP advocacy community will also press for, at a minimum, level funding in FY11 and take a close look at the Administration's new 'trigger' mechanism as details on the plan emerge.

Tips for Local Success

Become involved in the development of your state's annual LIHEAP program. LIHEAP state plans are required to be made available to the public in a manner that facilitates meaningful review and comment, and states are required to hold public hearings on the LIHEAP plan. The plans will set out eligibility criteria and benefit amounts, as well as other aspects of the program such as the percentage of the state's LIHEAP grant requested in each quarter.

In FY09 the number of households receiving LIHEAP assistance reached record levels for the second year in a row, increasing from 6.1 million to 8.3 million. For FY10, the National Energy Assistance Directors' Association (NEADA), representing the state LIHEAP directors, is projecting an increase of 20% in the number of families applying for assistance based on initial application rates.

Low Income Home Energy Assistance Program (LIHEAP)

To find your state's LIHEAP office, visit www.acf.hhs.gov/programs/ocs/liheap/grantees/states.html. Please note that some tribes receive their LIHEAP grant directly through the federal agency, as opposed to the state.

Become familiar with the other energy assistance programs and utility consumer protections. In addition to the LIHEAP program, some states and some utilities have separate low income energy assistance programs (for a list of some of the additional assistance programs see, www.liheap.ncat.org/Supplements/2007/supplement07.htm or contact the consumer protection division of your state utility commission). Some states also have charitable energy assistance funds called fuel funds; check with the National Fuel Funds Network at www.nationalfuel funds.org.

Advocates should also become very familiar with certain utility rules. For utilities regulated by the state utility commission (generally, the private investor-owned utilities), the commission website should have a link to rules regarding customer shut-offs (for example, a winter shut-off rule, an extreme temperature rule, or severe illness shut-off protection rule; rules regarding payment plans; special protections for low income or LIHEAP customers; and rules regarding deposits). Staff in the consumer protection division of the utility commission may be able to help you find the relevant rules. For municipal utilities or cooperatives, the rules will reside with the municipality or the coop.

Join the LIHEAP Coalition. Supporters of LIHEAP should contact the LIHEAP Coalition receive action alerts on legislative efforts in Congress to provide additional funding for LIHEAP. See contact information at the end of the article.

What to Say to Legislators

- The LIHEAP program is a critical safety-net program to help households afford residential energy.
- There is significant need in my district [provide, for example, the number of clients seeking help with their utility bills, newspaper clips, or data regarding the number of households being disconnected].
- The current funding level will not be sufficient to meet the record high levels of applications. States need supplemental FY10 LIHEAP funding or will face the harsh choices of reducing benefits, tightening eligibility requirements, or closing programs early.
- For two years in a row there have been record high levels of households served by the LIHEAP program and this demand is expected to remain high due to the high levels of unemployment. Thus, for FY11, the regular LIHEAP block grant must be fully funded at \$5.1 billion.

For More Information

The LIHEAP Clearinghouse · www.liheap.ncat.org/

For advocates seeking more information about LIHEAP program design. In addition to LIHEAP the Clearinghouse also tracks states supplemental energy assistance activities (listed as "State Supplements" in the menu on the homepage).

LIHEAP Clearinghouse National Energy Assistance Referral (NEAR) · 1-866-674-6327 · energyassistance@ncat.org
NEAR is a free service for persons who want information on where to apply for the Low Income Home Energy Assistance Program (LIHEAP). Please be prepared to provide your city, county and state.

The National Energy Assistance Directors' Association's (NEADA) · www.neada.org/
This website provides information on LIHEAP funding needs and current funding levels.

The National Fuel Funds Network (NFFN) · www.nationalfuel funds.org/
NFFN is an organization of utility and human services organizations focused on charitable energy assistance. NFFN also organizes an annual LIHEAP Day on the Hill in the winter.

The Campaign for Home Energy Assistance · www.liheap.org/members.html
This is a group of organizations that advocate for adequate LIHEAP funding.

The LIHEAP Coalition · To be added to the LIHEAP Coalition list, email swilliams@nclcdc.org; in the header please indicate that you would like to be added to the LIHEAP Coalition email alert list. The LIHEAP Coalition provides email alerts and updates on fast-breaking legislative efforts to increase funding for LIHEAP.

See also: *Weatherization Assistance Program*.

Low Income Housing Tax Credit

By Danna Fischer, Legislative Director and Counsel, National Low Income Housing Coalition

The Low Income Housing Tax Credit (LIHTC) program is designed to expand the supply of affordable housing by offering tax credits to investors and thereby encouraging private investment. Because the economic downturn has dampened demand for tax credits, many developments have stalled because of a lack of sufficient financing.

This program is administered by the Treasury Department's Internal Revenue Service (IRS).

History

LIHTC was created by the Tax Reform Act of 1986 and is codified at Section 42 of the Internal Revenue Code, 26 U.S.C. 42, so tax credit projects are sometimes referred to as 'Section 42 Projects.' The IRS provides additional guidance through revenue rulings, technical advice memorandums, notices, private letter rulings, and other means.

Program Summary

The LIHTC program is designed to expand the supply of affordable housing by encouraging private investment in affordable development.

The encouragement comes in the form of a tax credit to the investors, who provide cash or 'equity' to the developer of a project and, in return, receive a dollar-for-dollar reduction in their federal income taxes. This infusion of equity reduces the amount of money a developer has to borrow, thereby lowering costs and allowing for lower rents. The LIHTC can be used to support a variety of projects including both multifamily and single-family housing, new construction and rehabilitation, and housing for the elderly and disabled. Tax credit projects are found in all parts of the country, including rural areas.

Tax credits are allocated to states based on each state's population. For 2010, each state will receive \$2.10 per capita, with all states receiving a minimum of \$2.43 million. In turn, states, through one or more agencies, including their Housing Finance Agency (HFA), allocate credits to specific projects. This allocation is done according to the state's Qualified Allocation Plan (QAP; for more information see QAP article).

Both for profit and nonprofit developers can apply for credits, but at least 10% of an HFA's total tax credits must be set aside for nonprofits. Once awarded tax credits, a developer then sells them to investors, usually through a 'syndicator.' Syndicators act as a broker between the developer and the investor. Syndicators sometimes pool several tax credit projects together and sell investors shares in the pool.

In recent years, most investors have been financial institutions that receive Community Reinvestment Act credit for these investments. The cash (equity) provided by the investors is used by the developer, along with other resources such as conventional mortgages, state loans and funds from federal programs such as HOME, to construct or substantially rehabilitate affordable housing.

Tax credits are available only for qualified low income housing projects which are defined as housing where either: (1) 20% or more of the units are rent restricted and occupied by persons at 50% of area median income or less (20/50 projects) or (2) 40% of the units are rent restricted and occupied by persons at 60% of area median or less (40/60 projects). Units are rent restricted when rent and utilities do not exceed 30% of the income limitation applicable to that unit, i.e. 50% or 60% of area median income.

The amount of the tax credit varies with the type of project. There are two levels of credit: 9% and 4%. The 9% tax credit is generally available for construction or rehabilitation projects that do not have other federal funds, and the 4% credit is for (1) acquisition of existing buildings for substantial rehabilitation; (2) new construction or substantial rehabilitation subsidized with other federal funds or (3) projects financed with tax-exempt bonds.

Low Income Housing Tax Credit

The 9% and 4% rates are designed to yield 70% or 30% net present value, respectively. Thus, in the case of a 9% credit, the stream of tax credits over the 10-year credit period has a value today equal to 70% of the eligible development costs, and in a 4% project, the present value of the credits is equal to about 30% of the development costs. Consequently, these projects are also called 70% and 30% projects, respectively.

The figures 9% and 4% are only approximate rates. The IRS computes actual rates monthly based on Treasury interest rates. For any given project, the real tax credit rate is set at the developer's option the month a project is ready for occupancy, or the month a binding commitment is made between an HFA and developer. This applicable percentage is applied to the project's qualified basis to determine the investors' tax credit. These credits are taken over 10 years. Under the Housing and Economic Recovery Act of 2008 (HERA), non-federally assisted projects placed in service between July 30, 2008 and January 1, 2014, will receive credits worth at least 9%.

The qualified basis is determined by applying the lower of: (1) the ratio of lower income units to all units (the 'unit fraction') or (2) the ratio of square feet in the lower income units to the project's total square feet (the 'floor space fraction') to the total eligible basis. Eligible basis includes building acquisition, construction, soil tests, engineering costs, and utility hookups. Land acquisition and permanent financing costs are not counted toward the eligible basis, and the eligible basis is usually reduced by the amount of any federal funds. The eligible basis of a project can get a 30% increase (a 'basis boost') if the project is located in a census tract designated by HUD as a low income tract ('Qualified Census Tract' or QCT) or a high cost area ('Difficult to Develop Area' or DDA). HERA expanded the use of this basis boost to areas designated by a state as requiring an increase in the credit amount to be financially feasible.

The greater the proportion of rent-restricted lower income units in a project (the greater the applicable fraction), the more tax credits a project can receive. This is an incentive to create projects with more than the minimum number of required rent-restricted lower income units. Tax credit units are available to persons with incomes at the time of initial occupancy at or below 50% or 60% of area median income depending on the election made by the developer. Tax credits are available only for rental units that meet either the 20/50 or 40/60 test outlined above, but projects do not have to contain 100% tax credit units. Therefore, it is possible for LIHTC projects to have a mix of units occupied by lower income people and moderate and middle income people. Some HFAs choose to create deeper targeting in order to serve households with even lower incomes.

Rents in LIHTC units. While rents on the tax credit units are restricted, tenants pay the fixed maximum tax credit rent, even if it is greater than 30% of their income. In other words, the rent a tenant pays is not based on the tenant's income; rather it is based on the applicable (50% or 60%) area median income. Consequently, lower income residents of tax credit projects might be rent burdened, paying more than 30% of their income for rent and utilities. Conversely, tax credit projects might simply not be financially available to very low and extremely low income people because rents charged are not affordable to them. HUD's tenant-based Housing Choice Vouchers or project-based Section 8 vouchers or U.S. Department of Agriculture (USDA) Rural Development Section 521 Rental Assistance are often needed to fill the gap between 30% of a resident's actual income and the tax credit rent.

The law requires units to be rent-restricted and occupied by income-eligible households for at least 15 years (called the 'compliance period'), with an extended use period of at least another 15 years (30 years all together). Some states require extended low income housing commitments greater than 30 years or provide incentives for projects that voluntarily agree to longer commitments. Where states do not mandate longer restricted-use periods, during the 14th year of the 15-year compliance period, an owner can submit a request to the HFA to sell a project or convert it to market rate. The HFA has one year to find a buyer willing to maintain the rent restrictions for the balance of the 30-year period. If the property can't be sold to a preservation purchaser then the owner's obligation to maintain rent-restricted units is removed and lower income tenants receive enhanced vouchers enabling them to remain in their units for three years.

In 2008, \$939,924,853 in Low Income Housing Tax Credits produced 79,157 qualified units. Since the program's inception it has produced 1,604,099 units.

Although housing tax credits are federal, each state has an independent agency that decides how to allocate its share of federal housing tax credits. Each HFA must have a QAP, which sets out the state's priorities and eligibility criteria for awarding federal tax credits to housing projects. The QAP is subject to public comment and thus is a tool advocates can use to influence how their state's share of annual tax credits is allocated to affordable housing projects.

LIHTC credits can be combined with funding from other federal and state programs. HOME, Community Development Block Grant, HOPE VI funds, tax exempt and taxable bond-financing, Section 8 project-based assistance and the Federal Home Loan Banks' Affordable Housing Program funds can all be combined with low income housing tax credits to support affordable housing. HERA made changes in the HUD and USDA programs to make them more compatible with the LIHTC program. Those changes include streamlining the approval process for use of LIHTCs in HUD and USDA projects, modifying the FHA insurance program so that they are more compatible with the LIHTC program and increasing the flexibility of the project-based Section 8 program, the McKinney-Vento Homeless Assistance Shelter Plus Care program and the Section 202 elderly housing program to enable them to coordinate better with the LIHTC program.

Funding

The LIHTC is a tax expenditure, so it does not require an appropriation. The Joint Committee on Taxation estimates that the program will cost \$5 billion in tax expenditures in 2010.

What Advocates Need to Know Now

The economic downturn has adversely affected the tax credit program and caused many developments to stall for lack of sufficient financing. The American Recovery and Reinvestment Act of 2009 (ARRA) contained two provisions that will help some of these stalled projects. The first provision allowed states to trade in up to 40% of their 2009 LIHTC allocation authority and all of their unused 2008 authority for cash at \$.85 on the dollar. ARRA also included \$2.25 billion in special HOME funds to address some of the financing gaps in projects that receive credits between October 1, 2006 and September 30, 2009.

While these changes are valuable, many believe they are insufficient to revive the market and attract new investors. Advocates are seeking several changes to restore the viability of the program including extending the 9% exchange program into 2010, expanding the exchange program to include 4% tax credits, permitting investors to carryback, apply the credits against prior year's income, to a greater extent than is currently permitted, and amending the tax code to encourage small corporations and partnerships to invest in the program.

The extension of the 9% exchange was included in both the House and Senate passed versions of H.R. 4213, called the "Tax Extenders Act of 2009" in the House and the "American Workers, State, and Business Relief Act of 2010" in the Senate, and is likely to be included in the final bill. A provision to provide some limited relief in connection with the 4% credit was included in H.R. 4849, the Small Business and Infrastructure Jobs Tax Act of 2010, which passed the House March 24. However, the provisions of H.R. 4849 are of limited use. The bill does not provide an exchange program as is needed but instead provides for a tax refund, the refund is only available to for-profit developers and the bill requires that projects be placed in service as of December 31, 2010 severely restricting the number of projects that can use the limited refund. A more complete refund proposal is included in H.R. 4687. Two bills, S. 3141 and H.R. 4109, would provide the changes needed to allow for the carryback of the tax credits. No action has been taken on these bills yet. The proposal to expand the investor base has not been introduced.

In addition to these proposals advocates are seeking to modify the program to deepen the income targeting for the program and modify the rent structure to reduce potential rents burdens on very low income tenants.

Low Income Housing Tax Credit

Tips for Local Success

Low Income Housing Tax Credits are distributed based on a state's Qualified Allocation Plan. See the QAP chapter for tips on best utilizing LIHTC dollars in local projects.

What to Say to Legislators

The Low Income Housing Tax Credit program is an important source of funding for affordable housing. Congress should act to protect to program and make the changes necessary to ensure the viability of the program for the future and enhance the program's focus on lower income tenants.

For More Information

National Low Income Housing Coalition · 202-662-1530 · www.nlihc.org

Affordable Rental Housing A.C.T.I.O.N. Campaign · <http://www.rentalhousingaction.org>

LIHTC Program: www.hud.gov/offices/cpd/affordablehousing/training/web/lihtc

A list of QCTs and DDAs are posted at: www.huduser.org/datasets/qct.html

HUD's data base of LIHTC projects, updated through 2006, is at: www.huduser.org/datasets/lihtc.html

See also: *Qualified Allocation Plan*.

Manufactured Housing

By Lance George, Senior Research Associate, Housing Assistance Council

Manufactured housing is an often overlooked, but particularly important, source of housing for millions of Americans. Manufactured housing is a complicated topic involving not only the structures themselves, but also issues of housing finance, land tenancy, and preservation.

Issue Summary

Modern manufactured homes evolved out of the automobile industry and recreational travel trailers. Today, manufactured homes encapsulate a broad spectrum of housing styles, systems, and arrangements. The factory-built homes of the 21st century are not the trailers of the 1960s and 1970s. Construction standards for manufactured homes have improved markedly over the past few decades, producing homes of greater quality, size, and safety. Some new manufactured homes are virtually indistinguishable from conventionally constructed single-family units. However, it is equally important to recognize the existing stock of older manufactured or ‘mobile homes.’ It is estimated that approximately one-fifth of currently occupied rural manufactured homes were built before 1975. These older units are likely to be smaller, less safe, and have fewer amenities, and less investment potential than newer manufactured homes.

There are approximately 7 million occupied manufactured homes in the United States, which make up about 7% of the nation’s housing stock. This type of housing is especially important to rural residents, and more than half of all manufactured homes are located in rural areas. While the demographics of manufactured housing are expanding, the primary occupants of manufactured homes are still households at the lower end of the income spectrum.

The nation’s current housing woes are surprisingly reminiscent of what happened in the manufactured housing industry in the early 2000s. After experiencing dramatic growth throughout much of the 1990s, sales and shipments of manufactured housing spiraled downward into a sustained slump. Much of this decline was precipitated by the overextension of risky financing that backfired after record high foreclosure rates produced a glut of manufactured units, which depressed the market. Shipments of new manufactured housing units are at their lowest levels in decades, and many large manufacturers and retailers have exited the market or declared bankruptcy.

Several federal laws have affected manufactured housing in important ways.

The HUD Code. One determining factor in the designation of a ‘manufactured home’ is whether the unit was built before or after June 15, 1976. This date marked the implementation of the Manufactured Home Construction and Safety Standards Act (42 U.S.C. Sections 5401-5426) (commonly referred to as the ‘HUD Code’) to regulate the construction of manufactured homes. HUD developed and administers the code that implements the statute. These federal standards regulate manufactured housing design and construction, strength and durability, transportability, fire resistance, and energy efficiency. The HUD Code evolves over time and has undergone several major modifications since 1976.

The Manufactured Housing Consensus Committee. The Manufactured Housing Improvement Act of 2000 established a Consensus Committee to amend, revise, and develop manufactured housing safety standards and enforce regulations. The manufactured Housing Consensus Committee (MHCC), appointed by the HUD Secretary, is composed of 21 voting members representing three interest categories (seven representing producers of manufactured housing, seven representing users of manufactured housing, and seven representing other interest groups or public officials). The committee must adopt proposed standards by at least a two-thirds vote; standards adopted are then sent through the conventional federal rule-making process. HUD may adopt standards not adopted by the MHCC, but must send such standards to the MHCC for comment prior to posting in the Federal Register.

Changes under HERA. The Housing and Economic Recovery Act of 2008 (HERA) included several provisions important to manufactured housing. HERA increased loan limits under HUD’s Title I Manufactured Home Loan Insurance program from \$48,000 to \$69,678. HUD’s Title I program insures mortgage loans made by private lending institutions to finance the purchase of a new or used manufactured home.

Manufactured Housing

HERA also requires the GSEs (Fannie Mae and Freddie Mac) to meet a “duty to serve underserved markets.” Manufactured housing was identified in the act as one of three underserved markets, along with rural areas and housing preservation. Under the act, the GSEs were tasked to increase mortgage investments and improve the distribution of capital available for mortgage financing in these markets.

Government funding for affordable manufactured housing. Manufactured housing is largely financed and funded in the private markets. However, several existing federal programs support the development, financing, and rehabilitation of affordable manufactured housing, such as the Community Development Block Grant (CDBG) program, HOME, USDA Rural Development, and Weatherization.

Current federal legislative efforts and actions. The Energy-Efficient Manufactured Housing Act of 2009 (S. 1320) includes a provision that generally establishes a \$7,500 rebate to owners of pre-1976 mobile homes for the replacement purchase of a new ENERGY STAR manufactured home. The bill is pending in the Senate and may be included in a future jobs bill.

What Advocates Need to Know Now

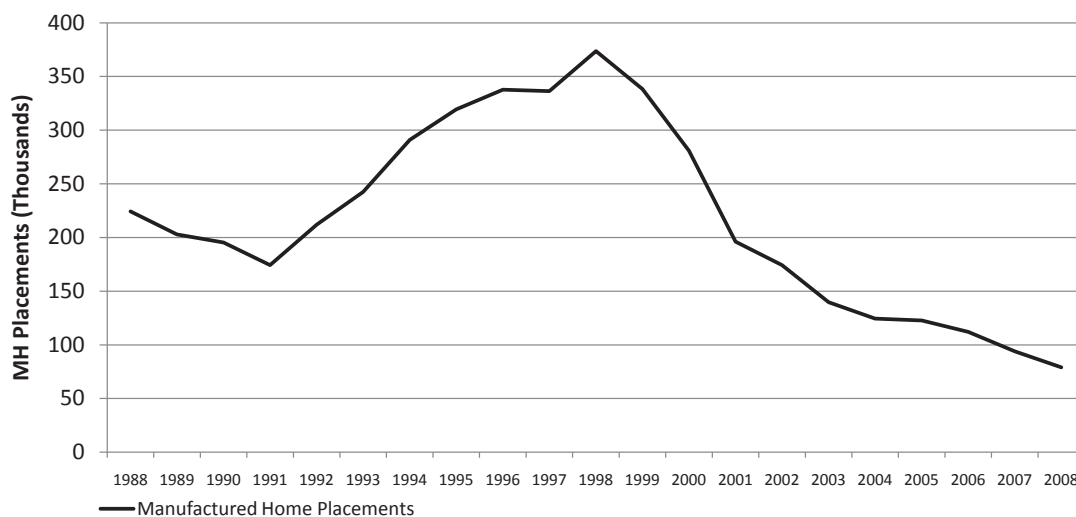
There are several issues that affect residents of manufactured homes.

Financing. While the physical and structural attributes of manufactured housing have improved, peripheral elements related to the sale, finance, appraisal, and placement of this type of housing have not progressed as well. Today the majority of manufactured homes are still financed with personal property or ‘chattel’ loans. With shorter terms and higher interest rates, personal property loans are generally less beneficial for the consumer than more conventional mortgage financing. These finance issues are often exacerbated by the sales system commonly used for manufactured homes. Manufactured homes are typically sold at retail sales centers where salespersons or ‘dealers’ receive commissions. In some cases, dealers resort to high-pressure sales tactics, trapping consumers into unaffordable homes.

To address these issues, manufactured homeowners should be provided opportunities to obtain standard mortgage lending instead of personal property loans often used to finance this type of housing.

Borrowers with personal property loans should be afforded consumer protections such as the Real Estate Settlement Procedures Act (RESPA), and the Home Ownership Equity Protection Act (HOEPA).

New Manufactured Home Placements, 1988 - 2008



Source: HAC Tabulations of U.S. Bureau of the Census Construction Statistics

Land tenure. Although manufactured homes are constructed with design features that allow them to be mobile, most of these units remain stationary after their initial placement. These design factors, combined with a history of being placed on rented land, have developed a pattern of land tenure status that is unique to this form of housing. Ownership of land is an important component to nearly every aspect of manufactured housing, ranging from quality to assets and wealth accumulation. Residents who do not have control over the land on which their home is placed upon often have reduced legal protection. It is also well established that ownership of land is at the heart of property values and is essential for potential appreciation of value in manufactured homes.

Developing affordable housing with manufactured homes. At the community level, manufactured housing has often been met with resistance, and at times, vehement opposition. Nevertheless, improvements in the quality of manufactured housing are leading some nonprofit organizations and developers to consider using manufactured housing to create affordable housing.

Nationwide, several community based organizations are utilizing manufactured homes to provide affordable, sustainable, housing while avoiding the pitfalls of traditional dealer based manufactured housing purchase and finance. This ‘manufactured housing done right’ model has been largely coordinated under the CFED’s I’M HOME (Innovations in Manufactured Housing) initiative. Through its nationwide network of national and local partners, I’M HOME seeks to install high-quality manufactured homes, help homeowners in manufactured housing communities secure long-term control over the land beneath their homes, advocate for public policies that help owners of manufactured homes, and promote access to fair and responsibly-priced mortgage financing for manufactured housing.

Preserving affordable manufactured homes. A significant portion of older manufactured and mobile homes are located in community or ‘park’ settings. Several common concerns faced by tenants of manufactured home communities include excessive rent increases, poor park management and maintenance, restrictive rules, and restricted access to municipal services. Another problematic trend is a dramatic increase in the number of manufactured home community closures. Exacerbating the rapid nature of closures are weak legal protections for tenants and prohibitively expensive relocation and moving costs. The combination of these factors is threatening an already vulnerable population residing in one of few affordable housing resources in this nation.

One proven strategy to stabilize and improve manufactured home communities is the process of conversion to resident or nonprofit ownership. A significant resource in combating park closures is ‘Resident Owned Communities USA.’ Also known as ROC USA, this nonprofit organization provides financial and technical assistance to help residents buy their manufactured home communities from private owners.

What to Say to Legislators

There are several ways in which state and federal lawmakers can support manufactured housing “done right.”

- Manufactured homeowners should be provided opportunities to obtain standard mortgage lending instead of personal property loans often used to finance this type of housing.
- Borrowers with personal property loans should be afforded consumer protections including RESPA and HOEPA.
- Legislation that limits predatory lending practices involving manufactured homes should be enacted.
- Policies and programs should be enacted to facilitate manufactured housing park preservation, such as protection from park sales, closures, and rent increases.

For More Information

The Housing Assistance Council · 202-824-8600 · www.ruralhome.org/storage/documents/movinghome.pdf

CFED I’M HOME · 202-409-9788 · http://cfed.org/programs/manufactured_housing_initiative/

ROC USA · 603-856-0246 · www.rocusa.org/

Consumers Union · 512-477-443 · www.consumersunion.org/mh/

AARP · 888-687-2277 · http://assets.aarp.org/rgcenter/consume/d18138_housing.pdf

National Consumer Law Center · 202-452-6352 · www.consumerlaw.org/issues/mobile_homes/



McKinney-Vento Homeless Assistance Programs

By Norm Suchar, Senior Policy Analyst, National Alliance to End Homelessness

The McKinney-Vento homeless assistance programs refers to a set of federal programs created by the McKinney-Vento Homeless Assistance Act, including a number of programs administered by HUD.

In 2009, Congress passed the Homeless Emergency Assistance and Rapid Transition to Housing Act (HEARTH), which significantly improves HUD's McKinney-Vento homeless assistance programs. HUD is currently drafting regulations, and changes will be implemented by HUD and communities over the next two years. Because the HEARTH act increases funding for several activities and FY11 will be the first year of its implementation, a significant increase in funding will be required.

The program is administered by HUD's Office of Community Planning and Development.

History and Purpose

Congress enacted the Stewart B. McKinney Homeless Assistance Act in 1987 in response to the homelessness crisis that had emerged in the 1980s. In 2000, the act was renamed the McKinney-Vento Homeless Assistance Act. After a decade of disagreement about reauthorization of these programs, Congress finally passed the HEARTH act in May 2009. HUD is charged with developing regulations and issuing a draft for comment by May 2010.

Program Summary

HUD's McKinney-Vento programs provide outreach, shelter, transitional housing, supportive services, and permanent housing for people experiencing homelessness. Funding is distributed both by formula to jurisdictions and competitively through the Continuum of Care (CoC) process.

ESG program. Prior to implementation of the HEARTH act, approximately 10% of funds have been allocated for the Emergency Shelter Grant (ESG) program, which provides resources for renovation and operation of emergency shelters and related services. ESG is granted by formula to city, county, and state governments. The HEARTH act renames and expands the program, but retains the formula structure.

Under HEARTH, the program will be called the Emergency Solutions Grant program, retaining the ESG acronym. The amount of funding provided for ESG would increase to 20% of HUD's homeless assistance grants.

Emergency shelter and related services would continue to be eligible activities. New homelessness prevention and re-housing activities similar to those provided by the Homelessness Prevention and Rapid Re-Housing Program (HPRP) would be added. Prevention and re-housing activities include short or medium term rental assistance, utility assistance, housing search assistance, and other activities that are effective at preventing homelessness or helping people move into stable housing.

People would be eligible for prevention or re-housing assistance if they are homeless or at risk of homelessness. Being at risk of homelessness means an individual or family has income below 30% of area median income and are losing their housing, doubled up, living in motels, or in other precarious housing situations.

Continuum of Care program. Prior to the HEARTH act, there were three competitive programs:

- (1) The Supportive Housing program, which funded transitional housing, permanent supportive housing, and supportive services;
- (2) The Shelter Plus Care program, which funded rental assistance in permanent supportive housing for homeless people with disabilities; and
- (3) The Moderate Rehabilitation/Single Room Occupancy program, which funded operating assistance in SRO buildings.

McKinney-Vento Homeless Assistance Programs

A unique feature of HUD's competitive homeless assistance programs, which will continue under the HEARTH act, is the application process. Applicants in a community, including local governments, nonprofit providers, advocates, homeless people, and other stakeholders organize into a Continuum of Care and submit a joint application to HUD for all of their project requests. The entire application is scored, and specific projects are funded in the order that they are prioritized in the application.

The HEARTH act combines these three programs into a single Continuum of Care program that includes all of the same eligible activities as the previous programs. The entity that submits the application for funding is known as a Collaborative Applicant.

Changes made by the HEARTH act to the competitive programs include the following:

- The selection criteria includes performance measures for reducing the duration of homelessness, reducing the number of people who become homeless, and reducing the number of people who re-experience homelessness after they exit.
- Incentives include creating new permanent supportive housing for individuals and families experiencing chronic homelessness, and rapid re-housing for homeless families with children.
- The match is simplified to 25% for all activities and is applied collectively to all Continuum of Care projects in a community, with the exception of leasing projects, which have no match requirement.
- Renewals of permanent housing activities are funded non-competitively, meaning that if a permanent housing project is meeting standards and is still desired by the Continuum, it will automatically receive funding.
- A new rural program is created that would provide rural areas with more flexibility and also increase funding to rural areas.
- More funding is available for administrative costs. For Continuum of Care projects, up to 10% is allowed, and 3% is allowed for the Collaborative Applicant.

In addition to HUD's homeless assistance grants, several other programs are authorized by the McKinney-Vento act:

- Education for Homeless Children and Youth (EHCY), which provides grants to schools to aid in the identification of homeless children and services to help them succeed in school; EHCY also requires that schools make a number of accommodations to improve the stability of homeless children's education.
- Title V Surplus Properties, which requires that federal surplus property be offered to nonprofit organizations for the purpose of assisting homeless people.
- The Interagency Council on Homelessness, which coordinates the federal response to homelessness and is charged with creating a federal plan to end homelessness.

Funding

The McKinney-Vento homeless assistance programs received \$1.865 billion for FY10. For FY11, the Administration proposed a \$190 million increase to \$2.055 billion.

In addition, the Administration recommended phasing in some portions of the HEARTH act instead of implementing all changes at once. The main activity that would be affected is the ESG program, which would receive \$200 million under the Administration's proposal rather than \$411 million if HEARTH were fully implemented. To fully implement the provisions of the HEARTH act and maintain the current level of investment in activities such as creating permanent supportive housing, Congress would have to provide \$2.4 billion, an increase of 28% over the FY10 level.

Prior to the current recession, HUD's homeless assistance programs had helped communities reduce homelessness. Between 2005 and 2008, homelessness was reduced by 11% across the United States.

McKinney-Vento Homeless Assistance Programs

What Advocates Need to Know Now

FY11 will be the first year that the HEARTH act will be fully implemented. Because HEARTH increases investments in several activities, funding will have to be increased by 28% to \$2.4 billion to fully implement those changes without reducing funding for other activities. The increase is needed for the following areas:

Implement the Emergency Solutions Grant	18%
Increase for Rural Areas	2%
New Administrative Costs	3%
Increased Cost of Renewals	5%
Total	28%

Advocates are making a significant push, including sending letters to Congress and urging members to circulate sign on letters, to ask the Appropriations Committee to provide \$2.4 billion for HUD's McKinney-Vento homeless assistance programs.

It is important to note that the current economy is increasing the need for homeless assistance. A recent HUD report showed that homelessness increased dramatically (8%) just in the third quarter of 2009 (July to September). The increase was even more dramatic--10%--for families with children.

Tips for Local Success

The best way to maximize the impact of McKinney-Vento funding in your community is to participate in your local ten-year plan to end homelessness and Continuum of Care process.

What to Say to Legislators

Advocates should ask their Members of Congress to support a funding level of \$2.4 billion to fully implement the HEARTH act. Specifically, advocates should communicate the following points:

- This is the first time HUD's McKinney-Vento homelessness programs have been reauthorized in nearly two decades.
- A large increase in funding is needed because of the changes made by the HEARTH act, particularly the increased focus on preventing homelessness and serving people who living in precarious situations like doubling up.
- HUD's McKinney-Vento programs work. They helped reduce homelessness by 11% between 2005 and 2008, before the recession.
- The economy is overwhelming the capacity of homeless assistance programs, causing much more homelessness, particularly among families with children.

For More Information

National Alliance to End Homelessness · 202-638-1526 · www.endhomelessness.org
Corporation for Supportive Housing · 212-986-2966 · www.csh.org

See also: *Homelessness Prevention and Rapid Re-Housing, Continuum of Care Planning Process, Interagency Council on Homelessness, Ten-Year Plans to End Homelessness.*

Minimum Wage

By Kai Filion, Policy Analyst, Economic Policy Institute

The federal minimum wage ensures a basic level of compensation for workers in the United States. But as costs have gone up over the last four decades, the buying power of the minimum wage has eroded, resulting in millions of workers who struggle to afford their most basic needs, such as housing.

Most recently raised in 2009, the minimum wage is currently set at \$7.25.

The U.S. Department of Labor enforces federal minimum wage laws, while state labor departments handle state laws.

History and Purpose

The federal minimum wage was established in 1938, during the Great Depression, as a measure to prevent the exploitation of workers and to limit income inequality.

Although the nominal level of the minimum wage has increased over time, prices have also increased, resulting in the wage's fluctuating buying power over the years. In today's dollars, this buying power peaked in 1968 at \$8.78. In fact, the real value of the minimum wage was more than \$7.50 throughout most of the period from 1963 to 1981. During the following 25 years, the federal minimum wage was largely ignored by Congress and sank to a 50-year low of \$5.48 in 2006.

Program Summary

Federal minimum wage legislation ensures that employers—both private and public— provide their employees with a minimum level of compensation for hours worked. Almost all workers are covered by this law, with exemptions for teenagers during their first 90 days of employment, some seasonal workers, and a few other groups.

In 2007, after 10 years of inaction on this issue, Congress passed a three-step increase to the federal minimum wage, raising it from \$5.15 to \$5.85 in 2007, \$6.55 in 2008, and \$7.25 in 2009. This restored much of the buying power of the minimum wage to its historical levels, but it still remains about 17% below the level reached in 1968.

A full-time minimum wage worker takes home just \$14,500 a year, below the poverty line for a family of three. According to a study by the Economic Policy Institute (EPI), there are almost 5 million workers who earn at or near the federal minimum wage, with more than 70% of this group 20 years old or older. In addition, almost 25% of these workers have children – a total of 2.1 million kids depend on parents who are earning close to the minimum wage. More than half of minimum wage workers have a family income of less than \$35,000 a year.

What Advocates Need to Know Now

Minimum wage and housing. As NLIHC's annual Out of Reach report shows, there is no jurisdiction in the United States in which a worker earning the federal minimum wage can afford even a one-bedroom apartment at the fair market rent. On average, a minimum wage worker would have to work 102 hours a week, the equivalent to 2.5 full-time jobs, in order to afford a two-bedroom apartment at the fair market rent.

Indexing the minimum wage to inflation. The lack of a strong minimum wage is likely contributing to growing wage inequality. Workers today are better educated and more productive than ever before, but real wages for minimum wage workers are now lower than they were 40 years ago. Although the purchasing power of the minimum wage has fallen, it can be restored to help working families be self-sufficient.

Approximately 4.5 million workers benefited from the federal minimum wage increase in 2009.

Increasing the minimum wage puts money in the pockets of those who most need it, and are most likely to spend it. As a result, EPI estimates that the 2009 minimum wage increase provided a \$5.5 billion boost to the economy.

Minimum Wage

Several states have ensured that the real value of the minimum wage will not decline over time by indexing it to inflation, and Congress should follow this lead. This is an improvement over the current system whereby the minimum wage is raised only when it is politically expedient – about once every six to 10 years. In addition to maintaining a constant real value of the minimum wage, indexing also ensures that each increase is small and predictable. In a recent paper, EPI highlights the advantages of indexing the minimum wage to a level equal to 50% of average, non-supervisory workers' wages. This would result in even more stable increases, and would do a better job of promoting wage equality.

Stimulating the economy. Because minimum wage workers typically come from low income families, any wage increases given to them will likely be spent quickly, providing a boost to the local economy. A study of the impact of the recent minimum wage increases found that the 2009 increase provided about \$5.5 billion of additional consumer spending to the economy. The U.S. economy is in dire need of this sort of stimulus.

Tips for Local Success

As the federal minimum wage stagnated from 1984 to 2007, several states decided to take up this issue themselves and set their own minimum wages higher than the federal minimum. In 1984, only one state (Alaska) had a minimum wage higher than the federal minimum. By the end of 2007, 31 states and the District of Columbia had set their minimum wages above the federal level. In addition, many of these states have indexed their minimum wage to inflation so that the purchasing power of the minimum wage does not decline over time.

Advocates interested in fair wages in their states or localities can contact the groups listed below to learn how to organize a campaign to enact a higher state or local minimum wage.

What to Say to Legislators

Working Americans should be duly compensated for their labor with a wage that allows them to provide for their families. Even after the latest increase in the minimum wage, its inflation-adjusted value is still lower than historical levels, and it is still at a level that makes it nearly impossible for these workers to pay for basic necessities, including housing.

Advocates should tell their federal and state legislators that the way forward has two steps: first, increase the minimum wage to a livable level, and second, index it to protect against inflation.

During the 1950s and the 1960s, the minimum wage averaged half the average wage of workers in nonsupervisory positions. This level should be used again to set the standard. By indexing to inflation or average wages, Congress would prevent the purchasing power of the minimum wage from eroding as prices increase and ensure that workers are not left behind.

For More Information

Economic Policy Institute · 202-775-8810 · www.epi.org

National Employment Law Project · 212-285-3025 · www.nelp.org

Mortgage Interest Deduction

By Danilo Pelletiere, Research Director, National Low Income Housing Coalition

The Mortgage Interest Deduction (MID) is a provision of the U.S. tax code that allows homeowners to deduct the interest paid on mortgages on personal homes from their taxable income for the purposes of determining the amount of federal income tax they owe each year. Current law allows interest on up to \$1 million in total mortgages on first and second homes to be deducted, as well as up to \$100,000 in home equity loans.

While few recipients of the MID consider it to be housing assistance, the MID actually comprises the federal government's largest housing subsidy. In FY09, the MID cost the U.S. Treasury \$86 billion, more than twice the total HUD budget. The MID is highly regressive tax policy. As currently structured, it is the wealthiest people with the biggest mortgages who benefit the most.

Many people believe that the public value of the MID is in its promotion of homeownership. Indeed, the Congressional Joint Committee on Taxation defines the MID as part of the nation's "social policy agenda," intended to encourage homeownership through a "tax subsidy." However, because the MID primarily benefits middle and upper income taxpayers, it is not effective at encouraging homeownership among low income households.

Advocates are concerned with both the inequity inherent in the MID subsidy and the program's misplaced emphasis on homeownership. Though a reform movement has yet to gain significant ground in Washington, the combination of the foreclosure crisis and growing budget deficits has raised the level of scrutiny of the program. The current administration has gone so far as to make concrete reform proposals in its budgets. President Obama's FY10 and FY11 budget requests propose limiting the tax deductions, including the mortgage interest deduction, of high income individuals to raise funds for health care and for deficit reduction.

As a tax program, the Mortgage Interest Deduction is administered by the Treasury Department.

History

The MID has its origins in the first federal income tax established in 1913 by constitutional amendment. Interest was named as an allowable deduction, but at the time, most interest was related to business borrowing. Until the mid-1980s, the MID was part of a broader deduction allowed for all consumer interest payments. In the tax reforms of 1986, however, the general deduction for personal interest payments, such as credit card interest, was discontinued.

The MID, however, had strong support from powerful homebuilder and Realtor interests. It also benefited rhetorically from its association with the popular goal of homeownership. President Reagan famously told the National Association of Realtors in 1984, "I want you to know that we will preserve the part of the American dream which the home-mortgage-interest deduction symbolizes." The MID remained part of the tax code.

Summary

The MID is a provision in the tax code that allows home mortgage interest to be a tax-deductible expense for individuals and joint filers similar to other itemized deductions such as real estate property taxes, business and medical expenses, and charitable contributions. The amount of mortgage interest paid in a given tax year is deducted from the taxpayer's income for that year, reducing total tax liability.

In calendar year 2008, 37 million taxpayers claimed the deduction. This is roughly 71% of all homeowners with a mortgage, but just 24% of all tax filers. There are a number of reasons why the program does not assist all mortgage

Mortgage Interest Deduction

holders. First, not all mortgage interest qualifies for the MID. For example, interest on home equity loans of over \$100,000 is not eligible.

Second, not every eligible mortgage holder receives the benefit of the deduction. A tax deduction differs from a tax credit in that a tax credit directly reduces the tax a filer owes, dollar for dollar. With a refundable credit, any amount above the taxes owed is actually paid to the tax filer, with a check from the government. In contrast, a deduction reduces the income against which taxes are assessed, and each dollar of deduction only reduces tax liability by some fraction of a dollar based on the applicable tax rate. To be assisted by the MID a household still must have a tax liability after any credits are claimed. Thus, the lowest income tax filers may receive no benefit from the MID at all.

Moreover, current law allows every taxpayer to take a “standard deduction,” ranging from \$5,700 for a single person to \$11,400 for a married couple in 2009. But a household can forego the standard deduction and “itemize” instead, further reducing its tax liability if the sum of its deductions, including the MID, exceeds the standard amount it can claim. For example, a married couple would need total deductions to exceed \$11,400 to make itemizing, and claiming the MID, worthwhile. The smaller a household’s qualified mortgage interest payments and the higher its standard deduction, the less likely it will be to meet the threshold deduction amount necessary to benefit from the MID.

Furthermore, since larger interest payments are associated with larger loan balances and multiple homes, the taxpayers receiving the greatest benefit from the MID tend to be more recent and wealthier borrowers who have purchased more expensive houses and carry larger mortgage balances. Compounding the regressive effect of the MID, higher income households also stand to benefit more from tax deductions in general because they pay a higher marginal tax rate and therefore receive a greater return from each dollar that is not taxed. Many lower and middle income households who do itemize and claim the MID receive startlingly little benefit relative to higher income households.

This contrast is clearly illustrated by a 2008 study by James Poterba and Todd Sinai. Using 2004 data, these authors found that the average tax savings for a middle income household with an annual income between \$75,000 and \$125,000 ranged from \$351 for those over 65 years old to \$1,817 for those between 25 and 35. For those earning over \$250,000, the corresponding range was from \$5,459 to \$7,077. For those earning less than \$40,000, however, the average benefit was a mere \$5 for seniors and \$208 for those between 25 and 35 years old.

Table 1, using more recent estimates from the Joint Committee on Taxation (JCT), shows the regressive distribution of the benefits from the MID.

Distribution by Income Class of Mortgage Interest Deduction Tax Subsidies, 2008

Income class (Adjusted Gross Income)	Total returns claiming MID (thousands)	Total subsidy amount (millions)	Average subsidy amount	Percent of total subsidy
Below \$20,000	250	\$75	\$300	0%
\$20,000 to \$40,000	2,210	\$1,302	\$589	2%
\$40,000 to \$75,000	9,459	\$10,206	\$1,079	12%
\$75,000 to \$200,000	20,666	\$46,414	\$2,246	54%
\$200,000 or more	4,082	\$27,468	\$6,729	32%
Total	36,668	\$85,465	\$2,331	100%

Source: NLIHC Calculations from Joint Committee on Taxation (2008). *Estimates of Federal Tax Expenditures for Fiscal Years 2008-2012*. Washington, D.C. US Government Printing Office. Table 6.

Funding

Since the benefit is provided to every qualifying taxpayer and there is no statutory limit on the total annual cost, the MID is an entitlement, similar to Food Stamps, Unemployment Insurance, or Social Security. The MID is a “tax expenditure” with costs to the Treasury, just as programs supported through appropriations or direct payments to individuals are. The cost of the MID is the difference between what the Treasury can expect to collect with the MID in place and what it would collect if it were not.

In FY09, the Joint Committee on Taxation calculated the cost of the subsidy to be \$86 billion, making it one of the most expensive federal programs. The annual cost of the MID is more than twice as much as the federal government spends on low income housing assistance for the neediest people in the United States.

Though developments in housing markets may put downward pressure on the trend, the cost of the MID is expected to increase to as much as \$135 billion by 2013.

What Advocates Need to Know Now

The connection between MID and homeownership. Contrary to popular opinion, the MID was not created to expand homeownership in the United States. In fact, the MID is an inefficient and ineffective means of achieving this goal. Since most low income homeowners receive little benefit from the program, it does not support low income homeownership. Theoretically, the MID may raise homeownership rates by increasing homeownership among higher income households, but higher income households would likely own their homes anyway. The most cited evidence of the lack of causality between the MID and the homeownership rate is that the homeownership rate in countries without similar tax policy, including Australia, Canada, and the United Kingdom, is at least equal to or higher than in the United States.

The consensus among economists is that the MID is best suited to encourage people to borrow more and pay more for homes. Encouraging Americans to put more money into housing, as opposed to other forms of consumption or investment, is mostly beneficial for the housing industry, but not necessarily for the consumer. Money that goes into housing due to the MID is not available for investment in other sectors of the U.S. economy or for other public goods. Recently, concerns have been raised that the MID elevates home prices, affecting what people are willing to pay and the types of new housing that are constructed, by encouraging homeowners to maximize the leverage on their own homes with an eye on their tax returns. Thus, the MID has been implicated in the housing price bubble and the large number of households without a significant equity cushion today. As a result of over-leverage and falling prices, one out of five homeowners today is “underwater,” i.e., owes more on the mortgage than the house is worth.

MID reform proposals. Many advocates agree on the need for MID reform. Some calls for reform focus on the inequity between the MID and low income housing assistance. Others look to the MID as a source of revenue for other federal priorities.

As a presidential candidate, Barack Obama proposed a mortgage tax credit to expand MID benefits to those who do not itemize on their taxes. But in both his FY10 and FY11 budget proposals, President Obama has proposed limiting the value of deductions generally, including the MID, for households with incomes of more than \$250,000 and individuals making more than \$200,000 (in the 35% tax bracket). His proposal would allow them the same deductions that someone in the 28% bracket would receive. Thus, a household in the 35% tax bracket would be able to deduct only 80 cents for every dollar of mortgage interest paid. It was estimated in 2009 that this change would generate an estimated \$318 billion in receipts to the Treasury over 10 years.

The President’s proposal would make the MID somewhat less regressive. In the FY10 proposal, the President would both cut benefits to the wealthy, and then use the money saved to pay for health care reform to benefit lower income people. The proposal gained little traction in FY10, and in FY11 funds generate by his proposed reforms would go to paying down the deficit and the general fund.

Others have proposed reform of the MID in recent years. President George W. Bush’s Advisory Panel on Federal Tax Reform called for making the housing benefits through the tax code more equitable, in its report issued in November 2005. First, the tax break would be allowed only on one home. Second, the MID would be replaced with a refundable home credit equal to 15% of the mortgage interest paid, with mortgages limited to the average regional price of housing. In November 2005 this meant the upper limit on a mortgage eligible for the credit would have been reduced from \$1 million to between \$227,000 and \$412,000. These limitations would save money while providing a benefit to homeowners with mortgages who take the standard deduction, clearly increasing the equity of federal housing subsidies.

Mortgage Interest Deduction

The Congressional Budget Office periodically publishes for Congress a compendium of “budget options” to increase revenue or cut spending. In its budget options analysis issued in February 2007, CBO estimated that if the upper limit on mortgages eligible for tax subsidies had been lowered from \$1 million to \$400,000, it would have produced \$4.2 billion in revenue in 2008 and \$88.1 billion over 10 years. Such a change in 2008 would have raised taxes for just 1.2 million people, those with the largest mortgages, representing only 1% of all households in the United States.

Alternatively, the CBO has estimated that if the current mortgage interest tax deduction were replaced with a 15% tax credit on mortgages up to \$400,000 for primary residences, revenue of \$21.7 billion would have been generated in 2008 alone, with \$418.5 billion between 2008 and 2017.

In 1993, the National Low Income Housing Coalition proposed a National Housing Trust Fund with revenue from reducing the benefits of the MID to higher income people. There was no political support for tampering with the MID at that time. Today, the National Housing Trust Fund Campaign is examining ways to redirect MID housing subsidies into the National Housing Trust Fund.

The political climate for reform of the MID is improving, and advocates will continue to make the case for reform. The danger in any future reform is that policymakers will attempt to divert revenue gained away from housing and to other uses.

What to Say to Legislators

Advocates should inform policy makers about what is commonly understood by economists and others who have studied the mortgage interest deduction.

- The MID is a social subsidy that cost the Treasury \$86 billion in FY09, compared to the entire HUD budget that year of \$42 billion. People who receive the mortgage interest deduction are receiving a federal housing subsidy.
- The MID does not help those most in need.
- The MID is an ineffective policy to encourage homeownership.
- The MID distorts housing markets and encourages Americans to make over-leveraged investments in personal housing.
- Reform proposals should divert funds now directed to the MID into providing housing for people with the lowest incomes, and not be withdrawn from the housing sector and diverted to other uses.

For More Information

Congressional Budget Office · Budget Options · <http://www.cbo.gov/doc.cfm?index=7821&type=0>

Look also for the recent report An Overview of Federal Support for Housing <http://www.cbo.gov/ftpdocs/105xx/doc10525/HousingPrograms.1.1.shtml>

Joint Committee on Taxation (Look for reports and data on “Federal Tax Expenditures”) · 202-225-3621 · www.house.gov/jct/

National Low Income Housing Coalition · 202-662-1530 · www.nlihc.org

See also: *Balanced Housing Policy: Owning and Renting in U.S. Housing Policy.*

Moving to Work/Housing Innovation Program

By Linda Couch, Vice President for Policy, National Low Income Housing Coalition

Moving to Work (MTW) is a HUD public housing agency (PHA) demonstration program that provides PHAs with enormous flexibility from most HUD statutory and regulatory requirements. The flexibilities, from key programmatic underpinnings like rent affordability and income targeting requirements, can impact residents in both the public housing and Housing Choice Voucher programs. Authorized in 1996, the program continues even though it has not been evaluated on a broad scale. While some underfunded PHAs are desperate for flexibility from HUD rules, NLIHC and others contend that the programs' guidelines are key to their ability to affordably meet the housing needs of the nation's lowest income households.

Legislation that would expand the program and rename it the Housing Innovation Program (HIP) passed out of the House Committee on Financial Services in 2009.

MTW is administered by HUD's Office of Public and Indian Housing.

History and Purpose

The Moving to Work demonstration program was initially created in a 1996 appropriations act. The act authorized 30 PHAs to participate in the demonstration.

Since 1996, various HUD appropriations bills have authorized additional housing authorities to participate in this demonstration program. Meanwhile, some demonstrations ran their course and ended. In 2010, 33 PHAs will have MTW status, including three that were given MTW status in the FY10 HUD appropriations bill.

In 2009, Section 8 Voucher Reform Act legislation (SEVRA; H.R. 3045) passed out of the House Committee on Financial Services. This bill would allow the HUD Secretary to expand the number of MTW agencies to up to 60 and authorize a less-extensive demonstration for up to another 20 public housing agencies. In this bill, MTW would be renamed the Housing Innovation Program.

Program Summary

As stated in Section 204 of the authorizing statute, the purpose of the MTW demonstration is to give PHAs and HUD the flexibility to design and test various approaches for providing and administering housing assistance that:

- (1) Reduce cost and achieve greater cost effectiveness in federal expenditures;
- (2) Give incentives to families with children in which the head of household is working, is seeking work or is preparing for work by participating in job training, educational programs or programs that assist people to obtain employment and become economically self-sufficient; and
- (3) Increase housing choices for low income families.

To achieve these goals, PHAs selected for MTW demonstration sites could receive waivers from most of the existing statutes and regulations governing the public housing and Section 8 voucher programs and gain the ability to combine public housing capital and operating funds with voucher funds. PHAs participating in MTW can change rent rules and income targeting requirements, impose work requirements and time limits, merge public housing funds with voucher funds, change how they use project-based vouchers, and alter their reporting to HUD, among many other functions.

Today, 30 PHAs are still performing their demonstrations. Another three will sign MTW agreements in 2010, once the Notice of Funding Availability (NOFA) process is completed.

MTW/HIP in SEVRA. If enacted, the SEVRA bill currently under consideration would rename the program, while making a few programmatic changes.

Moving to Work/Housing Innovation Program

H.R. 3045 would allow up to 60 agencies to participate in the MTW program, renamed the Housing Innovation Program (HIP). Up to another 20 agencies could participate in a 'HIP-lite,' with fewer, but still significant, flexibilities from current requirements. Agencies would not have to tell HUD which specific requirements they want freedom from in their HIP applications. Up to five "near-troubled" agencies could participate. Unlike the current MTW, agencies would have to follow current income targeting guidelines, but could still impose new rent structures, time limits, work requirements, and portability restrictions, and have fungibility between public housing and voucher funds, among other flexibilities.

NLIHC's position on the MTW program is that there should not be any extension of current MTW demonstrations unless and until additional resident protections are incorporated, the current MTW programs are evaluated, and the lessons learned are incorporated into any proposal for expanding the demonstration program.

NLIHC strongly opposes flexibility from existing rent affordability structures and income targeting guidelines. In addition to MTW being expanded by SEVRA, the annual HUD appropriations bills have also proved a popular way to expand the number of MTW sites, one PHA at a time.

Funding

There is no funding specifically for the MTW program. Under MTW, PHAs receive funding that equal to what they would have received had they not participated in MTW.

The serious lack of sufficient funding for public housing is likely one of the reasons some PHAs advocate for the MTW program. Advocates must be committed to identifying and advocating for new resources and new ideas to ensure that public housing and vouchers remain an affordable housing option for the lowest income households. Deregulating public housing and vouchers through the MTW program will not save these units for the lowest income groups in a way that is affordable for them.

What Advocates Need to Know Now

The HUD Inspector General found, in 2005, that HUD did not design the MTW program to collect any data. Instead, HUD relied on its existing systems to collect data. But, the report says, "the existing system could not accept tenant information and was not adapted in time to support the interim evaluation and, as a result, HUD was not able to collect tenant information needed to measure interim program impact on costs, family self-sufficiency, and housing choices as planned."

Further, the report found that "HUD's evaluation could not cite (1) statistics showing MTW demonstration activities could be considered models for reducing costs and achieving greater cost-effectiveness, promoting resident employment and self-sufficiency, and increasing choice for low income households, and (2) comparative analyses intended to show the impact of program activities and importance of individual policy changes...We recommend the Office of Public Housing Investments develop a means to collect performance information needed to evaluate Public Housing/Section 8 Moving to Work Demonstration housing authority accomplishments and determine whether any replicable models exist." Given the lack of proof that the program is accomplishing any of its goals, expansion of the program seems ill-considered.

Several other HUD Inspector General reports have also been extremely critical of MTW implementation by specific public housing agencies:

- The Housing Authority of the City of Baltimore was found to have received MTW status even though it applied 31 months after the deadline with an incomplete application that lacked the required public comment period and public hearing. Further, in granting the application, HUD disregarded Baltimore's status as a troubled agency from 2001 to 2003 and, under the Section 8 Management Assessment Program (SEMAP), in 2004.
- The Housing Authority of the City of Pittsburgh was found to have stockpiled more than \$81.4 million of HUD funding during the first four years of its MTW status, all completely legally under MTW rules. Meanwhile, the housing agency did nothing to modernize its 6,700 public housing units and it failed to serve 3,000 families waiting for vouchers. According to the HUD Inspector General, "The relaxation of requirements under Moving to Work allowed the Authority to plan and execute a minimal modernization plan without penalty." Pittsburgh Real Estate Assessment Center (REAC) scores were extremely low: In 2003, 16 of 44 developments (36%) had physical inspection scores below 70 (out of 100).

- In Philadelphia, the housing authority's participation in MTW was criticized because HUD accepted this agency into the MTW program without carefully evaluating the agency's past poor performance in utilizing housing vouchers. A previous HUD Inspector General report on the Philadelphia Housing Authority found very low voucher utilization rates there: In 1999 the agency had an 87.2% utilization rate; it declined to 84.6% in 2000, 77.8% in 2001, and 76.8% in 2002. The PHA submitted its application for MTW in 2000 and it was approved in 2002. Despite PHA's poor performance, no restrictions were placed on it in the MTW agreement.

In a June 2004 report on the MTW program prepared for HUD, the Urban Institute concluded that three key aspects of the design and implementation of MTW have limited its ability to inform public housing policy going forward:

- (1) The MTW framework put limitations on what could be deregulated and for how long. These restrictions could have discouraged PHAs from implementing reforms that might otherwise have been implemented if MTW had been permanently authorized, rather than being a time-limited demonstration.
- (2) MTW was not designed as a rigorous research demonstration.
- (3) Due to HUD's systems, critical data on the characteristics of public housing residents and Section 8 households have not been collected in a consistent and uniform fashion from the demonstration sites. This leaves much of what we know about MTW's impacts to anecdotes and piecemeal information gathering.

The Urban Institute report also found that there is no way to determine with certainty whether individual programs have achieved the goal of work and self-sufficiency. In addition, while some housing agencies have expanded housing options for low income people, others restricted it. There has been no mechanism in MTW's history to move forward with what has worked within MTW to improve affordable housing options for the lowest income households and improve the physical and financial health of the housing agency and, critically, leave behind what in MTW agreements has harmed residents and housing agencies.

NLIHC's concerns are focused on the ability of the voucher and public housing programs to continue to address the housing needs of their targeted populations in ways that are affordable to each household and that continue to provide residents choice. NLIHC does not believe that work requirements, self-sufficiency contracts, and time limits should be allowed in federal housing safety net programs. Rent policies that increase rents beyond a household's affordability level are tantamount to time limits.

NLIHC's position is that MTW should not be expanded to include other housing agencies and current MTW agreements should not be extended unless the following conditions are met:

- There must be full enforceability of residents' rights as provided by the U.S. Housing Act and HUD regulations.
- There must be no waiver of full portability rights for all households.
- There must be no waiver of any fair housing-related requirements.
- There must be in place at the onset new, common data compilation and evaluation mechanisms, so that each program is subjected to the type of evaluation promised.
- Additional protections are provided for current and potential residents, including protections from unaffordable rents. Any determination of high rent burdens for MTW households would have to be followed by changes in rent policies to keep rents affordable for each household.
- No residents should be subjected to self-sufficiency provisions tied to leases and work or other threshold screening requirements tied to housing eligibility.
- Current income targeting should be maintained with no exceptions.
- Residents must also have a seat on each PHA board, be able to establish a Resident Advisory Board (RAB), and retain grievance and termination procedures.
- The PHA must continue to assist substantially the same number of families under the program as assisted in the year prior to MTW selection and continue to assist a comparable mix of families by family size.
- Those MTW PHAs that have been the subjects of HUD Inspector General MTW audits must prove their compliance with the program rules before their MTW status can be extended.
- If it is determined during the process of evaluation that a MTW PHA is imposing policies that are harmful to low income tenants or are otherwise found to be mismanaging its portfolios, its MTW status should be terminated. The MTW program must have room to be recalibrated regularly to address its impacts on residents and the future health of the housing agency.

Moving to Work/Housing Innovation Program

What to Say to Legislators

Advocates should urge Members of Congress to support increased funding for public housing and vouchers in FY11 so that PHAs can thrive as they operate safe, decent, and affordable public housing and voucher programs.

Legislators should also be asked to oppose continuation or expansion of the Moving to Work program because the program has not been evaluated on a broad basis, and because sufficient protections for current and future residents are not in place. Anecdotal evidence, and numerous HUD Inspector General reports, suggest that the program has caused harm to the lowest income residents and potential residents and to the physical and financial futures of the PHAs.

Legislators should also be asked to oppose expanding the MTW program through the annual HUD appropriations bill, where the program has slowly but consistently expanded over the last several years.

Tips for Local Success

Advocates should be engaged in whether local PHAs are seeking approval to become an MTW site. MTW agreements between HUD and PHAs must be tailored to preserve housing options while protecting the affordability of homes for extremely low income people.

For More Information

National Low Income Housing Coalition · 202-662-1530 · www.nlihc.org

National Housing Law Project · 510-251-9400 · www.nhlp.org

Center on Budget and Policy Priorities 202-408-1080 www.cbpp.org

HUD's MTW website provides information on current and past MTW demonstration sites: <http://www.hud.gov/offices/pih/programs/ph/mtw/index.cfm>

Access The Urban Institute's 2004 MTW evaluation at: <http://www.hud.gov/offices/pih/programs/ph/mtw/evalreport.pdf>

See also: *Public Housing, Housing Choice Vouchers*.

Native American, Alaska Native, and Native Hawaiian Housing Programs

By Mellor C. Willie, Executive Director, National American Indian Housing Council

The Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) is the main piece of federal legislation designed to address Native American housing issues, and comprises three major components:

- (1) The Indian Housing Block Grant (IHBG) program;**
- (2) Title VIII Housing Assistance for Native Hawaiians, which includes the Native Hawaiian Housing Block Grant (NHHBG) program and the Section 184A Native Hawaiian Housing Loan Guarantee program; and**
- (3) Title VI Tribal Housing Activities Loan Guarantee program.**

Other housing programs that address Native American housing issues include the Indian Community Development Block Grant (ICDBG) program and the Indian Home Loan Guarantee program (Section 184), both of which are part of the Housing and Community Development Act of 1992.

NAHASDA is administered by HUD's Office of Native American Programs (ONAP).

History and Purpose

Stemming from treaties with Indian tribes, federal statutes, court decisions, executive agreements, and the course of dealings and other federal policy from the early 1800s, the United States has a trust responsibility to Native American tribes and people. This unique legal and political relationship with Indian tribes is fiduciary in nature, with the federal government serving as trustee with a duty of protection toward tribes as beneficiaries. The trust responsibility extends to areas of health care, education, natural resources and housing. Under the 1937 U.S. Housing Act, Congress addressed the housing needs of low income Americans and in 1961 Indian tribes became eligible for assistance under programs operated by HUD.

HUD regional offices administered programs to tribes in their areas. By the mid-1970s, HUD had created Offices of Indian Programs in Denver and in San Francisco to exclusively administer Indian housing programs. Finally, in 1992, Section 902 of the Housing and Community Development Act created the current entity, the Office of Native American Programs.

NAHASDA was enacted in 1996 and consolidated multiple federal housing assistance programs into a single block grant for Indian tribes or tribally designated housing entities to provide affordable housing for low income families residing on reservations and tribal areas. On October 14, 2008, NAHASDA was amended and reauthorized through FY13.

The face of housing in Native American communities is as diverse as the communities it serves. The chronic problems associated with needs far outstripping resources beget creativity and unique leveraging of funding to address extraordinary housing needs. Overcrowding, poverty, unemployment, low household incomes, a rapidly increasing population, and a lack of infrastructure are just some of the challenges that vex American Indians, Alaska Natives and native Hawaiians.

According to the 2000 Census, 14.7% of American Indian households in tribal areas are overcrowded, compared to 5.7% of homes in the general U.S. population. Furthermore, 11.7% of American Indian households in tribal areas are without complete plumbing, compared with 1.2% of the general U.S. population.

Program Summary

NAHASDA radically reformed how the federal government meets its trust responsibility when it comes to the housing needs of Native Americans. NAHASDA addresses the need for affordable homes in safe and healthy environments on Indian reservations, in Indian communities and Alaska Native Villages, and on native Hawaiian Home Lands.

Native American, Alaska Native, and Native Hawaiian Housing Programs

NAHASDA enhances tribal capacity to address the substandard housing and infrastructure conditions in Indian communities by encouraging greater self-management of housing programs and private sector financing to complement scarce IHBG dollars. The annual IHBGs are formula driven and awarded to eligible Indian tribes or their tribally designated housing entities (TDHEs) for a range of affordable housing activities that primarily benefit low income Indian families living on Indian reservations or in other Indian areas. The amount of each grant is based on a formula that considers need and the amount of existing housing stock.

Activities eligible to be funded with NAHASDA assistance include new construction, rehabilitation, acquisition, infrastructure, and various support services. Housing assisted with these funds may be either rental or homeowner units. NAHASDA funds can also be used for certain types of community facilities if the facilities serve eligible low income Indian families who reside in affordable housing. Generally, only low income families whose income does not exceed 80% of the average median income are eligible for assistance.

The NAHASDA Reauthorization Act of 2008 had broad bi-partisan support in both chambers of Congress. Amendments to the program included: removing competitive procurement rules for purchases under \$5,000; recognizing tribal preference laws for NAHASDA hiring and contracting; permitting tribes to carry over funds to a subsequent grant year; and establishing a reserve account for up to 20% of a tribe's annual NAHASDA grant amounts. Before these changes go into effect, tribes and HUD need to go through Negotiated Rulemaking Process. The amendments set forth rigorous timelines for HUD to initiate and complete the final rule by October 2010.

Native Hawaiians. In 2000, NAHASDA was amended to create a separate title addressing the housing and related community development needs of native Hawaiians. This title, Title VIII Housing Assistance for native Hawaiians, includes the Native Hawaiian Housing Block Grant (NHHBG) program and the Section 184A Native Hawaiian Housing Loan Guarantee program. The NHHBG program provides eligible affordable housing assistance to low income native Hawaiians eligible to reside on Hawaiian Home Lands. Since 2005, Title VIII has not been reauthorized. NHHBG has, however, been funded each year.

The Department of Hawaiian Home Lands (DHHL), the sole recipient of NHHBG funding, uses the funds for new construction, rehabilitation, acquisition, infrastructure, and various support services. Housing can be either rental or homeownership. The NHHBG can also be used for certain types of community facilities if the facilities serve eligible residents of affordable housing. DHHL also uses the funds to provide housing services, including homeownership counseling and technical assistance, to prepare families for home purchase and ownership.

The Hawaiian Homelands Homeownership Act of 2000 adds a new Section 184A to the Housing and Community Development Act of 1992, which authorized the Native Hawaiian Housing Loan Guarantee program. The purpose of the Section 184A loan is to provide access to sources of private financing on native Hawaiian Homelands. The program is designed to offer home ownership, property rehabilitation, and new construction opportunities for eligible native Hawaiian individuals and families wanting to own a home on Hawaiian home lands.

Funding

For FY10, the ICDBG program was funded at \$700 million and the NHHBG program was funded at \$13 million. The American Recovery and Reinvestment Act of 2009 (ARRA) included a one time infusion of more than \$500 million for competitive and formula IHBG.

Since 1997, NAHASDA has facilitated the construction, rehabilitation or development of more than 60,000 units. Current estimates indicate an immediate need for at least another 200,000 units in Indian Country.

What to Say to Legislators

Advocates should be aware of tribal positions and support them in the legislative process.

Native Hawaiian reauthorization. The Title VIII program was included in the House version of NAHASDA reauthorization in 2008, but not in the final bill. The Hawaiian Homeownership Opportunity Act of 2009 (H.R. 709 and S. 72) would reauthorize Title VIII. Housing advocates should push for reauthorization of native Hawaiian programs in their efforts, to ensure native Hawaiians have access to critical resources for housing and community development.

Resources for tribal housing programs. Funding for tribal housing is the lifeblood for community development in Indian Country. For many years, funding has leveled off, failing even to keep pace with inflation and ever-increasing costs of energy, materials, and construction. Advocates should ask Congress and HUD to fully fund tribal housing and tribal housing related programs, including the Indian Housing Block Grant program, the Indian Community Development Block Grant program, the Native Hawaiian Housing Block Grant program, and the Section 184, 184A, and Title VI loan guarantee programs.

For More Information

National American Indian Housing Council · 202-789-1754 · www.naihc.net
HUD Office of Native American Programs · <http://www.hud.gov/offices/pih/ih/>
Department of Hawaiian Home Lands · <http://hawaii.gov/dhhl>

Neighborhood Stabilization Program

By Amanda Sheldon Roberts, Housing Director, Enterprise Community Partners

The Neighborhood Stabilization Program (NSP) provides emergency assistance to states and local governments to acquire and redevelop foreclosed, vacant, and abandoned properties that have become blights on the community and are driving down neighboring property values. There have been two rounds of NSP. The first, in 2008, distributed funds to communities through a needs-based formula allocation. The second round of funding, approved as part of the 2009 stimulus legislation, distributed funds through a competitive allocation. Current legislation would provide funding for an NSP3.

The NSP program is based on a modified Community Development Block Grant (CDBG) program and is administered by the HUD Office of Community Planning and Development (CPD).

History and Purpose

As the foreclosure crisis spread throughout the country, it became apparent that entire neighborhoods were being ravaged by the blighting influence of vacant and abandoned homes. Neighborhoods—urban and suburban, rich and poor, new and old—have been negatively impacted by large numbers of foreclosed and abandoned homes. Foreclosures bring down the value of neighboring homes and lowers tax receipts, affecting schools and other local services. Homes that sit vacant cause blight and crime, further lowering property values and affecting the overall quality of life in neighborhoods.

In order to stabilize these neighborhoods and stop the precipitous decline of neighborhood property values, the NSP program was authorized and funded by Title III of the Housing and Economic Recovery Act of 2008 (HERA), passed on July 30, 2008. This first round of NSP funds (\$3.92 billion) was distributed to 308 states, cities, and counties via a needs-based formula allocation. On February 17, 2009, the American Recovery and Reinvestment Act (ARRA) provided an additional \$2 billion for the program via a competitive allocation.

With as many as 4 million foreclosures expected by the end of 2010, communities continue to struggle with the consequences of this crisis.

Program Summary

The NSP funds are intended to stabilize communities and stop home prices from declining in areas with large numbers of foreclosures by providing resources to purchase foreclosed, vacant, or abandoned homes to rehabilitate, resell, or redevelop.

The two versions of NSP differ from each other in a few key ways.

HERA NSP Formula Grant Program. For the first round of NSP, the Housing and Economic Recovery Act of 2008 established a formula allocation grant program to distribute NSP funds to states and localities. The formula was outlined in the legislation and was based on the number and percentage of home foreclosures in each state or unit of general local government, the number and percentage of homes financed by a subprime mortgages, and the number and percentage of homes in default or delinquency in those areas.

NSP-eligible activities are:

- Establishing financing mechanisms for the purchase and redevelopment of foreclosed homes and residential properties;
- Purchasing and rehabilitating homes and residential properties that have been abandoned or foreclosed;
- Establishing and operating land banks for homes and residential properties that have been foreclosed;
- Demolishing blighted structures; and
- Redeveloping demolished or vacant properties.

According to the statute, all of the funds must be used for housing for individuals and families whose incomes do not exceed 120% of area median income (AMI). Not less than 25% of funds must be used for the purchase and redevelopment of abandoned or foreclosed upon homes or residential properties that will be used to house individuals or families whose incomes do not exceed 50% of area median income. All homes acquired for NSP must be purchased at a discount from the appraised price, and program income earned from the sale of properties must be used for NSP-eligible activities.

On October 6, 2008, HUD released the NSP regulations and announced which jurisdictions would receive an allocation and how much. All 50 states as well as 257 cities and counties (plus three territories) received a direct NSP allocation. The minimum allocation for states was \$19.6 million, and the minimum allocation for cities and counties was \$2 million. States are permitted to give funding to localities that received a direct allocation, but most states chose to give funds to localities that did not receive their own allocation.

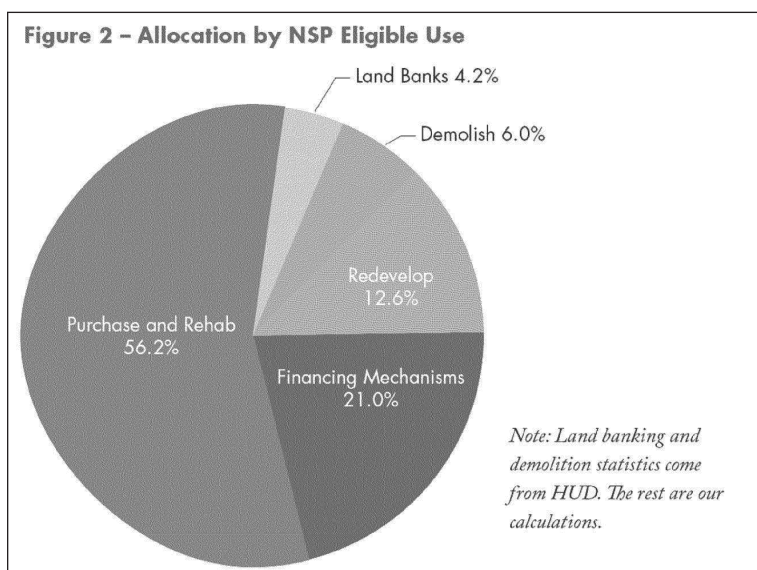
Communities eligible to receive NSP funding were required to submit action plans to HUD by December 1, 2008. The action plans outlined how a grantee would spend its NSP funds, and which neighborhoods would be targeted. HUD reviewed the plans, and most grant agreements were signed in March of 2009. The statute requires that all funds be obligated within 18 months of receipt - September 2010 for most grantees.

ARRA Competitive Program – NSP2. NSP2 was created under the American Recovery and Reinvestment Act of 2009 and provided additional funds to be distributed by a competitive program to state and local governments. Unlike the first round of NSP, nonprofit entities, and consortiums of state governments, local governments, for-profits, and/or nonprofits were all eligible applicants.

On May 4, 2009, HUD released the Notice of Funding Availability (NOFA) for NSP2. Applications were due on July 17, 2009, and HUD had to obligate all funds by February 17, 2010. The criteria for selecting grantees included ensuring that the grantees operate in areas with the greatest number and percentage of foreclosures can expend the funds in a timely manner, have the capacity to execute projects, and have the ability to use other resources to leverage NSP funds to achieve neighborhood stabilization.

HUD announced the NSP2 recipients on January 14, 2010, and 56 grantees received funds; the vast majority of these were local consortiums that consisted of local governments and/or nonprofits. Grantees are required to expend at least 50% of their allocated funds within two years of receipt, and 100% within three years.

Most of the requirements for NSP2 are the same as for NSP1. However, there are some programmatic differences, including a specific prohibition against the use of funds for the demolition of public housing, a requirement that no



Source: 'The Challenge of Foreclosed Properties: An Analysis of State and Local Plans to use the Neighborhood Stabilization Program.' Enterprise Community Partners, 2009. Available at: http://www.enterprisecommunity.org/resources/publications_catalog/#foreclosure

Neighborhood Stabilization Program

more than 10% of a jurisdiction's grant be used for demolition of any housing (unless a waiver is requested), and a series of mandatory green rehabilitation standards.

NSP2 also included tenant protection provisions. Under these provisions, tenants in all NSP-funded properties must be provided with a 90-day notice and tenants with leases have a right to remain in the property for the remainder of their lease. Tenants with Section 8 housing choice voucher assistance will be permitted to remain in the property with their assistance intact, and recipients of NSP funds may not discriminate against the holders of vouchers.

Fifty million dollars of the NSP2 allocation has been distributed to 10 technical assistance providers to build the capacity of NSP1 and NSP2 grantees.

Bridge Notice and other NSP changes. Despite being such a new program, there have been a number of important legislative and regulatory changes to NSP over the past year. Most of the legislative changes occurred in ARRA, including the repeal of rules requiring the return of program income to the Treasury after five years, and the expansion of the land banking eligible use so that operating expenses are eligible costs.

An amendment in the Helping Families Save Their Homes Act of 2009 passed May 20, 2009; it permits states that received the minimum NSP1 allocation to use their funds to address statewide concerns after they have met the requirements to address the needs of highly impacted areas.

On June 15, 2009, HUD released the NSP1 Federal Bridge Notice, which details how changes in ARRA will apply retroactively to NSP1. The Bridge Notice reduced the minimum purchase discount requirement, described above, from 5% to 1% for each property, and waived appraisals for properties valued at \$25,000 or less.

The Bridge Notice also applied the ARRA tenant protection provisions to NSP1.

Funding

\$3.92 billion was appropriated for the NSP Program in 2008 under HERA and an additional \$2 billion was provided in 2009 under ARRA.

While obtaining nearly \$6 billion in funding should be viewed as a tremendous success, it is not nearly enough to help all communities in need. Additional federal, state, local, and private funds will need to be leveraged to make the NSP state and local plans successful.

What Advocates Need to Know

Although NSP funds may be used for the purchase and redevelopment of vacant properties, the statute precludes the renting or selling of these homes to very low income households from counting toward the requirement that 25% of funds be spent on families with incomes below 50% of AMI. Therefore, only abandoned or foreclosed homes count toward satisfying the 25% requirement. Such a limitation is proving difficult for localities implementing NSP for several reasons. First, this frustrates attempts to leverage NSP funds with other programs, such as the Low Income Housing Tax Credit (LIHTC) or the Community Development Block Grant (CDBG) programs. Second, this increases the per-unit cost to rehabilitate and sell low income homes because localities must add deeper subsidies to scattered-site properties than would be required if NSP were leveraged to produce or rehabilitate vacant properties for use as multifamily rental developments. Third, this prevents vacant properties from becoming productive neighborhood assets. Therefore, a legislative fix is required that would permit redevelopment or rehabilitation of vacant properties to qualify for the 25% low income set-aside requirement.

There are also a number of regulatory changes that must be made in order to improve the implementation of the NSP program around the country. These include granting flexibility on the requirement that funds be obligated within 18 months, ensuring that properties transferred from banks to subsidiaries retain their foreclosed status and are still eligible for NSP, revising the definition of 'abandoned' to include properties occupied by renters but abandoned by owners, and permitting lump-sum draw downs to capitalize revolving loan funds. A detailed list of these recommended changes can be found in the policy section of the Enterprise Community Partners website at www.

enterprisecommunity.org/public_policy/foreclosure_prevention/neighborhood_stabilization.asp

Finally, the House of Representatives passed legislation on December 11, 2009, as part of the Wall Street Reform and Consumer Protection Act of 2009 (H.R. 4173) that would create a \$1 billion NSP3. On January 28, 2010, Senator Bob Casey (D-PA) introduced a separate bill with NSP3 funding: the Homeowners' Relief and Neighborhood Stabilization Act of 2010 (S. 2969). The NSP3 provisions in the Senate bill are identical to those in the House bill. This third round of funding would return to the formula allocation, and would eliminate the 18-month obligation requirement.

Tips for Local Success

In general, for NSP to be successful in truly stabilizing neighborhoods, joint planning and participation of public, private, and nonprofit entities is crucial. Targeting resources is also key, as there are limited NSP funds and they are more likely to have a true stabilizing effect when they are concentrated in a few target neighborhoods, rather than dispersed across a whole city. In addition, localities will have a greater impact if they can leverage NSP funds with other funding sources, either private or public.

In order to assist in the transfer of foreclosed properties from banks/servicers to NSP grantees, several organizations - Enterprise Community Partners, Housing Partnership Network, Local Initiatives Support Corporation, NeighborWorks America, National Council of La Raza, and Urban League - established the National Community Stabilization Trust (NCST). The Trust helps communities to obtain foreclosed and abandoned properties from financial institutions and build local capacity to effectively acquire, manage, rehabilitate, and sell foreclosed property to ensure homeownership and rental housing are available to low and moderate income families. More information can be found at www.stabilizationtrust.com

What to Say to Legislators

Advocates should speak to their Senators and Representatives about passing a legislative fix that would permit redevelopment or rehabilitation of vacant properties to qualify for the 25% low income set-aside requirement so that NSP funds can better create quality rental housing for low income families.

Advocates also should contact their Senators to support S. 2939 for an additional \$1 billion for NSP3. Given the magnitude of the foreclosure crisis, these additional funds are desperately needed, and advocates should work to ensure that these funds are secured.

Program Success

The NSP program is still new, and national results have not yet been achieved. Individual localities are using NSP funds to purchase scattered-site properties, yet it may be many years before anyone is able to definitively measure the success of NSP when it comes to holistic neighborhood stabilization. However, many NSP grantees are using funds in innovative and effective ways, and it seems that the program will greatly contribute to the efforts to slow the decline of America's neighborhoods.

The funding allocated to NSP, while large for a new HUD program, is small compared to the size and scale of the foreclosure problem. Thus, it is imperative that state and local governments make effective use of these funds, carefully tailoring strategies to local market conditions and leveraging resources to make the funding go further.

For More Information

HUD has established a comprehensive NSP website to assist grantees at: www.hudnsphelp.info
Enterprise Community Partners · www.enterprisecommunity.org · 202-842-9190.

See also: *Foreclosure Intervention: Protecting Homeowners*, *Foreclosure Intervention: Protecting Renters*.

NIMBYism: Overcoming Community Opposition to Affordable Housing

By Jaimie Ross, Affordable Housing Director, 1000 Friends of Florida

The Not In My Backyard Syndrome (NIMBYism), in the context of affordable housing, connotes objections raised against the siting of affordable housing that are made for reasons such as fear and prejudice. This is in contrast, for example, to objections over the real threat of an incompatible neighboring use, such as a hazardous waste facility near a residential area.

NIMBYism presents a particularly pernicious obstacle to the construction of affordable housing. Local elected officials are regularly barraged by the outcry of constituents' concerns over siting and permitting affordable housing. Consequences of NIMBYism include lengthy, hostile and unpleasant public proceedings, frustration of consolidated plan implementation, increased costs of development, property rights disputes, and inability to meet local housing needs. Fortunately, there are tools advocates can use to avoid or overcome these objections, usually to the eventual satisfaction of all parties.

Issue Summary

Zoning and land use decisions in general (conditional use permits, comprehensive planning, etc.) are the domain of local government. Whether land is zoned for residential use exclusively for single-family homes or whether land can be used for multifamily homes, and whether transitional housing facilities or group homes are considered commercial uses or whether they are determined to be residential uses - these are all examples of decisions made at the local level.

Local zoning and land use decisions have historically resulted in racially and economically segregated communities. Today, land use decisions continue to be made in political environments that are too often fueled by NIMBYism and NIMTOOism (Not In My Term Of Office) syndrome. NIMBY is the term used for residents determined to maintain homogeneous neighborhoods and increase property values, and who will vehemently oppose the development of affordable housing. NIMTOO is the term used for local elected officials who may or may not agree with NIMBY constituents, but who are not likely to vote in favor of the affordable housing development if it will jeopardize their prospects for re-election.

The best defense to NIMBYism is a good offense, and a good offense includes the following best practices.

Know your legal rights. When discrimination against an affordable housing development is really discrimination against a race, ethnicity, or persons with disabilities, it violates the federal Fair Housing Act. Litigation is often not a meaningful remedy because housing funding cycles are on a tight timeframe and court actions can take years to resolve. But knowing your legal rights and making local government lawyers and elected officials aware of what you know about your rights is often all you need to benefit from the protections of the fair housing act. In those cases where discrimination is clear and local elected officials act in disregard of that fact, you may consider referring the incident to the U.S. Department of Justice (DOJ). If DOJ takes the case, it is a little like standing up to a schoolyard bully - it could make your future dealings with your local government much easier.

A nonprofit developer may be loathe to challenge a local government over land use issues because local government provides funds to the nonprofit. Establishing a good relationship with a local legal services office or other local advocate for the public interest who can make these arguments on behalf of the future tenants or residents who are directly impacted by the land use decision is an effective way around the need for the affordable housing developer to cry foul when local government is succumbing to neighborhood opposition.

Educate elected officials. Once a NIMBY battle ensues, it is often too late to educate. Local elected officials need to understand the importance of affordable housing in general. Advocates should have an education campaign about

affordable housing and its importance to the health of the entire community without regard to a particular development. Getting good media coverage is also helpful. Whenever possible, education should include bringing elected officials to see completed developments and sharing the credit with them at ribbon cuttings and in news stories.

In regard to a pending development, whether you can meet with your elected officials depends upon the ex parte rules in your jurisdiction. But if you discover that the community opposition is meeting with elected officials about your development, you certainly should do the same.

Garner allies for affordable housing from a broad range of interests. Too often, the only proponents of the affordable housing development are the developers themselves. Whenever possible, have members of the business community, clergy, and like minded social service agencies stand up for your development. The potential beneficiaries of the development (future residents) can also be effective advocates. If at all possible, recruit a former member of the opposition to speak on behalf of your development.

The media can also be an important ally throughout the process of development approval. Whenever you foresee a potential NIMBY problem, it is best to contact the media first so that they understand your development plans, the public purpose, and the population to be served. In this way, the neighborhood opposition will have to justify to the media why it makes sense to stop a development that the media already consider an asset for the community. Again, the best defense is a good offense.

Address all legitimate neighborhood and community opposition. Key to overcoming community opposition is to address all legitimate concerns expressed by the opposition. Those concerns may, for example, be traffic or project design - issues that may lead you to make some adjustments to your proposed development. Of course, project redesign requests that are based on the “types of people who will be living in the development” would not be rationale. But, for instance, a single family residential neighborhood may want a buffer between the houses and any multifamily structure, even if it were a luxury development.

Concern over property values is often the root of neighborhood opposition. Contrary to what many opponents have argued, numerous studies have concluded that affordable homes do not lower surrounding home values. Included at the end of this article is a bibliography of studies that address the falsity of the assertion that affordable housing decreases the property value of neighboring properties.

If you address all legitimate concerns and the opposition persists, you are now in the enviable position of being able to state with certainty that the opposition is illegitimate- it is therefore opposition that would be inappropriate, arbitrary, capricious, or unlawful for the local government to consider in making its land use decision. In other words, you win!

Expand legal protections for affordable housing. The four previous best practices will be of use in situations in which immediate action is needed. In the longer term, advocates can fight for state or local laws that make it harder for NIMBYism to prevail. For example, in 2000, the Florida Fair Housing Act (the state’s substantial equivalent to the federal Fair Housing Act) was amended to include affordable housing as a protected class. In 2009, North Carolina adopted a similar state law to add affordable housing as a protected class in its fair housing law.

Laws, whether federal, state, or local, that are helpful to your cause are only helpful if decision-makers and their staff are aware of those laws. The expansion of the state fair housing act to include affordable housing in Florida has been successful in keeping local elected officials from succumbing to NIMBY opposition. But the success of the law is only because housing advocates have been conscientious about ensuring that local government lawyers knew about the statutory change. It is now commonplace in Florida for a city or county attorney to inform the elected body during a heated public hearing that they would run afoul of the state’s fair housing law if they deny the affordable housing developer’s application. Legal protections for affordable housing provide political cover to elected officials who are sometimes facing an electorate threatening to unseat those officials who vote in favor of the affordable development.

For More Information

The following is a bibliography of property value studies based on statistical and empirical analysis and covering hundreds of case studies from throughout the nation. Virtually without exception, affordable housing developments have been found to have no effect on neighboring market rate property values, and in some instances have increased the value of neighboring property. Local government elected officials and their staff can use these studies as evidence to counteract homeowner fears about loss of property value.

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HousingPolicy.org, (2007, October). Getting Started: Learn About Affordable Housing – Whether You are New or Just Need a Refresher. http://www.housingpolicy.org/getting_started/why_not.html#Will+affordable+housing+decrease+nearby+property+values%3F

Other Resources

Jaimie Ross, "Creating Inclusive Communities in Florida: A guide for local elected officials and key staff on how to avoid the NIMBY syndrome" (Updated and Reprinted in 2005), available through the Florida Housing Coalition at www.flhousing.org

Sara Pratt and Michael Allen, "Addressing Community Opposition to Affordable Housing Development: A Fair Housing Toolkit" (Housing Alliance of Pennsylvania, 2004), available at www.knowledgeplex.org/showdoc.html?id=68549

Tim Iglesias, "Managing Local Opposition to Affordable Housing: A New Approach to NIMBY" 12(1) Journal of Affordable Housing and Community Development Law 78 (Fall 2002), available at <http://bazelon.org/issues/housing/articles/IglesiasMLOinprint.pdf>

As called for in the "American Homeownership and Economic Opportunity Act of 2000," the Regulatory Barriers Clearinghouse is established to collect, process, assemble and disseminate information on the barriers faced in the creation and maintenance of affordable housing. www.huduser.org/rbc/

Building Better Communities Network · 202-467-5730 x117 · [ww.bettercommunities.org](http://www.bettercommunities.org)

National Low Income Housing Coalition · 202-662-1530 · www.nlihc.org

See also: *Fair Housing Programs*.

Predatory Lending, Banking Regulation, and Consumer Protections

By Josh Silver, Vice President of Research and Policy, National Community Reinvestment Coalition

Over the last several decades, the existing federal regulatory agencies have enabled problematic lending and other financial products and practices through inconsistent and inadequate regulatory oversight and enforcement. The lack of action on the part of these regulatory agencies allowed predatory lending and other undesirable practices to harm individuals and the financial markets as a whole.

In response to foreclosure crisis and the worst recession since the Great Depression, Congress is currently considering financial regulatory reform legislation that would reign in abusive practices, bolster oversight over the financial industry, and strengthen enforcement of consumer protections with the goal of preventing future crises. A central element of these bills is the creation of a Consumer Financial Protection Agency (CFPA), whose mission would be to protect consumers from deceptive and unfair financial products. Although the Obama Administration has proposed a strong CFPA, the fate of this agency and other efforts to correct the shortcoming of our financial system is unclear.

History and Purpose

The U.S. financial regulatory system is a product of a dual-banking system in which both the federal government and state governments charter and regulate banks and savings and loans, as well as a system of consumer protections, including deposit insurance.

Today, there are four primary federal financial regulators: the Federal Reserve Board (FRB), the Office of the Comptroller of the Currency (OCC), the Office of the Thrift Supervision (OTS), and the Federal Deposit Insurance Corporation (FDIC).

The system becomes even more unwieldy and complicated when one considers the regulation of mortgage companies and other non-bank companies such as payday lenders. The four federal agencies that regulate banks and thrifts have no oversight over these non-bank lenders. Instead the states oversee non-bank lenders, with some occasional enforcement from HUD and the Federal Trade Commission. However, this patchwork of regulators has been inadequate to effectively supervise the activities of several thousand non-bank lenders.

While all of these regulatory agencies have been in existence for many years and have individually or collectively had the authority to regulate undesirable financial practices, including predatory lending, the events of recent years have called into question the ability and desire of these agencies to act to protect the consumer interests.

For example, in 1994, Congress empowered the FRB to eliminate unfair and deceptive lending through the promulgation of regulations that would apply to all lending institutions. Astonishingly, the FRB did not issue a substantial rule prohibiting deceptive and unsafe lending practices until July 2008, when the foreclosure crisis was in full bloom and 14 years after Congress gave it the authority to do so.

The Federal Reserve's counterpart agency, the OCC, was not only lax in its enforcement efforts, but actually enacted harmful changes to its consumer protection regulations. The OCC regulates banks with a national charter, and this includes the largest banks in the country. These banks have high-volume lending operations often carried out by their lightly regulated mortgage company affiliates. In response to the requests of nationally chartered banks, the OCC preempted state anti-predatory law for both the banks and their mortgage company affiliates. Also, state banking departments and attorney generals were prohibited by the OCC from even enforcing the federal law.

The enforcement of the Community Reinvestment Act (CRA) is yet another example of lax regulatory enforcement. In 2001, the four agencies that write CRA rules and enforce the law (FRB, OCC, OTS and FDIC) announced that they were considering changes to CRA. Four years later, in 2005, the most significant changes they enacted weakened CRA exams for mid-size banks. Meanwhile, profound structural changes in the financial industry such as bank lending outside of the bank's branch network and through large mortgage companies were not addressed by the changes to the CRA regulation.

What Advocates Need to Know Now

House of Representatives. On December 11, the House passed H.R. 4173, the Wall Street Reform and Consumer Protection Act of 2009, which creates a Consumer Financial Protection Agency (CFPA) and which also incorporates anti-predatory legislation, H.R. 1728, the Mortgage Reform and Anti-Predatory Lending Act.

The CFPA would promote transparency, simplicity, fairness, accountability, and access for consumer financial products or services. Under this bill, the CFPA would ensure that:

- (1) Consumers can use the information they need to make responsible decisions about consumer financial products or services;
- (2) Consumers are protected from abuse, unfairness, deception, and discrimination;
- (3) Markets for consumer financial products or services operate fairly and efficiently, with ample room for sustainable innovation; and
- (4) Consumers, including traditionally underserved consumers and communities, have access to financial services.

The House bill would transfer to the CFPA oversight over a number of consumer protection laws, including the Truth in Lending Act, the Equal Credit Opportunity Act, the Home Mortgage Disclosure Act (HMDA), and Home Ownership and Equity Protection Act, but not CRA.

H.R. 4173 also incorporates H.R. 1728, the Mortgage Reform and Anti-Predatory Lending Act. H.R. 1728 outlaws many of the lax underwriting standards (including failure to adequately assess a borrower's ability to repay a loan) that contributed to high defaults and foreclosures. The bill would also expand the data available to the public to assess bank lending by requiring disclosure of more loan terms and conditions as part of HMDA data, and race and gender of small business borrowers.

While H.R. 4173 advances the critical concept of an independent consumer protection agency, it contains too many political compromises that dilute the strength and oversight of the agency. First, the CFPA in H.R. 4173 will not have CRA rulemaking or supervisory authority. CRA responsibilities will remain with the very agencies which weakened CRA over the years and enforced it in an inconsistent and haphazard manner. Second, while the CFPA will write the regulatory rules for most of the nation's consumer protection laws, primary responsibility for enforcing the laws will remain with the current agencies for the great majority of banks and credit unions (those with assets under \$10 billion). Third, other institutions that offer financial products, such as automobile dealers, merchants, insurers, and attorneys, will not be subject to regular supervision from by the CFPA.

Senate. On March 22, the Senate Banking Committee passed Chairman Christopher Dodd's (D-CT) draft of a financial regulatory reform bill called the Restoring American Financial Stability Act of 2010. Although Senator Dodd introduced a strong reform bill in the fall of 2009, he tried to negotiate with opponents of the bill, and as a result significantly weakened key provisions. For example, the consumer regulator, called the Consumer Financial Protection Bureau, is under the aegis of the Federal Reserve Board, and will receive its budget from the Federal Reserve.

While some are satisfied that the Bureau will have sufficient autonomy from the Federal Reserve, it would be preferable to allow the Bureau to supplement the revenue it receives from the Federal Reserve by allowing it to assess fees on financial institutions. In addition, any new consumer protection rules of the Bureau would be subject to veto by a council composed of the very same regulatory agencies that did not act aggressively enough to stem risky lending that fueled the current crisis. Moreover, the current exemptions from Bureau oversight involving banks and credit unions with less than \$10 billion remain. These banks with less than \$10 billion in assets include 99% of all 8,022 depository institutions. While they were not major subprime lenders, these smaller institutions nevertheless engaged in abusive practices such as usurious overdraft protections and Rapid Advance Loans.

Predatory Lending, Banking Regulation, and Consumer Protections

What to Say to Legislators

After House passage of H.R. 4173 and Senate Banking Committee mark up of Senator Dodd's bill, the full Senate is expected to vote this spring, possibly in early to mid-April. Advocates should therefore contact their Senators and indicate that a strong and independent consumer protection agency is an essential component of a financial reform bill. In addition, data disclosure enhancements and an anti-predatory lending bill must be components of a financial reform bill as they are in H.R. 4173.

Advocates should make the following points when promoting an independent consumer protection agency.

- Unfair and deceptive lending was a major contributor to the global economic crisis. Problematic and risky non-prime lending surged in a lightly-regulated marketplace. Non-prime (subprime and non-traditional) lending rose from 12% of all loans (\$125 billion in 2000) to 34% of all lending (\$1 trillion in 2006).
- Desiring more market share and not afraid of regulatory enforcement, lending institutions loosened their underwriting standards over the years. For example, the portion of subprime lending with debt-to-income ratios above 41% (the upper limit in FHA guidelines) increased from 47% in 2000 to 59% in 2007, according to the Government Accountability Office (GAO).
- More than one quarter of non-prime loans are in default or delinquency according to the GAO. Over \$13 trillion in consumer wealth has been lost since the beginning of the current crisis.
- The federal regulatory agencies did not aggressively enforce critical laws including the Community Reinvestment Act and the Home Ownership and Equity Protection Act during the last several years. In fact, the agencies actually turned back the clock on consumer protection. This is exemplified by the OCC's preemption of strong state anti-predatory lending laws. The laxity in federal regulatory enforcement enabled predatory lending.
- In order to prevent future crises, Congress must establish the CFPB as an independent agency with strong authority to promulgate and enforce consumer protection laws. This agency must have authority over all consumer protection laws including federal anti-predatory lending law and the Community Reinvestment Act. Moreover, the agency's consumer protection rules cannot be subject to a veto by existing regulatory agencies and the agency must have oversight over all lending institutions – banks and non-banks alike.

For More Information

National Community Reinvestment Coalition 202-628-8866 <http://www.ncrc.org>

See also: *Community Reinvestment Act*.

Project-Based Housing Assistance

By Todd Nedwick, Assistant Director for Public Policy, National Housing Trust

The federal government provides assistance to make privately owned multifamily housing affordable to low income families and seniors through a number of mechanisms. For example, the HOME program provides grants and loans to create affordable multifamily housing, and the Low Income Housing Tax Credit program provides investors with tax credits in exchange for their investment in affordable housing.

The term ‘project-based housing assistance,’ however, applies to programs in which the federal government has a contract with a private landlord that results in rent restrictions for lower income residents. The contract can be in the form of Project-based Section 8 assistance or in the form of mortgage insurance. Project-based assistance differs from the tenant-based Section 8 (also known as vouchers) in which the government has a contract with a local governmental or nonprofit agency that extends assistance to landlords willing to serve lower income residents.

There are two important challenges faced by these projects: (1) ensuring sufficient ongoing funding for maintaining and improving homes with project based assistance, including assisting them in increasing their energy efficiency; and (2) ensuring that HUD has the statutory tools and funds needed to preserve and protect these assets from being permanently lost through deterioration or when the contracts and use agreements associated with their subsidized mortgages and rents expire. In cases in which it is not possible to maintain the affordability restrictions—(i.e. those projects in which an owner chooses to leave the system at the end of a contract term)—the challenge is to ensure that current tenants are protected when their apartments lose their rent restrictions.

Project-based programs are administered by HUD’s Office of Housing.

Programs Summary

From the mid-1960s until the mid-1980s, HUD played an essential role in creating affordable rental homes that were owned and operated by private owners. In addition to other tools, the federal government provided financial incentives for these properties that included:

- **Section 221(d)(3) below market interest rate (BMIR) loans.**
- **Section 236 interest rate subsidies.**

Section 236 and 221(d)(3) BMIR mortgages had 40-year terms, although program regulations allowed most for-profit owners to prepay their mortgages after 20 years. By pre-paying, owners can generally terminate the rent and income restrictions. These loan programs represented the first time the private sector was invited to participate in producing low and moderate income housing, previously the sole domain of public housing authorities.

- **Project-based Section 8 assistance.** Project-based Section 8 assistance offers Housing Assistance Payments (HAP) contracts to owners who agreed to keep the apartments affordable to low income households. This program, created in 1974, provides affordable homes to nearly 1.2 million households. The Section 202 Supportive Housing for the Elderly program provides similar rental assistance for elderly households.

Original Section 8 project-based assistance contracts were entered into between HUD and property owners for terms as long as 40 years. Under the project-based Section 8 program, tenants pay 30% of monthly adjusted income for rent, heat, and electricity. The property owner has a Housing Assistance Payments contract with HUD, under which HUD pays the owner the difference between the contract rent and the tenant’s portion.

Project-Based Housing Assistance

- **Section 521 Rental Assistance (“RA”)** is a similar form of subsidy provided for about half of the apartments in properties financed by Section 515 direct loans provided by the U.S. Department of Agriculture’s Rural Development.

Additional units are no longer being produced under these programs. In 1968, the Section 221(d)(3) BMIR program was replaced by the Section 236 program, which was discontinued in 1973 by President Nixon’s moratorium on all subsidized housing construction programs. Authorization for new project-based Section 8 contracts for new construction was repealed in 1983.

Residents continue to live in existing project-based units, however, and owners still under contracts continue to benefit from the program subsidies. In exchange for participating in project-based programs, building owners are required to make the units available to low and moderate income households at HUD-approved rents throughout the mortgage or Section 8 contract term. Built into these rents was a modest, limited dividend return on the owner’s investment.

New residents of Section 221(d)(3) BMIR properties can have incomes up to 95% of area median income (AMI), while those in 236 properties can have incomes up to 80% of AMI, though the median annual household income for residents of these properties is between \$11,000 and \$12,000. New residents in units receiving project-based Section 8 assistance can have incomes of no more than 80% of AMI, with 40% of new admissions required to have incomes below 30% of AMI, regardless of whether the property is also financed by a HUD-subsidized mortgage.

Today, more than 1.5 million households live in homes with project-based assistance. More than two-thirds of these households are headed by a disabled or elderly person.

The purpose of these production programs was to provide a supply of decent homes, with restricted rents, affordable to low and moderate income households. Mortgage subsidy programs with use restrictions keep rents relatively affordable even if surrounding land values and rents rise. Project-based subsidies ensure that apartments are affordable to lower income households even though it may be impossible to build new affordable housing in the same community. In tight housing markets with low vacancy rates, apartments with project-based assistance may be the only source of affordable housing, since landlords in such markets may be unwilling to accept tenant-based vouchers.

Funding

FY10 appropriations for project-based Section 8 is \$8.3 billion. The estimated need for project-based section 8 appropriations in FY11 is \$9 billion.

What Advocates Need to Know Now

Energy efficiency. A major challenge facing the owners of project-based rental housing is high energy costs. These properties often operate on tight budgets and rising energy costs can undermine the financial stability of the property.

In response, the 2009 American Recovery and Reinvestment Act (ARRA) included \$250 million for energy efficiency improvements in Section 8 and Section 202/811 properties. Owners had an opportunity to compete for grants or low-cost loans to make the energy efficiency improvements. In exchange, owners must commit to maintaining the property as affordable for another 15 years.

ARRA also increased the funding for the Department of Energy’s (DOE) Weatherization Assistance Program, which can be used to increase the energy efficiency of privately owned HUD-assisted multifamily properties. HUD and DOE have taken steps to make it easier for HUD-assisted properties to participate in the Weatherization program by streamlining certain eligibility requirements for these properties. See Weatherization article.

Also, there are several pieces of legislation before Congress that would help HUD-assisted multifamily properties to become more energy efficient. Senator Jeff Merkley (D-OR) has introduced S. 3079, the Building Star Energy Efficiency Act of 2010, to provide financial incentives for owners of multifamily residential and commercial buildings to

retrofit their buildings with energy efficient equipment and materials. Senator Sheldon Whitehouse (D-RI) introduced the Energy Efficiency in Housing Act of 2009, S. 1379, which includes an energy efficiency demonstration program for multifamily housing projects assisted with project-based rental assistance. And Representative Ed Perlmutter (D-CO) has introduced H.R.2336, the “GREEN Act of 2009,” which directs the HUD Secretary (HUD) to establish annual energy efficiency participation incentives for HUD programs to achieve substantial improvements in energy efficiency.

Preservation. Comprehensive legislation is needed to strengthen and expand tools and incentives for the preservation of the project-based Section 8 apartments. House Financial Services Committee Chairman Barney Frank has introduced H.R. 4868 to address these needs. This bill is described in the preservation chapter that follows.

What to Say to Legislators

Call your Members of Congress and speak to the person who deals with housing policy with the message that preserving the existing project-based contracts is critical, as is supporting new programs to build new, affordable units with HOME and LIHTCs.

It is incumbent upon the federal government to support affordable rental housing as part of a balanced federal housing policy. A balanced federal housing policy must recognize the urgent need to safeguard our nation’s limited supply of affordable rental homes. As a complement to public housing and tenant-based vouchers, privately owned, project-based housing is essential to preserving existing affordable rental opportunities.

- Support H.R. 4868, comprehensive legislation to strengthen and expand tools and incentives to preserve project-based rental housing.
- Support full funding for renewal of all the project-based Section 8 contracts in HUD’s FY11 appropriation.
- Support legislation to provide tools and incentives to make HUD assisted privately owned housing more energy efficient.

For More Information

National Housing Trust · 202-333-8931 · www.nhtinc.org

National Low Income Housing Coalition · 202-662-1530 · www.nlihc.org

National Housing Law Project · 510-251-9400 · www.nhlp.org

National Alliance of HUD Tenants · 617-267-9564 · www.saveourhomes.org

See also: *Project-Based Housing: Preservation*.

Project-Based Housing: Preservation

By Toby Halliday, Vice President for Public Policy, National Housing Trust

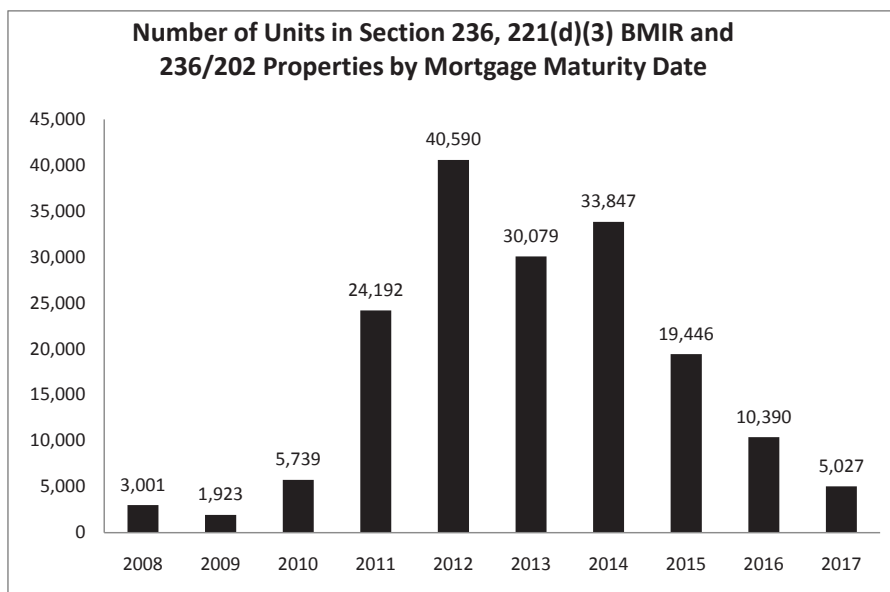
Affordable rental housing is often at risk of conversion to non-affordable uses. The more affordable the housing, the greater the risk of conversion and the greater impact to current and future households if it is lost.

While the term “preservation” encompasses the effort to protect any affordable housing at risk of conversion, advocates tend to focus more on housing that has already received some affordability subsidy—and specifically on housing with project-based rental assistance, such as HUD project-based Section 8 or the USDA Rural Housing Service Section 521 Rental Assistance program. The greatest risk for conversion of these properties occurs when rental assistance contracts expire or when subsidized and regulated mortgages mature or become eligible for prepayment. Properties may also become distressed and at risk of program termination for a variety of reasons at any time.

While the rate of loss of project-based housing has slowed in recent years, certain categories of affordable apartments with rental subsidies from HUD and USDA Rural Development are still at significant risk. Congressman Barney Frank (D-MA), Chairman of the House Financial Services Committee, recently introduced H.R. 4868, which would make many changes to current law to make it easier to protect assisted rental housing at risk of conversion and protect tenants.

Issue Summary

Rental housing serves a third of American households, including about half of households below 80% of median income. Decent, safe housing that is affordable to people below 80% of median income, whether federally subsidized or not, can be at risk of conversion to non-affordable use for a variety of reasons: conversion to higher-market rental, conversion to condominium, conversion to non-residential use, or deterioration and removal from the housing stock. But project-based housing faces a specific risk of leaving the affordable housing stock.



Although Section 236 and 221(d)(3)BMIR mortgages had 40-year terms, program regulations allowed most for-profit owners to prepay their mortgages after 20 years. By pre-paying, owners can generally terminate the rent restrictions and income restrictions and any Section 8 rent subsidy if they choose.

Upon expiration of project-based Section 8 assistance contracts, owners may choose to discontinue (or “opt out”) of their contracts or to renew them on a year-to-year basis. Longer-term contracts are also possible, though they are still subject to annual appropriations. If an owner prepays the mortgage or does not renew the project-based Section 8 assistance, the owner is free to increase the rents on the formerly assisted units.

Enhanced Vouchers. HUD is required to provide Enhanced Vouchers to tenants who would otherwise face dislocation, but the long-term affordability of the unit itself is lost and the community permanently loses affordable housing. Enhanced vouchers provide a tenant-based rental subsidy to affected tenants and provide higher rents if needed to allow them to stay in the converted property.

Mark-to-Market. Some project-based Section 8 units have rents that exceed market rents. Upon contract renewal, HUD is required to reduce rents to market level, creating a cash crunch for these properties and potentially putting their FHA-insured mortgages at risk of default. To address this problem, Congress enacted the Mark-to-Market program in 1997, under which properties with above-market rents that have both FHA-insured mortgages and expiring Section 8 contracts have their rents reduced to market and, in many cases, have their mortgages restructured and a capital improvement program put in place to support the reduced rents.

Conversely, HUD is also able to raise contract rents to market levels upon renewal for properties in high-cost areas through the Mark-Up-to-Market program. This provides a needed incentive for owners to renew their participation in the Section 8 program when private-sector rents are high, and provide a source of repayment for needed capital improvements.

What Advocates Need to Know Now

Both Congress and the Administration have recognized the need for action to assist in the preservation of project-based units.

House of Representatives. Representative Barney Frank (D-MA), Chair of the House Committee on Financial Services, has introduced legislation H.R.4868, titled the “Housing Preservation and Tenant Protection Act of 2010” that would improve tools and processes for preservation. These include specific changes to assist in preserving Section 8 housing, housing with rent restrictions but without rental assistance, rural housing, elderly housing, and housing supported by Section 8 variants that have different rules and restrictions for renewal.

The bill contains many provisions important to the affordable housing community. Among other activities, it would:

- Provide enhanced vouchers for low and moderate income tenants, as well as elderly and disabled tenants, who are living in properties where the FHA mortgage matures and the affordability restrictions terminate. Currently there is no protection for tenants when such a mortgage matures.
- Assist the preservation of state-financed affordable housing units by providing enhanced voucher assistance or project-based voucher assistance for tenants in these units where the mortgage matures or is prepaid, and continuing project based Section 8 contracts on state agency financed properties to the end of the original mortgage term even if the mortgage is refinanced.
- Allow owners to request project-based assistance (either project-based rental assistance or project-based voucher assistance) in lieu of enhanced voucher assistance. In exchange for receiving such assistance, an owner would be required to maintain affordability for 20 years.
- Protect the rights of states and local governments to enact strong preservation legislation.

The bill also would enhance the ability of tenants to protect and preserve their homes by providing an expedited process for the enforcement of violations of HUD contracts and regulatory agreements, provide tenants with access to information about the ownership and finances of buildings in which they live, and revise the section 514 tenant outreach and organization program to increase tenants’ participation in the decisions and processes impacting their homes.

Project-Based Housing: Preservation

H.R. 4868 would also enhance the ability of HUD, Congress, advocates, and tenants to identify and monitor preservation needs by establishing the tools needed to create a preservation database. This database would provide for each assisted property information about ownership of the property, the nature of the subsidies in the property (including opt out or other notices that indicate a desire to terminate affordability restrictions), and aggregate information about the tenants. Such a database could be established for the country as a whole or for an individual community.

While the bill generally represents a consensus around the need to preserve the assisted housing stock, there are areas of controversy. The draft bill circulated by the House Financial Services Committee in June 2009 established a strong right-to-purchase on behalf of a preservation-minded buyer when an owner chooses to discontinue affordability restrictions at the end of a mortgage or contract term. The introduced bill dropped this provision in favor of a preservation exchange program and a right of first refusal.

The bill's voluntary preservation exchange program would provide incentives to owners to transfer or sell their property to a preservation purchaser who agrees to accept new long-term affordability restrictions. If an owner chooses to participate in the exchange program, the owner agrees not to sell or transfer the property and to negotiate in good faith with potential preservation purchasers. In exchange, the Secretary would be authorized:

- To provide financial and regulatory incentives, including the suspension of physical inspections and management reviews of the project;
- To streamline approval of requests for prepayment, assignment of Housing Assistance Payment contracts, transfer of physical assets, and other activities and functions to facilitate the sale or transfer to a preservation purchasers;
- To release project replacement reserve funds or project residual receipts; and
- To provide advances in the form of a forgivable loan for direct predevelopment and administration costs.

The Secretary would also be authorized to provide grants or loans for the purpose of purchasing or rehabilitating the preservation project. Participation in the exchange program would be for a period of 12 months, and could be renewed at the owner's option, and with the Secretary's approval.

Instead of a right to purchase a property whenever an owner chooses not to continue affordability restrictions, such as by electing to remove the property from the assisted housing stock and holding it, H.R. 4868 would give HUD, or its assignee, the right to purchase the property at fair market value only when it is being sold. Under this provision, the owner would notify HUD, the state, and the tenants that the owner was opting out of the program one year before the expiration of the affordable housing agreement. The owner would then offer the property for sale and HUD, or HUD's assignee, would have the option to purchase the property on the same conditions as would be offered by a purchaser on the private market.

H.R. 4868 also contains important provisions relating to elderly and rural housing. Title VII of the bill is the "Section 202 Supportive Housing for the Elderly Act of 2010." This title would streamline and simplify the development and preservation of affordable, supportive, senior housing to make it easier for not-for-profit developers, lenders, and others to participate in the program.

Title VIII is the "Rural Housing Preservation Act of 2010." This title would permanently authorize a rural housing multifamily preservation revitalization program to provide financial incentives and other assistance to owners of eligible rural housing projects through long-term use agreements.

Senate. In the Senate, prospects for action on these proposals in the Senate in 2010 are somewhat dim given the full agenda for Congress this year.

Administration. The Obama Administration's budget proposal for FY11 includes some significant proposals for the transformation of HUD rental assistance programs, including project-based rental assistance (Transforming Rental Assistance). Many details of these proposed changes have yet to be revealed, and many of these proposals will be controversial. Refer to NLIHC's Memo to Members and other sources for the status of these proposals.

Tips for Local Success

Maturity of HUD-assisted mortgages and expiration of project-based Section 8 contracts are usually predictable events; for most project-based properties the relevant dates can be determined by reviewing relevant data on the HUD website or from the National Housing Trust (www.nhtinc.org). While HUD and USDA have limited staff and funding dedicated to preservation, transactions to preserve affordable rental housing are usually undertaken and financed by mission-driven development organizations with particular expertise in this area.

The process of preserving affordable rental housing is complex and requires the active participation of many stakeholders for success. The most successful local efforts have in place a system for early identification of properties at risk of imminent conversion, and have an active partnership of tenants, preservation developers (usually regional or national nonprofits with a track record of preservation), local HUD officials, state and local housing officials, and lenders and investors with a shared commitment to preserving affordable rental housing.

One key element is often a database with information about all the subsidized properties in the area, including risk factors related to possible conversion and information on existing financing needed to help structure a preservation transaction. Passage of H.R. 4868 would help local housing advocates collect better data to create their own databases.

Advocacy for preservation typically requires a process of educating elected officials and their staff about the need to preserve the housing and the tools that are needed. To that end, advocates should:

- Provide information about HUD-assisted and USDA-assisted housing in the district.
- Develop examples of specific properties or, even better, specific households at risk of displacement.
- Remember to discuss seniors and disabled households at risk.
- Invite officials to local housing events, ribbon cuttings, and tours of recently preserved properties.

What to Say to Legislators

When you call your legislators, ask to speak to the person who deals with housing policy. Urge your Representative or Senator to:

- Support H.R. 4868 and other legislation to strengthen and expand tools and incentives to preserve project-based rental housing.
- Support full funding for the project-based Section 8 program.
- Support efforts to revitalize the Low Income Housing Tax Credit program.

For More Information

National Low Income Housing Coalition · 202-662-1530 · www.nlihc.org

National Housing Trust · 202-333-8931 · www.nhtinc.org

National Housing Law Project · 510-251-9400 · www.nhlp.org

National Alliance of HUD Tenants · 617-267-9564 · www.saveourhomes.org

For more information on NLIHC's Preservation Catalog project: www.preservationcatalog.org

See also: *Project-Based Housing Assistance, Section 515 Rural Rental Housing.*

Public Housing

By Linda Couch, Vice President for Policy, National Low Income Housing Coalition

Public housing is housing stock that is owned by the government; federal public housing is owned by HUD and administered by public housing agencies.

Additional public housing has not been built in several decades; instead, advocates are focused primarily on preserving the remaining existing public housing stock. Issues facing today's public housing include: generally well-run public housing agencies facing significant federal funding shortfalls; policies like demolition, disposition and the HOPE VI program that have resulted in the nationwide loss of public housing units; and calls for deregulation of public housing, through the expansion of the Moving to Work demonstration program, that come at the expense of affordability, deep income targeting, resident participation, and programmatic accountability.

In its FY11 budget request, HUD has proposed a new Transforming Rental Assistance (TRA) program. TRA would allow public housing agencies and HUD-assisted housing properties to convert to a new form of HUD rental assistance. HUD's three goals for TRA are: (1) to preserve public and assisted housing by increasing both the public and private resources available to them; (2) to give residents in TRA-converted units the ability to move with regular housing choice vouchers; and (3) to increase administrative streamlining by incentivizing the regionalization of voucher administration for TRA-funded agencies.

The nation's 1.1 million units of public housing are administered by a network of the 3,200 local public housing agencies with funding from HUD and resident rents.

History and Purpose

Public housing was established by the Housing Act of 1937. A moratorium on public housing was declared in 1974 by President Nixon as the nation shifted its housing assistance vehicle to the then-new Section 8 rental assistance voucher program and the engagement of the private sector in meeting the nation's housing needs. Federal funds specifically for adding to the public housing stock were last appropriated in 1994, but little public housing has been built since the early 1980s.

In 1996, Congress stopped requiring that demolished public housing units be replaced on a unit-by-unit, one-for-one basis. In 1998, the Quality Housing and Work Responsibility Act (QHWRA; pronounced kwharra) changed various other aspects of public housing, including public housing's two main funding streams, the operating and capital subsidies. And, federal law capped the number of public housing units at the number each PHA operated on October 1, 1999.

Today, units are being lost through PHA demolition and disposition of units, including through: the HOPE VI program; the mandatory and voluntary conversion of public housing to voucher assistance; and the cumulative impact of decades of underfunding and neglect on once-viable public housing units.

Since the mid-1990s, about 200,000 public housing units have been demolished; about 50,000 have been replaced with new public housing units and another 57,000 former public housing families were given vouchers instead of a public housing replacement unit. Another almost 50,000 units of non-public housing have also been incorporated into these new developments but serve income groups higher than the displaced households.

Program Summary

There are more than 1.1 million public housing units in the United States. About 41% of the units are occupied by families with children, 30% are elderly households, and 33% are households headed by people with disabilities. The demand for public housing far exceeds the supply. In many large cities, waiting list times can be 10 years or longer.

Access to public housing is means-tested. All public housing households must be low income (income less than 80% of area median) and at least 40% of new admissions in any year must be extremely low income (income less than 30% of area median). PHAs can also establish local preferences for certain populations, such as the elderly, people with disabilities, veterans, full-time workers, domestic violence victims, and people who are homeless or who are at risk of becoming homeless, etc.

As in other federal housing assistance programs, residents of public housing pay the highest of:

- (1) Thirty percent of their monthly adjusted income;
- (2) Ten percent of their monthly gross income;
- (3) Their welfare shelter allowance; or
- (4) A PHA-established minimum rent of up to \$50.

The federal public housing stock is owned by HUD and managed by public housing agencies (PHAs). PHAs are responsible for maintaining the housing, collecting rents, managing waiting lists, and other activities related to the operation and management of the housing (most PHAs also administer localities' Housing Choice Voucher programs).

Most PHAs are required to complete annual and five-year Public Housing Agency Plans, which detail many aspects of their housing programs, including waiting list preferences, grievance procedures, plans for capital improvements, service, and minimum rent requirements. These plans are submitted to HUD and represent a key way for public housing residents, voucher holders, and community stakeholders to participate in the planning process of the public housing agency.

PHAs receive two annual, formula-based grants from HUD - operating and capital subsidies.

Public Housing Operating Fund. The public housing operating subsidy is designed to make up the balance between what residents pay in rent and what it actually costs to operate the public housing. Federal subsidies pay for about 60% of actual operating expenses, and the remainder is derived from tenant rent payments. Major operating costs include building maintenance, a portion of utilities, services for residents, and PHA employee salaries and benefits.

HUD's new operating formula system, referred to as Asset Management, will base an agency's operating subsidy on a property-by-property basis, rather than the current PHA-by-PHA basis. If, compared to the current formula, a PHA gains operating subsidy with the new formula, the addition will be phased in over two years. Conversely, if a PHA loses subsidy under the new formula compared to the old, then the loss can only be tempered (and potentially arrested) by that PHA's conversion to asset-based management. After a gradual implementation of losses, all properties will be converted to the asset management model by October 1, 2011.

Public Housing Capital Fund. The capital fund is also appropriated annually by Congress and is distributed by HUD to PHAs based on a formula. The capital fund can be used for modernization, including developing, rehabilitating and demolishing units, replacement housing, and management improvements. There is a more than \$22 billion backlog for capital fund repairs in public housing. HUD is currently working on completing a capital needs assessment of the nation's public housing; the last such assessment was done in 2000.

Moving to Work. A key public housing issue is the Moving to Work (MTW) demonstration program that provides a limited number of housing agencies flexibility from most statutory and regulatory rules. Because this demonstration program has not been evaluated and the potential for harm to residents and the long-term health of the PHAs are at stake, NLIHC believes the MTW program is not ready for expansion or permanent authorization.

Various legislative vehicles have sought to maintain and expand the current MTW program. Today, there are 30 PHAs still performing their demonstrations. Another three will sign MTW agreements in 2010.

Funding

For FY10, the public housing capital fund is funded at \$2.5 billion, and the operating fund at \$4.78 billion, both increases over FY09 levels. In addition, the federal government's 2009 stimulus bill (American Recovery and Reinvestment Act; ARRA) provided \$4 billion for the public housing capital fund, \$3 billion of which HUD awarded through its formula

allocation and \$1 billion through a competition.

For the first year since FY02, FY10's operating funding level is at 100% of what HUD's own data say is necessary to support the operation of the nation's public housing. HUD says its request for FY11 would also provide 100% of operating support, at \$4.829 billion. Housing authorities maintain that additional funds are needed to comply with HUD's own operating subsidy requirements, and that \$5.084 billion is necessary for operating funds in FY11.

What Advocates Need to Know Now

In addition to the need to fully fund the operating fund and make sufficient progress to address the massive capital needs backlog, many other public housing issues will be on the table in 2010. HUD is expected to deliver to Congress its Choice Neighborhoods Initiative proposal, which HUD has billed as the next iteration of the HOPE VI program. HUD and Congress are focused on the future of the nation's public housing. Legislation is also expected in 2010, at least in the House, to reform HUD's demolition and disposition program, and to make other reforms to public housing.

Transforming Rental Assistance. In a major new initiative, HUD, as part of its FY11 request, is seeking \$350 million for a new Transforming Rental Assistance (TRA) program, aimed in large part at allowing the voluntary conversion of up to 300,000 units of mostly public housing to a new form of rental assistance, which HUD is tentatively calling "Rental Assistance for Preservation and Transformation" (RAPT). The TRA proposal, which may be formally introduced as a legislative proposal, would be HUD's first step in bringing its more than 13 rental assistance funding streams into one new and streamlined program.

TRA would aim to preserve existing public and assisted housing while putting the converted units, which could potentially be public housing and project-based assisted housing in this first phase of TRA, on a path to have sufficient ongoing subsidies through the new RAPT funding stream. TRA would have three broad goals: streamlining the funding and regulation of HUD's rental assistance programs, helping to infuse properties with federal subsidies that can help attract private capital, and providing residents of these units with the ability to move with a housing choice voucher. (Currently, neither public housing residents nor tenants in project-based assisted housing have this mobility option.) According to HUD, the new program would maintain income-based rents, allow owners to be in a position to address immediate and long-term needs of their properties, and maintain essential resident protections.

What to Say to Legislators

Advocates should ask Members of Congress to enact additional public housing preservation tools that maintain at least the existing number of public housing units while protecting residents' rights, affordability, and income targeting.

Advocates should ask Members of Congress to:

- Fund the public housing capital fund at least at \$5 billion in FY10
- Fund the public housing operating fund at least at \$5.084 billion in FY11

For More Information

National Low Income Housing Coalition · 202-662-1530 · www.nlihc.org

National Housing Law Project · 510-251-9400 · www.nhlp.org

Center for Budget and Policy Priorities · 202-408-1080 · www.cbpp.org

See also: *Housing Choice Vouchers*, *Public Housing Agency Plans*, *Moving to Work/Housing Innovation Program*, *HOPE VI/Choice Neighborhoods Initiative*.

Public Housing Agency Plan

By Linda Couch, Vice President for Policy, National Low Income Housing Coalition

The Public Housing Agency Plan (PHA) Plan is the collection of a public housing agency's key policies (such as admissions policies) and program intentions (such as demolition). The PHA Annual Plan was meant to ensure local accountability through resident and community participation opportunities. Immediately prior to the Obama administration, however, various administrative and legislative efforts weakened PHA Plans.

PHA Plans are administered by some local public housing agencies, with oversight by HUD's Office of Public and Indian Housing.

History and Purpose

The Quality Housing and Work Responsibility Act of 1998 (QHWRA, pronounced kwharra) established the PHA Annual and Five Year Plans because of the significant devolution of authority provided to public housing agencies in that bill. The PHA Annual Plan was meant to ensure local accountability through resident and community participation opportunities. Resident Advisory Boards were also created in QHWRA to ensure public housing residents and voucher assisted households can actively and effectively participate in the PHA plan process.

In June 2004, HUD issued regulations to streamline the annual plan requirements for housing authorities (PHAs) with fewer than 250 public housing units and any number of voucher units. These PHAs were required to submit to HUD only certifications on capital improvement needs and on civil rights compliance. This regulatory streamlining action was broadened in 2008, when Congress enacted several reforms that greatly diminish the PHA Annual Plan requirements for PHAs that administer fewer than 550 combined units of public housing and vouchers. Also in 2008, HUD took administrative action to dilute the information shared with residents and the general public in the PHA Plan documents.

Program Summary

Most of the nation's PHAs must develop annual and five-year management plans, collectively referred to as the Public Housing Authority Plan (PHA Plan). The plans include information and public hearing requirements on a variety of issues, from rents to income targeting to demolition and disposition plans. The annual PHA Plan is designed to govern how PHAs operate in a given fiscal year by spelling out what a PHA's policies will be in specific areas, including rents, pet policies, admissions, and occupancy. The five-year PHA Plan describes the PHA's overall mission in addressing the housing needs of low income families in its jurisdiction.

As part of this planning process, PHAs are required to have at least one Resident Advisory Board (RAB) to assist in the development of these PHA Plans. RAB membership must adequately reflect and represent residents served by the PHA.

See the chart that follows for all of the components of the annual PHA plan.

What Advocates Need to Know

Congress weakened the usefulness of the PHA plan with changes made in the Housing and Economic Recovery Act in 2008 (HERA). This law includes a provision greatly diminishing the PHA annual plan requirements for PHAs that administer fewer than 550 combined units of public housing and vouchers. Because of the 2008 law, 75% of the nation's PHAs, which administer 21% of public housing units and 11% of all vouchers, will be exempted from including in their annual PHA plan everything but a civil rights certification. These PHAs must still establish resident advisory boards (RABs) and respond to the recommendations of the RABs at the required annual public hearing.

HUD also took action in 2008 to weaken the usefulness of the PHA Plan. Until 2008, HUD had public housing agencies use a computer-based PHA Plan "template." This was a very helpful outline of all of the PHA Plan components required by the law (see chart).

Public Housing Agency Plan

But HUD drastically streamlined the template in 2008, reducing it from a helpful 41-page, easy to access electronic guide, to a mere page and a half form, making it much more difficult for residents and the public to know what the law requires and what has changed at the PHA over the previous year. The new PHA plan template makes it more difficult for residents and others to understand the PHA Plan process, engage in it, and have access to information associated with the 18 statutorily required PHA plan components.

In the new template, PHAs will merely have to indicate which of the long list of components was revised, not how the components were revised. Residents and other advocates will receive significantly less information about revisions included in the plan. And, there will no longer be a list of components so that residents and others are prompted to proactively recommend their own revisions to the plan.

NLIHC is also concerned that resident involvement in the PHA Plans will diminish due to loss of guidance in the revised PHA plan template. The new template includes far fewer reminders about the role of the Resident Advisory Board in developing the PHA Plan. The template no longer includes the description of the process for electing residents to the PHA Board or the list of Resident Advisory Board Members or residents on the PHA Board.

The PHA annual plans should be enhanced to provide additional data on:

- The number of Annual Contributions Contract (ACC) units the PHA has, by development; the occupancy level at each development; and a plan to reduce any development's vacancy rate that is above 3%.
- The number of ACC units planned for redevelopment that will no longer be available or affordable to extremely low income households.
- The number of authorized housing vouchers the agency has and the number of these vouchers under lease.
- The PHA's Section 8 Management Assessment Program ratings (SEMAP), any audits of the agency performed by the HUD Secretary and any corrective action the agency has had to take regarding SEMAP or audit findings.

In addition, more PHAs must be required to comply with the PHA Plan so that residents and community members can have an opportunity to learn about and participate in the decisions affecting the nation's investments in public housing and vouchers.

Tips for Local Success

Participate in the development of your local agency's PHA Plan. Work with your local PHA to find out what schedule their PHA Plan goes by (due dates for PHA Plans to HUD are based on PHAs' fiscal year start dates). Ask when opportunities for public comment are and work with others, especially residents of public housing and voucher holders and other low income people, to participate in the PHA Plan process.

What to Say to Legislators

Advocates should let their Members of Congress know that:

- The PHA Annual and 5-Year plans are important, local tools that should be expanded to more PHAs, protected from further dilution, and enhanced to require more components of concern to residents and other community members.
- HUD's streamlined, diminished template for submitting an annual PHA plan should be reversed.
- Any new form of rental assistance, such as HUD's proposal for Transforming Rental Assistance, should include mechanisms such as robust PHA Plans to ensure resident and other community participation in the operation and future of the federal housing investment.

For More Information

National Low Income Housing Coalition · 202-662-1530 · www.nlihc.org

National Housing Law Project · 510-251-9400 · www.nhlp.org

HUD's web page for locating your PHA Plan is: www.hud.gov/offices/pih/pha/approved/

See also: *Resident Participation in Federally Subsidized Housing, Public Housing*.

What's in the Annual PHA Plan?

- a) **Housing Needs** of extremely low, very low, and low income families, elderly families, disabled families, and those on public housing and Section 8 waiting lists.
- b) **Tenant Eligibility, Selection, and Admissions Policies** as well as waiting list procedures, admissions preferences, unit assignment policies, and race and income decentralization.
- c) **Financial Resources** and planned uses of these resources for the upcoming year listed in categories such as operating funds, capital funds, other federal funds and non-federal funds.
- d) **Rent Determination** including rent policies for tenants and landlords receiving vouchers.
- e) **Operations and Management** of facilities, including PHA programs, their organization, and policies (including those regarding pest infestation) governing maintenance.
- f) **Grievance Procedures** for residents and applicants.
- g) **Capital Improvement Needs** and planned actions for the long-term physical and social health of public housing developments. Should include plans and costs for the upcoming year and a 5-year plan.
- h) **Demolition and Disposition Plans** that the PHA has applied for, or will apply for, including timetables. For more information about demolition/disposition, see pages 7 and 8 of NLIHC's The Public Housing Agency Plan: A Potential Tool in the Affordable Housing Preservation Toolbox, www.nlihc.org/doc/2007phaplanmanual.pdf.
- i) **Designation of Public Housing for Elderly or Disabled** identified.
- j) **Conversion of Public Housing** to tenant-based vouchers as specified in "Section 33" or "Section 22" [for more information on conversions, see pages 8 and 9 of NLIHC's The Public Housing Agency Plan (PHA Plan): A Potential Tool in the Affordable Housing Preservation Toolbox, www.nlihc.org/doc/2007phaplanmanual.pdf].
- k) **Homeownership Programs** described [such as Section 8(y) or Section 5(h)].
- l) **Community and Self-Sufficiency Programs** that aim to improve families' economic or social self-sufficiency (including "Section 3" jobs efforts) and that will fulfill community service requirements.
- m) **Safety and Crime Prevention** including coordination with police.
- n) **Pets** policy.
- o) **Civil Rights** as explained in a formal pledge that will comply with laws including the Civil Fair Housing Act, Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act.
- p) **Financial Audit** from the most recent fiscal year.
- q) **Asset Management** for long-term operating, capital investment, rehabilitation, modernization, or sale of the PHA's inventory.
- r) **Domestic Violence** activities, services, or programs that prevent or serve victims of domestic violence, dating violence, sexual assault, or stalking as added by the Violence Against Women Act of 2005 (VAWA).
- s) **Additional Information** including progress in meeting or deviating from the PHA's mission and goals as listed in the 5-Year Plan.

Qualified Allocation Plan

By Ed Gramlich, Regulatory Director/State Partner Liaison, National Low Income Housing Coalition

The federal Low Income Housing Tax Credit program requires each state agency that allocates tax credits (generally called a housing finance agency) to have a Qualified Allocation Plan (QAP). The QAP sets out the state's eligibility priorities and criteria for awarding federal tax credits, as well as tax-exempt bonds and any state-level tax credits, to housing projects.

The QAP is a tool advocates can use to influence how their state's share of annual housing tax credits is allocated to affordable housing projects. Advocates can use the public hearing and comment requirements to convince their housing finance agencies to better target tax credits to projects that house people with extremely low incomes, locate projects in priority areas, and preserve the existing stock of affordable housing.

Summary

The QAP is a document that state, and a few local, agencies must have in order to distribute federal Low Income Housing Tax Credits (LIHTCs), which can be awarded only to a building that fits the QAP's priorities and criteria. Each QAP must spell out a housing finance agency's (HFA) priorities and specify the criteria it will use to select projects competing for tax credits. The priorities must be appropriate to local conditions.

The QAP must also give preference to projects:

- Serving residents with the lowest income.
- Serving income-eligible residents for the longest period of time.
- Located in qualified census tracts (QCTs), which are tracts with a poverty rate of 25% or in which 50% of the households have incomes below 60% of the area median income (AMI).

The selection criteria must address 10 items: location, housing needs, public housing waiting lists, individuals with children, special needs populations, whether a project includes the use of existing housing as part of a community revitalization plan, project sponsor characteristics, projects intended for eventual tenant ownership, energy efficiency, and historic nature. These requirements are minimums; states can adopt more rigorous criteria that target advocates' priority populations and locations.

HFA's can target tax credits several ways:

- The QAP selection process can give preferences, in the form of extra points, to encourage developers to submit projects more likely to serve particular populations or locations; for example, awarding 10 bonus points to projects that set aside 20% of the units for special needs populations.
- The QAP can establish a set-aside, reserving a specific percentage or dollar amount of any given year's tax credit allocation for projects more likely to serve particular populations or locations; for example, a \$2 million set-aside for rural projects.
- The QAP can establish thresholds, minimum requirements that projects must meet simply to get in the game, thus improving targeting to particular populations or locations; for example, requiring a 50-year income-eligible compliance period.

Tips for Local Success

Because each state gets a new allocation of LIHTCs each year, QAPs are usually drafted annually. This gives advocates regularly scheduled opportunities to influence QAP priorities. Until recently, LIHTCs were in high demand among developers; therefore, they proposed projects that addressed the priorities set forth in the QAP to give themselves an advantage in the selection process. There is less demand for LIHTC in the current economic climate, but advocates should continue to participate in the QAP process.

Advocates should assess the QAP. If it only has a general statement of goals, advocates can work to get very specific set-asides or preference points for their priorities. If the QAP has too many priorities, this will render an individual

priority less meaningful; advocates should work to narrow the number of priorities or work to establish relative priorities so their priorities can compete more effectively.

If there are types of assisted housing that should be at the top of the priority list, advocates should work to ensure that they are positioned to better compete. For example, if there is a great need for units with more than two bedrooms, advocates might promote a QAP policy offering bonus points for projects providing units with two or more bedrooms for at least 10% of all low income units. To facilitate rural projects, advocates might try to secure QAP policies that give bonus points to projects with fewer than 50 units.

Advocates can also argue for features that protect tenants. This could include bonus points for projects that do not permanently displace residents, or an outright QAP policy precluding tax credit assistance for projects that do not provide one-for-one replacement of units lost through redevelopment. Advocates should review the QAP to find out how long targeted units must serve people with lower incomes. If the QAP only requires the basic 15 years, plus extended use period of another 15 years, try to get the compliance period lengthened as a threshold issue, or try to get bonus point preferences or set-asides for projects that voluntarily agree to a longer compliance period.

Procedural steps advocates can take to improve the QAP. There must be a public hearing about a proposed QAP before it is approved by the unit of government overseeing the HFA, but there are no specific requirements for the public hearing. Although not required, most states also provide for a public review and comment period for a proposed QAP.

Advocates should contact the HFA early to learn about its annual QAP process and build this into their work plan for the year. In addition, advocates should be sure to get on any notification list the HFA might have about the QAP and public hearing. Advocates should also develop relationships with the HFA's governing board and communicate the advocates' priorities throughout the year. Not all communication must take place in the context of the formal QAP process; informal contacts can be used effectively to advance an advocate's priorities.

Once an HFA has decided to award tax credits to a building, it must notify the chief executive officer of the local jurisdiction where the building is located (such as the mayor or county executive). That official must have a reasonable opportunity to comment on the project. Advocates should ask the executive's office and any relevant housing department at the locality to notify them as soon as the HFA contacts the executive about a proposed project. Even better, advocates should seek a local policy requiring public notice and comment, along with public hearings, about a proposed project.

There must be a comprehensive market study of the housing needs of low income people in the area to be served by a project before tax credits are allocated. The project developer must hire a disinterested, third party approved by the HFA to conduct the market study.

If a building that does not fit the QAP's priorities is to get tax credits, the HFA must provide a written explanation and make it available to the public.

For More Information

HUD's HOME Program web site has links to a firm which lists the HFAs in all states at: www.novoco.com/stcaa.shtml. This link also is a source of state QAPs at: www.novoco.com/low_income_housing/lihtc/qap_2007.php

Capsule descriptions of any preservation, rural, 'green,' transit-oriented development, or sustainable features of each state's QAP is available from the National Housing Trust at: http://www.nhtinc.org/state_and_local_preservation_resources.php

See also: *Low Income Housing Tax Credit*.

Resident Participation in Federally Subsidized Housing

By Linda Couch, Vice President for Policy, National Low Income Housing Coalition

Based on their own experiences of living in subsidized housing, residents bring to the table unique and important ideas about how developments should be managed, how HUD and local public housing agencies (PHAs) should be run, and perspectives about how established and emerging policies impact their needs and desires for their communities. Resident participation in all aspects of the operation of housing management is critical to the long-term success of federal housing programs.

HUD has three major rental assistance programs that collectively provide rental subsidies to approximately 4.4 million households nationwide. These programs are the public housing program, HUD-assisted multifamily rental programs, and the Section 8 Housing Choice Voucher program. Each of these programs has its own set of challenges and opportunities related to resident participation.

Public Housing

There are a number of HUD programs and policies that help support the participation of all public housing residents in PHA decisions.

PHA Plan process. Opportunity for resident participation can be found in the annual and five-year planning process in which PHAs are required to engage, collectively called the PHA Plan, which was created in 1998 by the Quality Housing and Work Responsibility Act. Many PHAs only have minimal PHA Plan resident engagement requirements, but the process does open the door for residents and other community members to interact and influence PHA decisions.

Resident Advisory Boards. Resident Advisory Boards (RABs) were also created in 1998 by QHWR. QHWR delegated significant decisions regarding the administration and upkeep of the public housing stock from HUD to local PHAs. The RABs were created in QHWR to ensure public housing residents and voucher assisted households can actively and effectively participate in the PHA Plan process.

RABs consist of residents who are elected to represent the population served by the housing agency. By law, housing agencies must provide RABs with reasonable resources to enable them to function effectively and independently of the housing agency.

Part 964 / Right to organize regulations. Federal regulations provide public housing residents with the right to organize a resident council to represent their interests, defines what constitutes a duly-elected (or democratically established) resident organization, and defines HUD's obligation, along with housing agencies, to support resident participation activities through training and other activities. This regulation, Part 964 of Title 24 of the Code of Federal Regulations (24 CFR Part 964), includes the right to participate in: improvements and modernizing; new programs and services; new plans, policies, and procedures; and all aspects of public housing operation. Included in 24 CFR Part 964 is the right to organize and elect a resident council to advocate on behalf of residents.

The resident council is different from the RAB. The resident council is a group of residents that represents the interests of the residents and the projects. Some resident councils are made up of members from just one property. Other councils are made up of members from many properties. These Resident Councils are known as "jurisdiction-wide" councils. Resident councils can select members of the RAB, which focuses its work on the PHA Plan.

Funding for resident participation. Most PHAs are required to include in their annual operating budget an amount equaling \$25 per occupied unit per year to fund resident participation. The funding may be used to support training, resident organizing and other activities. PHAs are required to pass these funds through to resident councils to enable them to design site-based programs and activities.

Resident commissioners. The law also mandates that every PHA, with a few exceptions, have at least one person receiving assistance from the agency (either a public housing resident or voucher holder) on its governing board.

HUD's rule governing the appointment of resident commissioners states that residents on boards should be treated no differently than non-residents.

Resident Opportunities and Self Sufficiency (ROSS) program. HUD's Resident Opportunities and Self Sufficiency Program (ROSS) is designed to link public housing residents with supportive services, resident empowerment activities and other assistance in becoming self-sufficient. Grants under the ROSS program can be made to PHAs, resident management associations, resident councils, resident organizations, intermediary resident organizations and other nonprofit entities operating as associations or networks that administer programs that benefit resident organizations. A number of initiatives for residents can be part of such grants. ROSS funds are appropriated annually by Congress; HUD then issues a Notice of Funding Availability for eligible applicants to compete for the grants. In FY10, the ROSS program was funded at \$50 million, but HUD has requested no additional funding for ROSS in FY11.

Privately Owned, HUD-Assisted Multifamily Housing (Project-based Section 8 Rental Assistance) Tenants' right to organize. There are regulations in place that require owners to recognize tenant unions or organizing committees in project-based units that meet regularly, are democratic, and are completely independent of owners and management agents. These regulations, at 24 CFR Part 245, recognize the right of tenants to leaflet, door-knock, post notices, and convene meetings without management present and without prior notice to or permission from management. Residents also can invite outside organizers to assist them. HUD-funded organizers have the right to go into a building without a tenant invitation to help residents organize.

In addition:

- HUD has published a brochure, Resident Rights and Responsibilities, which clarifies that tenants have the right to organize free of management harassment or retaliation. This brochure must be distributed annually to all HUD tenants.
- HUD's Model Lease, which is applicable to all HUD tenants, explicitly refers to the Right to Organize regulations.
- The Management Agent Handbook requires that owners recognize tenant unions and specifies management practices that would violate tenants' rights and potentially create liability for HUD-imposed sanctions.
- The Civil Monetary Penalties regulation allows HUD to assess fines on owners or management agents for egregious violations of tenants' right to organize.

Over the years, Congress and HUD have also expanded the formal process for tenant participation in decisions affecting HUD housing. When owners choose to go into HUD's Mark-to-Market program, HUD is also required to notify tenants prior to a first and second tenant meeting to allow tenants to comment on the owner's plans to rehabilitate the building and change the financing. HUD must also notify tenants in buildings owned by HUD or under HUD foreclosure of pending auctions or sales of their buildings, enabling tenants to submit purchase offers as a nonprofit or limited-equity cooperative or to support purchase by others.

Funding for resident participation. For a few years, Congress provided funds to help tenants organize, primarily to understand and influence the future of their homes when the Section 8 contract expires.

The Outreach and Training Grant (OTAG) and Intermediary Technical Assistance Grant (ITAG) programs were established by Section 514 (f) of the Multifamily Assisted Housing and Reform Affordability Act (MAHRAA), enacted in 1998. Section 514 requires HUD to establish procedures to provide opportunities for tenants to participate in the mortgage restructuring process during any proposed transfer of the property and in rental assistance assessment plans. OTAG grants have not been awarded since 2001, however, even though the statute requires up to \$10 million be set aside annually for the program. (Funding was withheld due to concerns HUD had raised about some administrative and accounting problems in the program, which are not believed to have been widespread.) These three-year grants went to locally based tenant organizing projects or nonprofit organizations to "organize the unorganized" tenants at the city or state level.

For FY11, HUD has stated its intention to make up to \$10 million available for tenant resources, information, and outreach grants, which would provide financial assistance to tenant groups, nonprofit organizations, and public entities for building the capacity of tenant organizations for, among other goals, the preservation of the multifamily assisted housing stock and for tenant services.

Resident Participation

Housing Choice Vouchers (Section 8)

There are approximately 2 million households that receive tenant-based assistance through the Housing Choice Voucher Program. Housing Choice Voucher holders, generally referred to as Section 8 voucher holders, are among the most difficult residents to organize because the nature of the voucher program is such that households receiving this type of subsidy--which allows them to rent in the private market--are less likely to be in direct proximity or contact with each other.

Participating in PHA processes. At the local level, voucher participants can play a key role in the formation of policies by participating in their PHA's annual and five-year PHA Plans. PHAs make many policy determinations affecting voucher holders, including the priority given to homeless individuals, families fleeing domestic violence, working families and those with limited English-speaking capability, as well as resident preferences, admissions criteria, the amount of time that a voucher holder will have to search for a unit, minimum rents, homeownership program development and similar priorities and policies.

Participation in Resident Advisory Boards. Rules about RABs (see the public housing section above) also apply to voucher holders. As such, voucher holders can play an integral role in setting the agenda for local PHAs. Indeed, the advent of the PHA planning process and the requirement that voucher holders be included on RABs offer an excellent platform from which to organize voucher holders to have a voice.

What Advocates Need to Know Now

The number of PHAs that must complete PHA Plans has been substantially reduced by Congress. Furthermore, in 2008, HUD used its administrative powers to dramatically weaken the usefulness of the PHA Plan for residents and other community members.

Similarly, resources for tenants in HUD-assisted housing to organize to protect their rights and their housing have decreased in recent years with the loss of remaining funds in the OTAG and ITAG programs. The 111th Congress could be the right time not only to protect existing resident participation tools and resources, but to expand them.

Major HUD-assisted housing legislation is expected in the 111th Congress. This legislation will be an opportunity to achieve capacity building resources for tenants in projects with expiring HUD-assisted contracts. Tenants can help HUD save affordable housing developments if they are given the right tools.

What to Say to Legislators

- Fund the public housing Resident Opportunity and Self Sufficiency (ROSS) program at \$50 million in FY11.
- Reverse HUD's administrative weakening of the PHA Plan and Congress's 'streamlining' of the Plan's requirements for 75% of the nation's PHAs.
- Support resources that allow qualified and independent organizations to provide outreach and training to HUD assisted housing tenants threatened with the loss of their housing.
- Support \$10 million for the Outreach and Training Grant (OTAG) and Intermediary Technical Assistance Grant (ITAG) programs.

For More Information

National Alliance of HUD Tenants · 617-267-9564 · www.saveourhomes.org

National Housing Law Project · 510-251-9400 · www.nhlp.org

National Low Income Housing Coalition · 202-662-1530 · www.nlihc.org

24 CFR Part 964, Tenant Participation and Tenant Organizing in Public Housing Regulations: www.access.gpo.gov/nara/cfr/waisidx_05/24cfr964_05.html

HUD's Resident Rights and Responsibilities brochure: www.hud.gov/offices/hsg/mfh/gendocs/mfhrrr.pdf

24 CFR Part 245, Tenant Participation in Multifamily Housing Projects: www.access.gpo.gov/nara/cfr/waisidx_03/24cfr245_03.html

Rural Housing and Economic Development/ Rural Innovation Fund

By Leslie R. Strauss, Senior Policy Analyst, Housing Assistance Council

From FY99 through FY09, the Rural Housing and Economic Development (RHED) program provided funding and information resources to support innovative affordable housing and economic development activities in rural communities. For FY10, Congress has replaced RHED with the Rural Innovation Fund (RIF), a set-aside within HUD's Community Development Block Grant (CDBG) program. HUD has not yet implemented the Rural Innovation Fund.

RHED has been administered by an Office of Rural Housing and Economic Development (ORHED) within HUD's Community Planning and Development office in consultation with the U.S. Department of Agriculture (USDA). It is not clear whether ORHED will continue to exist in order to run the new Rural Innovation Fund.

History

First funded in FY99, the RHED program was kept alive by Congressional support, despite the Bush Administration's repeated attempts to zero it out in annual budgets.

In its FY10 budget outline released in late February 2009, the Obama Administration pledged to reform RHED "so that it is not duplicative of similar USDA programs." At the Obama Administration's urging, Congress did not fund RHED for FY10, instead creating the Rural Innovation Fund within the CDBG program.

The Administration's budget for FY11, however, proposes no funding for the Rural Innovation Fund.

Program Summary

For FY10, funding will be distributed through the Rural Innovation Fund. It seems likely that the Rural Innovation Fund will bear some resemblance to the RHED program. In the FY10 appropriations bill, the new fund is described as having the same eligible recipients and the same purposes as RHED. However, RIF reform proposals have not been released as of mid-March 2010.

RHED provided resources to support comprehensive community development efforts to address the unique housing and economic development needs of economically distressed rural communities. RHED funding was awarded annually on a competitive basis through a selection process conducted by HUD in consultation with the USDA. Eligible applicants included local rural nonprofit organizations, community development corporations, federally recognized Indian Tribes, state housing finance agencies, and state economic development and/or community development agencies. Applicants responded to an annual Notice of Funding Availability (NOFA) by submitting specific information about a proposed project or activities in their application.

Fund allocation for RHED was based on community need, measured by poverty and unemployment rates, as well as by other indicators such as substandard housing or housing affordability problems. Emphasis was placed on certain regions and populations: Central Appalachia, the Lower Mississippi Delta, the Border Colonias, farmworkers, and Native Americans. RHED also targeted areas with populations of 2,500 or fewer by giving extra weight to applications that propose to serve these communities.

Grantees could use the funds to support capacity-building activities (e.g., training, staff costs, etc.) or programs that would result in complementary affordable housing and economic development projects.

RHED provided two categories of funding. The first was Capacity Building, which included hiring and training staff, purchasing software and other tools, developing an accounting system, conducting asset inventories, developing strategic plans, and seeking technical assistance.

Rural Housing and Economic Development/ Rural Innovation Fund

The second was Support for Innovative Housing and Economic Development Activities, which funded the preparation of plans, architectural drawings, provision of infrastructure, purchase of materials, construction, use of local labor markets, job training and the acquisition of land, and building demolition. Grantee organizations were required to demonstrate the ability to provide integrated housing and economic development activities.

In addition to the funding provided through the RHED program, technical assistance, training, and other resources have also been offered through the RHED Gateway.

Funding

For FY09, RHED was funded at \$26 million, including \$5 million specifically for tribal economic development and entrepreneurship. For FY10, the Rural Innovation Fund has \$25 million, including \$5 million for tribes.

What Advocates Need to Know Now

The kind of flexible capacity building funding, awarded directly to local organizations in rural places, that RHED provided is not available from any of USDA's rural housing programs. Advocates should pay attention to plans by the Administration and Congress to transition from RHED to the Rural Innovation Fund.

What to Say to Legislators

Advocates should speak to their Representatives and Senators with the message that rural areas, particularly those with concentrated poverty and housing problems, need continued support for capacity building and innovation, in the form of either the RHED program or the new Rural Innovation Fund.

- Legislators should encourage HUD to develop the new Rural Innovation Fund quickly. Explain that RHED complemented, rather than duplicated, USDA programs, and request that the fund retain RHED's most important features: provide resources to local and state entities to increase their capacity to meet local needs; provide flexibility allowing local communities to define their own needs and projects; and target high need places and people.
- Support legislation to authorize RHED/RIF, similar to H.R. 1982, passed by the House of Representatives in July 2007 but never acted upon by the Senate.
- Support FY11 funding for the Rural Innovation Fund at a level of at least \$25 million, including \$5 million for tribes.

For More Information

HUD's Office of Rural Housing and Economic Development · 202-708-2290 · www.hud.gov/offices/cpd/economicdevelopment/programs/rhed/

Rural Housing and Economic Development Gateway · 877-RURAL-26 · www.hud.gov/offices/cpd/economicdevelopment/programs/rhed/gateway

Housing Assistance Council · 202-842-8600 · www.ruralhome.org

Second Chance Act

By Steve Berg, Vice President for Programs and Policy, National Alliance to End Homelessness

The Second Chance Act of 2008 creates several new programs designed to address the comprehensive needs, including the housing needs, of people reentering communities from prison. The ongoing issue is the level of funding for these new programs. The President's FY11 budget request included \$100 million for grants under the Second Chance act, while the full amount authorized by the act is \$165 million per year.

The program is administered by the U.S. Department of Justice.

History and Purpose

The Second Chance Act was enacted in April 2008 and is the first legislation to address the needs of the increasing numbers of people who each year leave prison or local jails to reenter their communities.

Each year, nearly 670,000 people leave state and federal prisons, and 9 million leave local jails. Some people remain under corrections supervision, while others have served their entire sentences and are without further supports from the corrections system. Housing problems are common among this group. Their incomes tend to be low, they often do not have social supports, and they experience difficult barriers to obtaining housing through the channels that are open to other low income people.

One striking result of states' experience with previous prisoner reentry initiatives is that housing is a very difficult issue for people leaving corrections facilities and for the states trying to achieve better results. One in five people who leave prison become homeless immediately or soon thereafter. Preliminary studies also indicate that those who leave prison and become homeless are substantially more likely than those with stable housing to commit a new crime and return to prison.

Program Summary

The Second Chance act authorizes \$165 million for federal grants from the Department of Justice to government agencies and community and faith-based organizations to provide employment assistance, substance abuse treatment, housing, and other services. Specific programs include:

Demonstration Grants. This is the largest Second Chance act program, providing matching grants to states and local governments that may be used to promote the safe and successful reintegration into the community of individuals who have been incarcerated. Eligible uses of funds include housing, employment programs, substance abuse treatment, and a range of other social services.

Grants are allocated competitively. Successful applicants make efforts to coordinate with community-based organizations, and must ensure that the housing needs of the program's clients are addressed. In most cases, the applicant will be a state corrections department, or whatever city or county agency operates the local jail system. Housing advocates can work with those agencies to ensure that housing is an included service in the grant application, and that a strong plan is in place to fund experienced housing providers to put these services into operation. This program provides an opportunity to bring new housing resources into a community for anyone leaving the corrections system.

Other Second Chance programs. There are a number of other, smaller programs under the Second Chance act that provide various kinds of services to people leaving the corrections system. None of them is available for housing, but they provide services that may be a necessary part of a reentry housing program.

- **Mentoring Grants.** Provides grants to nonprofit organizations that may be used for mentoring adult offenders or offering transitional services for reintegration into the community.
- **Offender Reentry Substance Abuse Treatment.** Creates grants to improve the availability of drug treatment to offenders in prisons, jails, and juvenile facilities.

Second Chance Act

- **Family Drug Treatment Programs.** Authorizes grants to states, local governments, and Indian tribes to develop and implement family-based treatment programs for incarcerated parents who have minor children.

Federal Reentry Initiative. Provides guidance to the Bureau of Prisons for enhanced reentry planning procedures. Specific information on health, employment, personal finance, release requirements, and community resources shall be provided to each inmate released.

Reentry Research. Authorizes the U.S. Justice Department's National Institute of Justice and the Bureau of Justice Statistics to conduct reentry-related research.

National Adult and Juvenile Offender Reentry Resource Center. Establishes a national resource center to collect and disseminate best practices and to provide training on and support for reentry efforts.

Funding

Congress provided \$114 million for Second Chance act programs for FY10, including \$37 million for Demonstration Grants. President Obama's FY11 budget calls for \$100 million for programs under the Second Chance act.

Tips for Local Success

Local advocates should be in touch with eligible grantees for these programs, usually state corrections agencies or local agencies that operate jails, to make sure that they are applying for the grants and that they understand the importance of stable housing for people leaving jail or prison. Those agencies will have the option, if they are funded, of subcontracting with housing agencies to provide that service.

What to Say to Legislators

Advocates should ask their Members of Congress to support full funding of \$165 million for the Second Chance act in FY11.

For More Information

National Alliance to End Homelessness · 202-638-1526 · www.endhomelessness.org

Reentry Policy Council · 212-482-2320 · www.reentrypolicy.org

Office of Justice Programs, Bureau of Justice Assistance Programs · www.ojp.usdoj.gov/BJA/grant/SecondChance.html

Section 3: Job Training, Employment and Business Opportunities Related to HUD Funding

By Catherine M. Bishop, Staff Attorney, National Housing Law Project

Section 3, “economic opportunities for low and very low income persons,” requires recipients of HUD housing and community development funding to provide “to the greatest extent feasible” job training, employment, and contracting opportunities for low and very low income residents and eligible businesses.

The Section 3 obligation is too often ignored by the recipients of the HUD funds and not enforced by HUD and the local recipients; therefore the potential of the program is unrecognized or underused by low and very low income workers and qualified businesses and their advocates. However, both lawmakers and current HUD officials have expressed interest in strengthening the program in recent years.

Oversight responsibility for Section 3 rests with HUD’s Office of Fair Housing and Equal Opportunity. HUD is charged with monitoring and determining if local recipients of HUD housing and community development funds are meeting their obligations. In addition, those local recipients have the responsibility to ensure that the obligations and goals of Section 3 are met by local contractors.

History

The Section 3 obligation was created as part of the Housing and Urban Development Act of 1968. The potential of this program has largely been ignored throughout its 42-year history.

Program Summary

Section 3 is a federal obligation that is tied to HUD funding. It applies to all HUD funding for public housing and Indian housing, such as the funding for the public housing operating fund and capital fund, Resident Opportunity and Self-Sufficiency (ROSS) grants, Family Self-Sufficiency (FSS) and HOPE VI. Section 3 also applies to housing and community development funding including Community Development Block Grant (CDBG), HOME, Emergency Shelter Grants (ESG), Housing Opportunities for Persons with AIDS (HOPWA), and Neighborhood Stabilization Program (NSP) funds.

The Section 3 requirement states that recipients of HUD housing and community development funding must provide “to the greatest extent feasible” job training, employment, and contracting opportunities for low and very low income residents and Section 3-eligible businesses.

HUD’s regulations set numerical goals for all entities subject to Section 3. Low and very low income individuals should be provided with a preference for 30% of all new hires that arise from the HUD funding. And at least 10% of the total dollar amount of all Section 3 contracts for building trades work, and 3% of all other contracts, should be for Section 3 businesses. A Section 3 business is defined as a business owned by low income individuals, or which hires a substantial number of low income individuals, or which contracts at least 25% of the dollars awarded with a Section 3 obligation to Section 3 businesses.

Among eligible low income job applicants or Section 3 business contractors, preferences must be given to public housing residents or businesses owned by public housing residents, HUD Youthbuild participants, residents of the neighborhood or businesses that provide economic opportunities to individuals in the neighborhood, and homeless individuals. A preference should mean that if the business or individual meets the eligibility or bid requirements, the individual should be hired or the business concern should get the contract.

For both public housing and the other housing and community development funding, the Section 3 obligation is applicable to the entire project regardless of whether the funding subject to the Section 3 obligation is sufficient for the entire project. For example, a project may receive funds from many sources, public and private, but if there are any public housing funds in the project, the Section 3 obligation applies to the entire project.

Section 3

For public and Indian housing funding, Section 3 is applicable to any jobs and contracting opportunities that arise in administration, management, service, maintenance and construction. For the housing and community development funding, the jobs include building trades, the contracting for construction and rehabilitation and non-construction jobs such as administrative or office jobs, so long as the jobs arise in connection with construction or rehabilitation. Examples of eligible types of projects include housing construction or rehabilitation, public works projects, such as waterfront redevelopment, retail and restaurant development, landscaping, development of entertainment facilities and other related infrastructure.

One HUD administrative decision regarding the program is of special note. In April 2004, HUD issued a decision that the city of Long Beach, CA, violated Section 3 because new hires worked significantly less than 30% of the hours worked by all new hires. This decision is important because the standard of 30% of new hires can be easily manipulated and frustrate the purpose of Section 3 with a hiring surge at the end of the contract period. Using the standard of 30% of the hours worked each year by the new hires is much better and is consistent with the Section 3 goal of creating employment opportunities for low income individuals to the “greatest extent feasible.”

Section 3 complaint procedure. There is a HUD-established complaint procedure for individuals and businesses to use for violations of Section 3. Complaints are filed with HUD’s Office of Fair Housing and Equal Opportunity. HUD has responded favorably to some complaints that have been filed. But there is no publicly available data on the number of complaints that have been filed or their resolution.

What Advocates Need to Know Now

Enforcement of the Section 3 goals. The potential for jobs for low income residents under Section 3 is extensive. In the past, when funding for public housing construction and rehabilitation, including HOPE VI, was nearly \$3 billion, some estimated that there should have been in excess of 16,000 jobs annually for public housing residents.

However, a 2003 HUD Inspector General (IG) report found that HUD had not implemented sufficient controls over the then-prior 37 years to ensure that Section 3 program goals are met. For example, although HUD requires that recipients of HUD financial assistance subject to Section 3 requirements submit an annual performance report, HUD historically did not track agencies/localities subject to Section 3 requirements and did not adequately respond to lack of compliance with the reporting requirements.

In late 2008 and in 2009, HUD began to change course, responding to policy positions that advocates have promoted for years. Specifically, HUD has begun to acting more aggressively to require recipients of housing and community development funds to file HUD form 60002, the annual report regarding Section 3 outcomes. The HUD form 60002 provides some very basic information for each agency and each local program, such as HOPE VI, CDBG, and the public housing capital fund, regarding the number of Section 3 individuals hired and the amount of contract dollars committed to Section 3 businesses. HUD announced in the general requirements for the FY09 Notice of Funding Availability (NOFA) and sent notices to all recipients of HUD funds that failure to file the form could result in sanctions.

HUD reports that it has received in 2009 and 2010 substantially more forms/reports than previously and has issued a list of those jurisdictions that have submitted the form 60002. Now, issues include: how will HUD use the information it is receiving, what if a local agency reports no new Section 3 hires and/or no dollars under contract with Section 3 businesses, and what will HUD do if local agencies continue to ignore the reporting requirements or inadequately fill out the form?

As part of this enforcement, HUD should also be urged to enforce Section 3 with respect to all the stimulus funds—funds provided under the American Recovery and Reinvestment Act of 2009 (ARRA)—that are subject to Section 3 (e.g., NSP funds, capital funds and HOME funds).

In addition, HUD should revise the Section 3 regulations (24 C.F.R.Part135) in line with the decision it issued regarding the city of Long Beach, which considered the number of hours worked by all new employees as compared to the hours worked by all new hires and did not limit compliance to counting the number of individuals hired.

Section 3 reform legislation. Representative Nydia Velazquez (D-NY) continues to be very interested in improving Section 3. In 2007 she introduced H.R. 3310, and she circulated and held hearings on a revised bill, the Earnings and Living Opportunities Act (ELOA), in 2009.

The revised bill is a good start at addressing some of the weaknesses of Section 3, in that it changes the scope of Section 3 to cover a percentage of hours worked by all employees on Section 3 eligible projects, not just a percentage of new hires; allows residents to retain their Section 3 designation for five years, so as to assist with the creation of long-term job opportunities; and makes Section 3 applicable to all permanent jobs created as a result of HUD funding.

It also increases monitoring and compliance by requiring that Section 3 committees be created within each PHA and that contractors submit a plan as to how they will comply with Section 3 and increases the obligation of recipients of HUD funds and HUD to report on compliance and to allow individuals to enforce Section 3.

In addition, Ms. Velazquez introduced H.R. 4224, the “Together We Care Act of 2009.” The bill would establish a pilot program to provide home health care service training to public housing residents. The residents would receive training to provide services to other public housing residents or other residents of HUD-assisted multifamily housing who are disabled or elderly and who need home-based health services. The bill proposes to provide \$2.5 million annually for three years in grants to public housing agencies, community health care agencies, faith based organizations, or labor groups to create an employment training program with service for program participants. These services include health care, transportation, and child care.

To encourage trainees’ ability to increase incomes and maintain housing stability, increases in income would not be considered on a sliding scale over a three year period for housing eligibility, such as a determination of the resident’s rent. Grants would be awarded based upon the number of persons served who are older than 62 years of age, the number of persons served who are disabled residents, and the number of people trained who are currently unemployed or underemployed. Grantees would have to demonstrate ability to provide high-quality care through their training.

Funding

The number of jobs created or contracts provided to Section 3 individuals or businesses depends upon the level of funding for the applicable housing program. There is no independent funding for Section 3. Therefore, it is important to support full funding of housing programs for FY11 because of the benefits of jobs and economic opportunities as well as the housing benefits.

Tips for Local Success

The successes with Section 3 are almost exclusively attributed to local staff of recipient agencies implementing the goals and/or oversight and monitoring and advocacy by local advocates and community groups.

Advocates should contact local unions, resident organizations, minority and women-owned businesses, community development corporations and employment and training organizations to discuss how they and their members/clients can use the Section 3 goals and preferences to increase employment and contracting opportunities for the targeted low and very low income individuals and Section 3 businesses.

In addition, advocates should meet with local PHAs and other local recipients of housing and community development dollars (often cities and counties) to discuss whether they are meeting their Section 3 obligations with respect to public housing funds, CDBG, HOME, and NSP funds. Locally, advocates should seek information on the number of low and very low income individuals trained and hired in accordance with Section 3 and the dollar amounts contracted with Section 3 businesses and to create or improve upon a local plan to fully implement Section 3. Because of the new initiative to get recipients to submit the HUD form 60002, advocates should ask local recipients of HUD funds or HUD for copies of the submitted forms. The jobs reported on the HUD form 60002 should be compared with the jobs that the local jurisdiction reports as created due to the expenditure of the NSP funds.

Compliance with Section 3 could be addressed in the annual PHA plan process and/or the Consolidated Plan

Section 3

(ConPlan) process. In addition, reviewing the quarterly NSP reports could also provide an opportunity to address Section 3 compliance and issues.

If compliance is a problem locally, advocates should urge HUD to monitor and conduct a compliance review of the non-complying recipients of federal dollars for housing and community development, including public housing agencies and local community development agencies. Low income persons and/or businesses with a complaint about recipients of HUD funds or contractors failure to meet Section 3 goals or preferences should consider filing a complaint with HUD.

More information and complaint forms are at www.hud.gov/offices/fheo/section3/section3.cfm and at <http://nhlp.org/resourcecenter?tid=115>

What to Say to Legislators

Advocates should encourage Ms. Velazquez to introduce the bill, the Earnings and Living Opportunities Act (ELOA), which is designed to address some of the weakness in the Section 3 program. They should also encourage their member of Congress to inform Ms. Velazquez of their interest in Section 3 and the member's willingness to co-sponsor her bill and to support it when introduced. In addition, advocates should urge their member of Congress to support H.R. 4224, the "Together We Care Act of 2009."

For More Information

National Housing Law Project · 510-251-9400 · www.nhlp.org

See the NHLP publication, An Advocate's Guide to the HUD Section 3 Program: Creating Jobs and Economic Opportunity, and other materials available at: <http://nhlp.org/resourcecenter?tid=115>

Section 202 Supportive Housing for the Elderly

By Nancy Libson, Director of Housing Policy, American Association of Homes and Services for the Aging

The Section 202 Supportive Housing for the Elderly program provides capital and operating funds to nonprofit organizations that develop and operate housing for seniors with very low incomes. As the U.S. population ages, both the creation of new Section 202 units and the preservation of existing units will be increasingly important.

There are four current issues related to the Section 202 program: a proposal by the Administration to zero out capital advance funding in FY11, Section 202 reform legislation, a growing demand for units, and the preservation of senior housing.

The Section 202 program is administered by HUD's Office of Housing Assistance and Grant Administration under the Assistant Secretary for Housing/FHA Commissioner.

History and Purpose

The Section 202 program was established under the Housing Act of 1959. Enacted to allow seniors to live with dignity by providing assistance with housing and supportive services, the program has gone through various programmatic iterations during its lifetime before taking the form it does today.

Prior to 1974, Section 202 funds were 3% loans that may or may not have had either Section 8 or rent supplement assistance for all or some of the units. Between 1974 and 1990, Section 202 funds were provided as loans and subsidized by project-based Section 8 contracts. Until the creation of the Section 811 program in 1990, the Section 202 program funded housing for both seniors and people with disabilities.

According to HUD, senior households with very low incomes are the likeliest to pay more than they can afford for their housing. The number of senior rental households with worst-case housing needs is 22%, or 1.13 million, of the estimated 5.18 million households with worst-case housing needs.

Program Summary

The Section 202 Supportive Housing for the Elderly program provides capital and operating funds to nonprofit organizations, known as sponsors, that develop and operate senior housing. Many Section 202 project sponsors are faith-based groups.

The Section 202 grant program has two main components: a capital advance that covers expenses related to housing construction, and operating assistance that supports the buildings' ongoing operating costs. Both the capital and operating funding streams are allocated to nonprofits on a competitive basis, through a HUD Notice of Funding Availability (NOFA).

Capital funding. The first component of the Section 202 program provides capital advance funds to nonprofits for the construction, rehabilitation, or acquisition of supportive housing for seniors. These funds can now be augmented by tax credit debt and equity to either build additional units or supplement the capital advance as gap financing in so-called mixed finance transactions. The Section 202 program is HUD's largest directly funded construction program; however, the capital advances rarely support 100% of the construction costs.

Operating funding. The second program component provides rental assistance in the form of Project Rental Assistance Contracts (PRACs) to subsidize the operating expenses of these developments. Residents pay rent equal to 30% of their adjusted income, and the PRAC makes up the difference between rental income and operating expenses.

Section 202 Supportive Housing for the Elderly

In addition to the core components of the Section 202 program, HUD administers three relatively new companion programs that have been established by Congress to help meet the needs of seniors aging in place:

- (1) Predevelopment grants to help nonprofits use Section 202 funds effectively;
- (2) Assisted living conversion program to help meet the great need for affordable assisted living options for low income seniors; and
- (3) Emergency capital repair grants for federally assisted senior properties.

About a third of Section 202 properties also have a service coordinator funded as part of the Section 202 Appropriation. These HUD grants provide funding for full-time service coordinators who assist Section 202 residents and low income elderly or disabled families living in the vicinity of Section 202 properties. Service coordinators assess residents' needs, identify and link residents to services, and monitor the delivery of services. The older Section 202 properties are eligible for grant funding, while the Section 202/PRAC properties may include the cost of service coordinators in their operating budgets if funds are available.

Section 202 tenants must generally be at least 62 years old and have incomes less than 50% of their area median income (AMI) qualifying them as very low income. Some facilities have a percentage of units designed to be accessible to non-elderly persons with mobility impairments or may serve other targeted disabilities.

The average age of a Section 202 resident is 79, and nearly 39% of residents are over the age of 80. The average annual income of a resident is little more than \$10,000.

Funding

In FY10, Congress appropriated \$582 million for new Section 202 construction and project rental assistance and an estimated \$93 million for PRAC renewals. In addition, the FY10 appropriation included \$20 million for Section 202 predevelopment grants, \$90 million for service coordinators, and \$40 million for assisted living conversion and emergency capital repair grants.

Section 202 projects had access to \$250 million economic recovery funds from the American Recovery and Reinvestment Act of 2009 (ARRA) for energy retrofit grants and loans, and nearly 50% of the projects selected for funding were Section 202 properties.

What Advocates Need to Know Now

There are four main issues confronting the Section 202 program:

Funding in FY11. In FY11, the Administration has requested only \$273.7 million to cover the costs of PRAC renewals, amendments, and \$90 million for service coordinator grants and renewal of Congregate Housing Services programs; it would not fund the capital advance program.

The budget proposal recommends suspending the capital advance program pending reforms to the program that would:

- Ensure meaningful impact of dollars awarded;
- Raise threshold for sponsor eligibility to ensure the award of funds only to organizations with unique competency to achieve the program goals;
- Streamline processing to speed development timeframes;
- Better facilitate supportive services provided by Medicaid/Medicare Waiver programs such as the Program of All-inclusive Care for the Elderly (PACE) model services to 202 project residents; and
- Encourage better leveraging of other sources of funding, such as low income housing tax credits.

Legislation to make reforms to the program is in the works; however, advocates believe that HUD has the ability to make many of the needed reforms administratively, without waiting for reform legislation to pass.

There are more than 300,000 Section 202 units serving very low income seniors.

Section 202 programmatic reform. Under the current Section 202 program, the development and preservation of existing communities can be time-consuming, bureaucratic, and often require duplicative waivers from HUD. In 2007, the House passed Section 202 reform legislation that would streamline and simplify the Section 202 new construction and refinancing or preservation program, but the Senate's companion legislation was never acted on. In the 111th Congress, on the first day of the session, Senators Herb Kohl (D-WI) and Charles Schumer (D-NY) reintroduced the Section 202 Supportive Housing for the Elderly Act of 2009 (S. 118), with eight additional cosponsors. The House companion legislation is included as a separate title in the larger preservation legislation that House Financial Services Committee Chair Barney Frank (D-MA) introduced to further the preservation of all affordable housing.

Specifically, the legislation would provide new construction reforms, such as establishing a new non-metro allocation system to facilitate viable rural projects and encourage the inclusion of service coordinators, and refinancing and preservation reforms including:

- Permitting the refinancing for the oldest Section 202 properties (1959-1974) to address the physical needs of the project and promote long-term affordability;
- Allowing the refinancing proceeds not used for rehabilitation to be used for other affordable senior housing and related supportive services;
- Allowing use of residual receipts for supportive services;
- Creating a new Senior Preservation Contract to provide project based rental subsidies for older, unassisted seniors in order to prevent displacement of residents; and
- Other technical changes.

The legislation also eliminates the licensure requirement for the Assisted Living Conversion Program where sponsors make supportive services available either directly or through licensed or certified service providers; and creates a national clearinghouse of affordable, supportive senior housing including Section 202 properties, Section 8 properties, low income housing tax credit properties, assisted living properties insured under Section 232 of the National Housing Act of 1934, assisted living conversion properties, and any other federally assisted or subsidized housing for the elderly.

A growing demand for increases in the supply of affordable senior housing. A lack of adequate new Section 202 construction funds means that the growing demand for affordable senior housing will not be met. The senior population is expected to double to 70 million by 2030 with the most growth among those over 85. Over the last several years, the funding available for new construction of Section 202 units has produced fewer than 4,000 units each year, many fewer than are needed to meet the growing demand. A recent HUD study has recommended that 10,000 Section 202 units be produced each year for the next 10 to 15 years to meet the growing senior population as an important and cost-effective alternative to premature placement in institutional settings, and necessary where states are engaged in transitioning seniors from costly nursing homes to the community. An AARP study released in January 2006 estimates that there are 10 residents for every one unit that becomes available.

At the very least, \$825 million is needed in FY11 for construction and project rental assistance contracts (PRACs) alone. Although insufficient to meet the needs of the growing elderly population, this will allow construction of approximately 7,500 new units. In addition, in FY11, \$20 million will be needed for grants to nonprofits to cover costs of architectural and engineering work, site control, and other planning relating to the development of Section 202 housing. Federal assistance with these costs can ensure the timely development of quality housing.

The recommended reforms to the Section 202 program can be achieved primarily by administrative changes to the program, processing requirements, and to the NOFAs. This can be accomplished in time for the NOFA process to begin in FY11.

Preservation of existing units. Those currently residing in assisted senior housing are aging in place. And just as the residents are aging in place, the buildings are aging and lack the amenities to provide supportive services. Further, the problems of low income seniors facing multi-year housing assistance waiting lists are only exacerbated by the shrinking supply of suitable, affordable housing as some owners sell their properties to new owners who will

Section 202 Supportive Housing for the Elderly

convert existing units to market-rate housing at the end of the original mortgage term. Finally, the oldest Section 202 mortgages are nearing the end of their mortgage terms. Some mortgages have been refinanced and some properties have already been sold out of the inventory. New tools are needed to help preserve these units, as well as the Section 202 properties with project-based section 8 that can be refinanced, and to provide the supportive services that are so necessary for an aging population.

Tools that should be enacted or implemented include exit tax relief to remove the disincentives that existing for profit owners have in selling properties to nonprofits and others who would preserve the housing as affordable housing, and new capital and rental assistance programs to encourage the preservation of housing with maturing mortgages as affordable housing in the future.

What to Say to Legislators

Advocates concerned with senior housing issues should encourage their Members of Congress to take the following actions:

- Support funding for Section 202 capital advances and new PRAC.
- Support the Section 202 program as a platform for the delivery of supportive services and increase funding for service coordinators.
- Provide sufficient renewal funding for all expiring PRACS and Section 8 contracts, and support an advance appropriation for PRAC amounts in FY11 to preserve affordable senior housing.
- Enact Section 202 reform legislation to streamline and simplify both the Section 202 new construction and Section 202 refinancing programs. S. 118 can be the vehicle for any statutory reforms necessary to achieve the administration's goals for the Section 202 program.
- Enact preservation legislation to protect affordable senior housing and its residents in the future.
- Enact preservation legislation to address the unique issues of senior housing with mortgages that will soon mature.

For More Information

American Association of Homes and Services for the Aging · 202-508-9476 · www.aahsa.org

See also: *Service Coordinators in Multifamily Housing*.

Section 515 Rural Rental Housing

By Leslie R. Strauss, Senior Policy Analyst, Housing Assistance Council

Under the Section 515 program, the U.S. Department of Agriculture's (USDA) Rural Development arm (RD) makes direct loans to developers of affordable multifamily rental housing. Production of new units has almost ceased, however, and many existing units are deteriorating physically or are in danger of leaving the affordable housing stock.

To address preservation issues, Congress created new demonstration programs, but their future is now threatened. Other issues related to the preservation of Section 515 units are addressed in comprehensive preservation legislation introduced in the House of Representatives in March 2010.

The program is administered by USDA's Rural Development Housing and Community Facilities Programs office.

History and Purpose

The Section 515 program has been operating since 1963.

By helping to produce affordable rental units, the Section 515 program provides essential, decent housing for the lowest income rural residents. While dramatic improvements have been made in rural housing quality over the last few decades, problems persist. Many of rural America's 55.4 million residents experience acute housing problems that are often overlooked while public attention is focused on big-city housing issues.

Nearly 30% of nonmetropolitan households experience at least one major housing problem: high cost, physical deficiencies, or overcrowding. These problems are found throughout rural America but are particularly pervasive among several geographic areas and populations, such as the Lower Mississippi Delta, the colonias along the U.S.-Mexico border and Central Appalachia, and among farm workers and Native Americans.

More than one-third of rural renters, about 1.9 million households, are cost burdened, paying more than 30% of their income for their housing. One in every 10 rural rental households lives in either severely or moderately inadequate housing.

Program Summary

Under the Section 515 program, USDA RD makes direct loans to finance affordable multifamily rental housing for very low, low, and moderate-income families, elderly people, and persons with disabilities.

Section 515 provides direct loans to developers at an interest rate of 1%, amortized over 50 years, to finance modest rental or cooperatively-owned housing.

Section 515 funds can be used both for new construction and the rehabilitation of existing properties. However, very few new rental properties are built each year because the program's appropriations levels are low.

Congregate housing for the elderly and persons with disabilities and group homes for the developmentally disabled are authorized through special regulations and requirements, but nursing or "special care" homes are not eligible. Funds may also be used to buy and improve land and to provide necessary facilities such as water and waste disposal systems.

Very low, low, and moderate-income households are eligible to live in Section 515-financed housing. When USDA Section 521 rental assistance is available to help tenants pay affordable rents, 95% of tenants in new Section 515 projects and 75% of new tenants in existing projects must have very low incomes. Priority is given to those living in substandard housing. The vast majority (93%) of 515 tenants has incomes less than 50% of area median income, and more than half of the tenants are elderly or disabled. Residents' incomes average about \$11,000 per year, and more than half of resident households are headed by elderly people or people with disabilities.

Section 515 loans are made available on a competitive basis each year, using a national Notice of Funding Availability (NOFA).

Funding

The Section 515 program is funded at \$69.5 million in FY10. The Administration has requested \$95.2 million for the program in FY11.

What Advocates Need to Know Now

Section 515's history created serious current challenges for the program. In the 1970s, owners of Section 515 properties were permitted to prepay their low-cost mortgages and, once their buildings were no longer receiving federal subsidies, displace tenants. Two separate statutes were adopted at different times to restrict prepayments. As a result, properties financed between 1979 and 1989 are subject to one set of restrictions, and post-1989 properties to another.

In the early 1990s, publicity about program abuses by a few developers resulted in drastic budget cuts for the program, from \$512 million in FY94 to \$183 million in 1995. As a result of USDA policies and operating fund shortages that encouraged property owners to defer maintenance, a study conducted for USDA in 2004 found that none of the properties in the program had adequate reserves to cover the costs of needed repairs and renovations. At the same time, program funding has continued to fall, reaching \$70 million each year in FY08 through FY10. Section 515, which financed the construction of over 38,000 units at its peak in 1979, produced just 2,800 units in 1995 and 800 in 2008.

Preservation of the existing units in the 515 portfolio – that is, the developments whose owners are still making payments on Section 515 mortgages – is a serious issue for two reasons.

First, increasing numbers of these owners are prepaying their mortgages, thus removing government affordability requirements. Owners seek to prepay for varying reasons, including the expiration of tax benefits, the burden of increased servicing requirements, the desire of some small project owners to retire and, in some rural areas, an increase in vacancies due to out-migration. As is the case for owners of HUD multifamily projects, Section 515 owners' ability to prepay is restricted by federal law. The details vary depending when a loan was approved, but in all cases USDA is either permitted or required to offer owners incentives not to prepay, and in exchange the property continues to be restricted to low income occupancy for 20 years. Incentives offered to owners include equity loans, increases in the rate of return on investment, reduced interest rates, and additional rental assistance. In some cases, an owner that rejects the offered incentive(s) must offer the project for sale to a nonprofit or public agency.

Second, many Section 515 properties are aging and must be preserved against physical deterioration. A 2004 Comprehensive Property Assessment (CPA) prepared for USDA by a team of consultants found that the physical conditions of Section 515 properties were an even greater problem than prepayments. The CPA reported that the average age of Section 515 properties was 23 years. Researchers determined the physical conditions of the properties did not pose any serious immediate health and safety problems, but warned that many properties would face significant physical needs in the immediate future. None of the properties had enough money in reserve to address its physical needs over time. Researchers calculated the total cost to prevent physical deterioration of Section 515 properties would be \$2.6 billion over 20 years.

For the last few years, USDA Rural Development has funneled all its preservation efforts through its Multi-Family Housing Preservation and Revitalization (MPR) demonstration program. MPR offers several possible types of assistance to owners or purchasers of Section 515 properties. The most commonly used is debt deferral, while other possibilities include grants, loans, and soft-second loans. (In FY08 through FY10, MPR has been available to Section 514/516 farmworker housing properties as well.)

Section 515 has financed more than 550,000 decent, safe, sanitary, and affordable homes, which are often the only such rental housing in rural communities.

In its four years of operation, the MPR demonstration has obligated over 400 transactions that will preserve properties occupied by nearly 14,000 tenant households.

Other preservation tools include Section 542 tenant vouchers, which can be provided to tenants who face higher rents when their buildings leave the Section 515 program. Finally, USDA's second demonstration program, the Preservation Revolving Loan Fund (PRLF), makes loans to intermediaries that relend the money to owners and purchasers of Section 515 rental or Section 514/516 farmworker housing.

The Obama Administration's budget for FY11 proposes no funding for MPR or the PRLF, primarily because there is no authorizing legislation for these two demonstrations. The budget would continue to provide Section 542 vouchers for tenants. It would also raise the Section 515 program from \$69.5 million in FY10 to \$95.2 million, with the additional funds to be used for preservation; Section 515 funding is not as flexible as the MPR program has been, however, and this amount is far too low to meet the need.

Two bills pending in the House of Representatives might increase the options for rural rental preservation. The Rural Housing Preservation Act of 2009 was introduced last year as H.R. 2876; its provisions, with some changes, were introduced on March 17 as Title VIII in H.R. 4868, the Housing Preservation and Tenant Protection Act of 2010. This comprehensive preservation legislation, introduced by House Financial Services Committee Chair Barney Frank (D-MA), would accomplish two things for the Section 515 program. First, it would authorize MPR, presumably thus increasing its chances for funding. Second, it would improve USDA's preservation voucher program.

H.R. 4868's Title VIII deserves support, and improves upon H.R. 2876 in some ways – for example, it includes USDA Section 514/516 Farm Labor Housing in MPR as well as Section 515 – but it could be improved further. First, Representative Rubén Hinojosa (D-TX) is expected to introduce amendments that would strengthen the voucher program. Second, the bill should authorize the Preservation Revolving Loan Fund as well as MPR.

Tips for Local Success

Funding for new Section 515 projects has been scarce for several years, and most activity related to the program has involved preservation of existing units. Preservation means either renovating a property or keeping it affordable for low income tenants, or both. Local rural housing organizations can help with preservation in both senses by helping owners who want to leave the program find ways to do so without changing the nature of their properties. Often, this means purchasing the property and refinancing to obtain sufficient proceeds to update and rehabilitate it.

What to Say to Legislators

Legislators should be urged to:

- Support \$250 million in funding for the Section 515 program in FY11, as well as \$300 million for USDA's Multifamily Rental Preservation Demonstration (MPR), Section 542 preservation vouchers, and the Rental Preservation Revolving Loan Fund (PRLF), to be allocated among those three programs by USDA. USDA should allocate at least \$10 million for the PRLF.
- Support the Rural Housing Preservation Act, Title VIII of H.R. 4868, with the addition of further tenant protections and authorization for the PRLF.

For More Information

Housing Assistance Council · 202-842-8600 · www.ruralhome.org

National Housing Law Project · 510-251-9400 · <http://nhlp.org/resourcecenter?tid=61>

U.S. Department of Agriculture Rural Development · www.rurdev.usda.gov/rhs/mfh/MPR/MPRHome.htm

See also: *Project-Based Housing: Preservation*.

Section 811 Supportive Housing for Persons with Disabilities

By Ann O'Hara, Director, TAC Housing Center

Since it was authorized in 1992, the Section 811 program has provided localities with funding for housing and rental assistance for people with the most significant and long-term disabilities who can benefit from community-based services and supports.

Significant improvements in disability housing and services policies, including a stronger emphasis on integrated housing models, have prompted important bi-partisan legislation (H.R. 1675 and S. 1481) now pending in Congress to modernize and reinvigorate this small, but highly symbolic, federal program. However, citing the need for 811 reforms, HUD has proposed eliminating all funding for new Section 811 units in the FY11 budget – a policy that housing advocates strongly oppose

The Section 811 Program is administered by HUD's Office of Housing.

History and Purpose

Section 811 was authorized by the National Affordable Housing Act of 1990. For more than 30 years, the Section 811 program – and its precursor the Section 202 Supportive Housing for Persons with Disabilities program – has provided funding to mission-driven nonprofits housing developers seeking to build and operate supportive housing for low income households with the most significant and long term disabilities. During recent years, the constraints imposed by the program's housing models, stagnant funding levels, and extensive bureaucratic requirements have adversely affected the future viability of Section 811, and have prompted advocates to seek major program reforms from Congress.

Data from numerous recent studies and reports suggest that more than 1 million people with disabilities who receive assistance from the Supplemental Security Income (SSI) program and who do not receive Section 811 or other federally subsidized housing assistance currently reside unnecessarily in restrictive settings such as public institutions, nursing homes, Adult Care Homes, or are at risk of institutionalization because they remain home with parents who are over the age of 65.

Program Summary

A home of one's own, whether rented or owned, is the cornerstone of independence for people with disabilities, including people who can also benefit from in-home or community-based supports. Section 811 provides funding to nonprofit organizations that develop supportive housing for people with the most significant and long term disabilities, including physical or developmental disabilities, people with serious mental illness, or people with multiple disabilities.

Participants must be 18 years of age or older and have very low incomes at or below 50% of area median income. By law, community-based services and supports must be offered and available to tenants living in Section 811 housing. However, these supportive services must be voluntary and cannot be mandated as a condition of participation in the program.

Section 811 is one of the few remaining HUD programs that ensures housing affordability for people with extremely low incomes, such as people who rely on SSI payments which for a one-person household equal only 18% of the national median income – far below the poverty line.

There are two separate program components authorized in the Section 811 Program: the Capital Advance/Project Rental Assistance Contract (PRAC) component, and a tenant-based rental assistance component. Section 811 funding is awarded annually through a competitive application process announced through a Notice Of Funding Availability (NOFA).

Capital Advance/PRAC component. The Section 811 Capital Advance/PRAC component provides interest-free capital advances to nonprofit sponsors to help finance the development of 'single-purpose' rental properties

Section 811 Supportive Housing for Persons with Disabilities

including independent living complexes and group homes. The purchase of condominiums and cooperative housing units is permitted but bureaucratically difficult.

The Capital Advance does not have to be repaid as long as the housing remains available for very low income people with disabilities for 40 years. A three-year renewable PRAC is awarded with the Capital Advance and covers the difference between the HUD-approved cost of operating the property (maintenance and repairs, utilities, property insurance, etc.) and tenant rents, which are limited to 30% of a household's income. New 811-funded group homes may not assist more than eight people and each person must have his or her own bedroom. New independent living complexes may not exceed 24 units although the HUD Secretary can waive both these size limits on a case-by-case basis.

Tenant-based rental assistance. The tenant-based rental assistance program funded by Section 811 is officially known as the Mainstream Housing Opportunities for Persons with Disabilities Program; however, it is administered by public housing agencies and a few nonprofit organizations under the rules of the Section 8 Housing Choice Voucher program.

Approximately 14,000 Mainstream vouchers were awarded by HUD to these agencies through a series of HUD Notices Of Funding Availability (NOFAs) from 1997 to 2004. However, Congress has not appropriated any new funding for Mainstream vouchers during recent years. Agencies administering these 811-funded Mainstream vouchers are required to track their utilization separately from the Housing Choice Voucher program and re-issue them upon turnover only to people with disabilities. Disability advocates remain concerned that some portion of these Mainstream vouchers may be assisting households without disabilities.

Funding

In FY10, Congress appropriated \$300 million for the Section 811 program, a very significant 20% increase over recent years' appropriations. Rising costs and difficulty leveraging other funding means that only 930 new Capital Advance/PRAC units were awarded in 2008.

Advocates should note that awards have not been announced for FY09 although the NOFA stated that an estimated 700 new units could be created with the \$250 million appropriated. It is also important to note that approximately \$100 million from the FY09 appropriation was 'taken off the top' to renew the funding for the 14,000 Mainstream vouchers and expiring PRACs. Despite FY10's \$50 million increase in Section 811 appropriations, disability housing advocates anticipate that fewer than 1,000 new units can be funded using the program's current approaches and funding models.

What Advocates Need to Know

Funding in FY11. The Administration's FY11 HUD budget submitted to Congress proposes to eliminate all funding for new Section 811 units, citing the need for major program reforms. Advocates should vigorously oppose this cut. Instead, Congress should be urged to fully fund Section 811 appropriations for FY11, while also enacting important Section 811 reform legislation. As described below, such legislation has already passed the House of Representatives and is now under consideration in the Senate.

Section 811 programmatic reform. In March of 2009, Representatives Christopher Murphy (D-CT) and Judy Biggert (R-IL) re-introduced important legislation (H.R. 1675) to reinvigorate and modernize the entire Section 811 program. H.R. 1675, the Frank Melville Supportive Housing Investment Act, passed the House 376-51 in July of 2009, an indication of strong bi-partisan support. On October 29, 2009, the Senate Sub-Committee on Housing, Transportation and Community Development held a hearing on an identical bill (S. 1481) introduced by Senators Robert Menendez (D-NJ) and Mike Johanns (R-NE). Disability housing advocates are working diligently to ensure that this strong bi-partisan support will help to enact this critically needed legislation during 2010.

This innovative and groundbreaking legislation will help create thousands more new Section 811 units each year

An estimated 30,000 supportive housing units have been funded through the Section 811 program.

The Section 811-funded Mainstream Housing Opportunities for Persons with Disabilities tenant-based rental assistance program includes approximately 14,000 vouchers administered by an estimated 145 public housing agencies and 40 nonprofit organizations that have PHA status for this program.

Section 811 Supportive Housing for Persons with Disabilities

without increasing the 811 appropriation by authorizing a new Section 811 PRAC Demonstration program. The PRAC Demonstration program model is extremely cost effective because it does not require Section 811 capital funding but instead relies on capital created through other mainstream housing programs, including the federal Low Income Housing Tax Credit program, the HOME Investment Partnerships Program, and state capital funding resources. The PRAC Demonstration approach also creates highly integrated Section 811 units by funding small set-asides of permanent supportive housing in affordable housing properties that also assist households without disabilities. This approach was pioneered by the State of North Carolina and is now being successfully replicated in Louisiana and Pennsylvania.

H.R. 1675 and S. 1481 would also enact two additional 811 reforms that would help create more units without increasing appropriations including:

- Authorizing a more flexible Capital Advance/PRAC approach that permits nonprofit sponsors use 811 capital funding to partially finance integrated rental properties that have other major sources of capital funding.
- Shifting the renewal costs of the 14,000 Mainstream vouchers to the Housing Choice Voucher program while maintaining the requirement that they be permanently targeted to people with disabilities.

Despite significant changes in disability policy over the past two decades – including the effect of the 1999 U.S. Supreme Court’s Olmstead decision that said that states with a high percentage of people with disabilities living in restrictive settings that could violate the Americans with Disabilities Act – there have been virtually no improvements made in the Section 811 program since the early 1990s. H.R. 1675 and S. 1481, includes incentives to create more integrated models of housing preferred by many people with disabilities in addition to the group homes and independent living complexes already permitted under the current statute.

Tips for Local Success

To enact H.R. 1675 and S. 1481 during 2010, disability housing advocates at the federal, state, and local levels must redouble their advocacy efforts with Members of Congress. National disability groups will also be advocating with HUD to ensure that the additional \$50 million in 811 funding for FY10 can be leveraged to create more new integrated housing opportunities.

At the local level, prospective 811 applicants for FY10 funds could: (1) explore innovative 811 development financing strategies that could be used this year to leverage of other capital funding in combination with Section 811 financing; and (2) learn more about the provisions of H.R. 1675 and S. 1481 and how this legislation could be used in their state or locality to create new integrated housing opportunities for people with the most significant and long-term disabilities.

What To Say To Legislators

Advocates are encouraged to contact Members of Congress with the message that:

- Recently published federal data from the American Community Survey, the National Council on Disability, and the Social Security Administration indicate that non-elderly people with disabilities who rely on the SSI program or other disability income benefits are among the poorest of Americans.
- For more than four decades, public systems of care for people with disabilities have relied on expensive nursing homes, Board and Care homes, and other inappropriate institutional settings because there is not enough permanent supportive housing to meet the needs of the most vulnerable people with disabilities.
- By enacting the Frank Melville Supportive Housing Investment Act (H.R. 1675 and S. 1481) in 2010, Congress can take a major step to address this housing crisis by creating more cost effective, more appropriate, and more integrated permanent supportive housing in local communities. H.R. 1675 and S. 1481 will create three or four times the number of new units of Section 811 housing without any increase in Section 811 appropriations.
- Congress should provide at least \$300 million in funding for Section 811 in FY11.

For More Information

Consortium for Citizens with Disabilities Housing Task Force · 202-783-2229 · www.c-c-d.org/tf-housing.htm

Technical Assistance Collaborative · 617-266-5657 Ext. 119 · www.tacinc.org

Additional information and materials on the Section 811 program, including the latest information on H.R. 1675 and S. 1481, can be found at this website.

Self-Help Homeownership Opportunity Program

By Leslie R. Strauss, Senior Policy Analyst, Housing Assistance Council

The Self-Help Homeownership Opportunity Program (SHOP) is a competitive grant program that provides funds to national and regional nonprofits that assist low income families in building their own homes using a ‘sweat-equity’ or ‘self-help’ model. The homes are sold to the homebuyers at below-market rates.

The SHOP program is run out of HUD’s Office of Community Planning and Development.

History and Purpose

Congress first authorized the SHOP program in 1996. SHOP was created for the purpose of alleviating one of the largest obstacles faced by self-help housing developers in the production of affordable housing: the high cost of acquiring land and developing infrastructure before house construction begins.

Program Summary

SHOP is a competitive grant program run by HUD that provides funds to national and regional nonprofits who assist low income families in building their own homes using a ‘sweat-equity’ or ‘self-help’ model. Funds are restricted to paying for land and infrastructure costs associated with building the homes, including such items as sewer connections, streets, utilities, and environmental remediation. These funds must result in one home for each \$15,000 awarded. Each low income family receiving assistance through SHOP is required to invest at least 100 hours of work in building its home or the homes of others, although many families work far more than the required hours. The homes are sold to the homebuyers at below-market rates.

National or regional nonprofit organizations or consortia can apply to HUD annually for SHOP funds. There are currently two SHOP recipients that operate nationwide: Habitat for Humanity and the Housing Assistance Council. HUD awards grants competitively based upon an organization’s experience in managing a sweat-equity program, community needs, its capacity to generate other sources of funding, and the soundness of its program design. The HUD-funded organizations may develop self-help housing themselves or act as intermediaries; that is, make SHOP loans to local organizations that work with self-help home buyers.

All families receiving SHOP funds must earn less than 80% of the area median income (AMI), although many of the organizations that facilitate the distribution of these funds work with families who have incomes well below that threshold. SHOP funds have been used to support the work of self-help housing organizations in every state, resulting in the development of thousands of affordable homes for ownership.

Funding

SHOP was appropriated \$26.5 million in FY09 and \$27 million in FY10. The Administration’s budget for FY11, however, proposes no funding for the program.

What Advocates Need to Know Now

SHOP, created in 1996, received steady support from Congress and the Clinton and Bush Administrations. It is one of the few federal housing programs to receive an “effective” rating (the highest rating possible) on the Program Assessment Rating Tool developed by the Office of Management and Budget (OMB).

The Obama Administration’s HUD, which is focusing on much-needed capital improvements to federally assisted rental housing, has put less emphasis on homeownership and new production. As a result, the FY11 budget suggests defunding SHOP and recommends that housing groups turn to the HOME Investment Partnerships Program to find funding for the activities covered by SHOP. The budget proposal would also, however, cut funding for HOME.

Self-Help Homeownership Opportunity Program

Tips for Local Success

Local organizations can access SHOP funding by partnering with one of the national or regional funding recipients. The strongest applicants have self-help experience.

What to Say to Legislators

Members of the House and Senate should be asked to support continued SHOP funding at \$27 million per year. The program has many positive aspects:

- Self-help housing provides families a hand up. The families who ultimately use the program's funds will put at least 100 hours, and often more, into building their own homes. For example, through the Housing Assistance Council's first 10 years of SHOP funding, participating homebuyers averaged over 1,000 hours of labor.
- Because owners' sweat equity reduces mortgage amounts, the self-help process makes homeownership affordable to people with low and very low incomes.
- SHOP is authorized by Congressional legislation; there is no danger that it can be perceived as an earmark.

Adding self-help organizations to the competition for fewer HOME dollars would both decrease the success of current self-help efforts and also further reduce the amount available for HOME's other much-needed activities.

For More Information

Habitat for Humanity International · 202-628-9171 · www.habitat.org

Housing Assistance Council · 202-842-8600 · www.ruralhome.org

HUD · 202-708-2684 · <http://www.hud.gov/offices/cpd/affordablehousing/programs/shop>

Service Coordinators in Multifamily Housing

Judith Chavis, Executive Director, American Association of Service Coordinators

A service coordinator is a social service professional who generally acts as an information and referral resource working with families, seniors, and persons with disabilities residing in publicly funded, subsidized apartments or other affordable housing environments. Specifically, service coordinators help the residents in these settings to remain independent and self sufficient by connecting them with community-based services and other income related benefits.

HUD's Service Coordinators in Multifamily Housing program funds the work of service coordinators in Section 202 housing.

The Service Coordinators in Multifamily Housing program is housed in HUD's Office of Housing.

History

Congress created HUD's Service Coordinator program in 1990 through the Cranston-Gonzalez National Affordable Housing Act, Section 808 (Public Law 101-625). This law gave HUD the authority to use Section 8 funds to employ service coordinators in Section 202 housing.

The Service Coordinator program received additional authority through the Housing and Community Development Act of 1992 (HCDA; Public Law 102-550). The HCDA expanded the program by broadening authority for funding of service coordinators in most HUD-assisted and conventional public housing developments designated for the elderly and people with disabilities.

Program Summary

To understand the Service Coordinator program, it is helpful to understand what a service coordinator does. A service coordinator is a social service staff person hired or contracted by a property owner or management company. The service coordinator's primary role is to coordinate the provision of supportive services to the low income elderly and nonelderly people with disabilities to prevent premature and inappropriate institutionalization, thereby improving residents' quality of life. Service coordinators' work allows frail elderly to remain in their home.

The service coordinator is funded through the program to carry out the following activities:

- Determining the service needs of residents;
- Identifying appropriate services available in the community;
- Linking residents with needed services and/or public benefits;
- Monitoring and evaluating the effectiveness of the supportive services; and
- Performing other functions to enable frail and at-risk low income elderly, people with disabilities and families to live with dignity and independence.

Service coordinators are specifically prohibited from directly providing support services or assisting with other administrative work of the property.

Service Coordinator funds are distributed by a national competitive grant process through a HUD NOFA. Eligible applicants for these funds include owners of HUD-assisted multifamily housing, namely developments built with or subsidized by the following programs: Section 202, project-based Section 8, Section 236 and Section 221(d)(3) Below-Market Interest Rate. All housing must be designed or designated for sole occupancy by elderly persons (aged 62 and older) and/or younger people with disabilities (aged 18 to 61).

While HUD allows service coordinators to be funded through a property's residual receipts funds or to be incorporated into the property's operations budget, most federally assisted facilities do not have sufficient resources in their operating budgets to staff service coordinators.

Service Coordinators in Multifamily Housing

The program is similar to the ROSS Service Coordinator and Family Self-Sufficiency (FSS) programs, which also provide funding for service coordinators in public housing communities and for housing choice voucher holders participating in the FSS program, respectively.

Funding

In FY10, Congress appropriated \$90 million for the Multifamily Service Coordinator grant program.

What Advocates Need to Know Now

There is a need for a dual strategy for funding service coordinators that includes maintaining the service coordinator grant programs while also increasing the routine staffing of service coordinators within the property's operating budget. While statutory authority exists to allow service coordinators to be funded through the property's operations budget or residual receipts, many senior housing facilities have not been able to secure the necessary rent adjustments to accommodate them. Advocates should recommend that sufficient Section 8, Project-based Rental Assistance Contract (PRAC), or other operating funds be increased to allow routine staffing of service coordinators as well as to direct HUD and its field offices to provide necessary budget adjustments and regulatory relief to remove any barriers restricting the staffing of service coordinators through the property's operating budget.

There is also a need to expand the funding for housing-based service coordinators to assist frail seniors in the surrounding community where the property is located. While Section 851 of the American Homeownership and Economic Opportunity Act of 2000 (Public Law 106-569) granted authority to enable service coordinators to assist residents in the surrounding community, there are insufficient funds to enable service coordinators to reach out to assist these surrounding residents.

Additionally, Section 515 of the American Housing Act of 1949 (Public Law 81-171) provided preliminary language for the use of service coordinators at rural multifamily housing developments under the authority of the U.S. Department of Agriculture (USDA). In the 515 program, the service coordinator can be funded through the property's operations budget. Again, lack of sufficient resources in the operations budgets at these properties has prevented many properties from staffing a service coordinator.

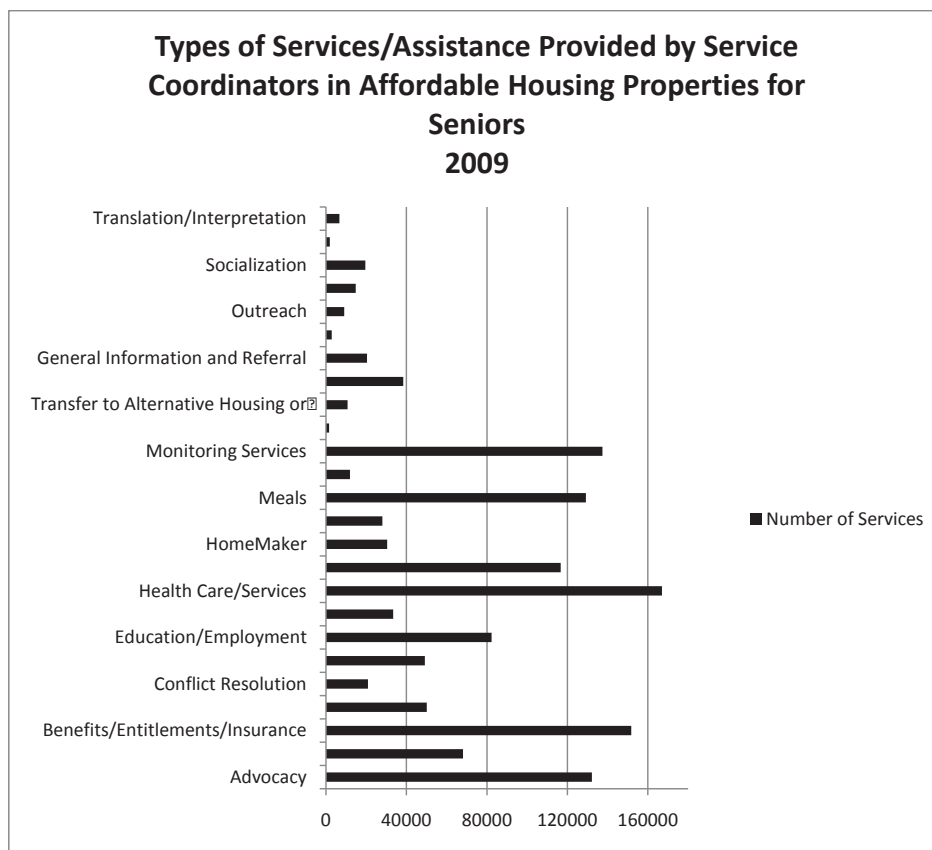
Program Successes. Two recently released research studies on service coordination offer some exciting information for service coordinators across the country. The research studies are showing the lasting and positive effects service coordination has on the residents of affordable housing properties.

HUD's Office of Policy Development and Research evaluated the level of satisfaction among property managers in multifamily housing properties with the provision of service coordination. The report, "Multifamily Property Managers' Satisfaction with Service Coordination," was based on a survey of property managers in multifamily developments who have or did not have a service coordinator program in place.

Overall, the report found a high level of satisfaction from property managers regarding the service coordinator program as well as a strong belief that service coordinators improve the quality of life for the residents in their developments. The report also goes on to find resident occupancy appears to be longer in properties with a service coordinator when compared to properties without the position. Specifically, the report stated that the length of occupancy at developments with a service coordinator was 10% more (more than six months) than at developments without a service coordinator. This increased length of independent living serves to reduce the long term care costs for this population.

The report can be found at http://www.huduser.org/portal/publications/hsgspec/serv_coord.html

More than 1,000 service coordinators across the country utilize a web-based documentation system, AASOnline, to assess, document and monitor the service needs of their residents. Currently, over 1,328 affordable housing properties for seniors are in the system. In 2009, more than 1.6 million services were provided to the 127,000+ residents being tracked in AASOnline. The chart in this article illustrates the type and number of services provided by the service coordinators at these properties in calendar year 2009.



What to Say to Legislators

Advocates are encouraged to contact members of Congress with the message that despite the critical need and cost-effectiveness of service coordinators in assisting low income seniors and others with special needs to access supportive services, or the need to assist low income families to become more self sufficient and economically independent, funding for service coordinators remains very limited.

Additionally, members of Congress should be urged to:

- Appropriate \$90 million in FY11 for service coordinators in federally assisted housing, particularly to ensure adequate funds for expiring grants of existing service coordinator positions and to expand the number of properties with a service coordinator.
- Fully fund Section 8, PRAC, other rent subsidies and project operating funds to permit the staffing of a service coordinator as a routine part of a project's operating budget.
- Appropriate an additional \$10 million in FY11 to implement a community-based service coordinator program. (NOTE: While Congress provided authorization that permits service coordinators to assist seniors and those with special needs living in the surrounding vicinity of a federally assisted property, funds have never been appropriated for this purpose and existing programs do not have sufficient funds for this purpose.)
- Appropriate \$10 million in FY11 to carry out a demonstration providing grant funding for service coordinators in Section 514, 515, and 516 based programs under USDA.
- Appropriate \$75 million in FY11 as a separate add-on in Public Housing Operating Funds for service coordinators in PHAs.

For More Information

American Association of Service Coordinators · 614-848-5958 · www.servicecoordinator.org

See also: *Section 202 Supportive Housing for the Elderly, Family Self-Sufficiency, Housing Plus Services.*

State and Local Housing Trust Funds

By Mary E. Brooks, Housing Trust Fund Project, Center for Community Change

Housing trust funds are created when ongoing, dedicated sources of public funds are committed by ordinance or legislation to support the production and preservation of homes for lower income households. This single key characteristic of housing trust funds advances the way this country funds affordable housing by guaranteeing that revenues are available each and every year to support critical affordable housing needs.

History and Purpose

Since the 1980s, housing trust funds have employed the model of committing public funds to address our most critical affordable housing needs. Housing trust funds have become almost commonplace as an element in an overall housing policy for any community or state. With nearly 700 housing trust funds in cities, counties, and states, these funds have become well known for their flexibility, sustainability, and success in addressing critical housing needs. Today, they generate approximately \$1 billion a year to support affordable housing and homeless initiatives.

Program Summary

Because housing trust funds are distinct funds created through the dedication of public revenues, they are essentially public funds and this shapes how they operate. There are three key elements to any housing trust fund:

Administration. Most housing trust funds are administered by a public or quasi-public agency. Housing advocates are not always comfortable with the performance of local agencies and may not find this an easy condition to accept. While there are alternatives, such as a community foundation administering the fund, there are very few examples of such models. In the long run, it is actually desirable for elected officials to accept ownership and responsibility for addressing critical housing needs and designate the housing trust fund as one way in which they intend to do this.

One administrative characteristic of housing trust funds that usually improves upon this arrangement is the creation of an appointed oversight board. Most housing trust funds have such boards. They are typically broadly representative of the housing community, including banks, realtors, developers, nonprofit development organizations, housing advocates, labor, service providers, and low income residents. These boards can be merely advisory, but it is preferable to delegate some decision-making authority to them, including determining which projects receive funding from the trust fund, oversight of policies, and evaluating and reporting on performance of the fund.

Programs. The basic programmatic issues for housing trust funds should be defined in the ordinance or legislation that establishes the fund. This ensures that the key operating components of the trust fund are not subject to the whims of changing administrations. Staff and board members will need to develop an application cycle, program requirements, and administrative rules.

Housing trust funds are created locally to address the most critical housing needs that exist. In order to ensure that the trust fund does what needs to be done, several decisions must be made about what gets funded through the trust fund. This includes determining eligible applicants, eligible activities, and requirements that must be met to receive funding. Most housing trust funds provide loans and grants through a competitive application process, although some establish distinct programs. Grants are important to ensure that housing can be provided to meet the needs of those with the lowest incomes. Eligible applicants typically include nonprofit developers, for-profit developers, government entities, Native American tribes, and public housing authorities. Eligible activities are usually quite broadly defined, including new construction, rehabilitation, acquisition, emergency repairs, accessibility, first time homeownership, operating/maintenance costs, and many other activities. Rental assistance is provided by some housing trust funds. There are a few housing trust funds that serve only the needs of the homeless population and define their activities accordingly.

Among the most important decisions to be made regarding program are the requirements that funded projects must meet to be eligible for funding. Chief among these is the income level of those who benefit from the housing provided. Most housing trust funds serve populations earning no more than 80% of the area median income, but many serve lower income households either entirely or in part by setting aside a portion of the funds to serve these populations in particular. Without setting aside funds to serve very and extremely low income households, these most critical needs continue to be ignored. It is important to give serious consideration to these set-asides and other programmatic issues that enable funding for these challenging housing opportunities. Another key concern is the long-term affordability requirements that must be met. Many housing trust funds require that the units supported through the trust fund remain affordable to the targeted population for a defined amount of time or in perpetuity. Housing advocates may identify other requirements they want to make sure are incorporated, including accessibility, mixed-income, green housing principles, and housing-related services requirements.

Revenue sources. Identifying public revenue sources that can be committed to a local housing trust fund is what makes creating housing trust funds difficult. Different revenue sources are available to cities or counties or states, because each controls specific taxes and fees. There is no substitute for doing the research that must be done for each housing trust fund. Opportunities vary from state to state and from jurisdiction to jurisdiction.

The most common revenue source for a city housing trust fund is a linkage program. These are impact fees placed on non-residential developers to offset the impact of their development's employees on the housing supply. These fees are part of the zoning ordinance. Along with linkage fees, inclusionary zoning in-lieu fees are also used by many jurisdictions. Other cities have committed various fees, such as condominium conversion fees or demolition fees, along with taxes, including property taxes, real estate excise taxes, and hotel and motel taxes.

The most common revenue source for a county housing trust fund is a document recording fee. This is the best source for a county housing trust fund, and is one of the few revenue sources that most counties can commit. Other sources used by counties, however, include sales taxes, developer fees, real estate transfer taxes or real estate excise taxes.

The most common revenue source for a state housing trust fund is the real estate transfer tax, but states have committed nearly two dozen revenue sources to housing trust funds. Other options include interest from state held funds (such as unnamed unclaimed property funds and budget stabilization funds, among others), interest from real estate escrow or mortgage escrow accounts, and document recording fees.

Often housing advocates study alternative revenue sources themselves and propose the best options. These are not difficult studies, but it takes time and some diligence to obtain the necessary information. Other housing trust funds have been created through specially designated task forces that have responsibility for doing the background research and making recommendations on how best to create the proposed housing trust fund. Regardless, do not leave this critical element up to elected officials to determine—advance your proposal for a housing trust fund with a specific revenue source recommendation.

Each state is unique in its treatment of taxes and fees. Research must be conducted into what the state constitution and statutes permit with regard to dedicating public revenues to a specific purpose (such as a housing trust fund), what, if any, limitations are placed on specific revenues options, including caps on the rate of a tax or fee applied, and the uses to which the revenue may be applied, among other questions. It pays, literally, to be creative in searching for potential public revenue sources – new ideas are constantly being explored.

As the revenue source search is undertaken, it is extremely important that a goal for the housing trust fund be established that identifies the amount of revenue needed each year. This can be based on actual need, a realistic assessment of what can be secured or an evaluation of the capacity to use new funds. This goal will be the measure by which each potential revenue source will be judged as sufficient. A combination of revenue sources may be necessary.

Nearly 700 housing trust funds created and implemented over the past 30 years, generating approximately \$1 billion a year.

State and Local Housing Trust Funds

It is critical to keep the focus on dedicated sources of public funding that will provide an ongoing stream of revenue for the housing trust fund. Other alternatives, such as a one-time appropriation, bond revenues or private sources, will be proposed, but the campaign must keep its sights on putting into place an ordinance or legislation that will change the future of affordable housing.

The relationship between state and local housing trust funds. One of the most innovative recent advances in the housing trust fund field is state legislation that enables local jurisdictions to create housing trust funds. There are several models of how this can be done. States can enact legislation that opens a door for local housing trust funds either by providing matching funds to encourage and support local housing trust fund efforts, enabling cities and/or counties to utilize a specific revenue source for local housing trust funds by sharing a new public revenue source with local jurisdictions or establishing a process whereby local jurisdictions can decide to commit specific funds to a local housing trust fund.

What Advocates Need to Know Now

With nearly 700 housing trust funds created and implemented over the past 30 years, housing trust funds are well-established as a vital part of the affordable housing field. Cities, counties, and states have developed models that work, supported innovative approaches to all aspects of addressing affordable housing and homeless needs and demonstrated that we can provide decent affordable homes for everyone if we are willing to commit the resources to do so. By doing so, we expand local economies, demonstrate new partnerships, and build local capacity to engage in public policy initiatives. Creating a housing trust fund is a proactive step that housing advocates can take to make systemic change in the housing field. Housing trust funds represent a step forward by saying that affordable homes are important enough to the health of every community that we must commit public resources to address these critical needs.

While it is relatively easy for the public at large and elected officials, in particular, to nod toward the need to provide more affordable homes, committing precious resources to make it happen requires an active campaign. Our challenge is making affordable housing enough of a priority that elected officials can make the right decision. Creating a housing trust fund is almost always a matter of priorities.

Housing trust fund campaigns have made important contributions in re-framing the way we view affordable housing. Campaigns have demonstrated that supporting housing is good for local economies. Not only is there an obvious connection between jobs and housing, but building housing also fuels the economy in a number of direct and indirect ways. Housing has a direct relationship to education, health, environment, and neighborhood quality. Personal stories and connections to real families have given the issue a face that is far more powerful than statistics reflect.

Housing trust fund campaigns have found numerous ways to boast about what housing programs can accomplish. There is no reason to be bashful about this. There are thousands of remarkable and outstanding examples of good, well-managed, integrated affordable housing. As housing advocates, we have an obligation to educate the public and elected officials about the new face of affordable housing.

Housing advocates have had a huge influence on this process by engaging in campaigns to create housing trust funds. Rarely, have housing trust funds been created without the pressure applied by such a campaign. Housing advocates have succeeded in making the point that providing decent, safe affordable homes is no longer an arbitrary decision to which we can simply choose to devote resources or not. Rather, it is an on-going essential part of every community, no less important than streets, sewers, health centers, police or fire protection, schools, and other basic components of a viable community.

One of the most exciting aspects of housing trust funds is the demonstration that housing advocates can engage in progressive campaigns to make a change in the way this country supports affordable housing. Campaigns have been waged by local faith-based organizations, city-wide coalitions of nonprofit developers, state-wide housing advocacy groups, and many others. Coalitions have been built engaging the full spectrum of the housing industry. Their stories are as unique as they are uplifting and full of promise.

The relationship of local and state housing trust funds to the National Housing Trust Fund. There is no provision in the legislation that makes a connection between local and state housing trust funds and funding from the National Housing Trust Fund. All funds will be distributed to states.

While some state housing trust funds will receive national housing trust fund dollars, it is a decision made by individual states. How states distribute these funds will, of course, be in compliance with HUD regulations and will not necessarily go to local housing trust funds within a state. It is also anticipated that additional funds will be distributed for project-based housing vouchers. Nonetheless, housing advocates need to be involved in this process and work with the state agency administering the national housing trust fund dollars to advance policies that will make the best use of both the National Housing Trust Fund and state and local housing trust funds.

Whether the relationship is explicit or not, housing trust funds can work best with the National Housing Trust Fund where there are provisions and opportunities to advance to goals of the National Housing Trust Fund. These include, for instance, that a majority of the funds are to support the production and preservation of rental housing for those earning no more than 30% of the area median income. In some instances, local and state housing trust funds have considerable experience serving the housing needs of this population and because these are typically such flexible funds, states can be particularly thoughtful about how to encourage that housing trust funds complement each other to reach these critical goals.

Tips for Local Success: An Overview of a Housing Trust Fund Campaign

Virtually all housing trust funds require a campaign. It is likely to be a multi-year effort and should not be considered unless advocates are willing to make this kind of investment of time and effort. While the rewards are long-standing and impressive, the campaigns can be challenging. Regardless, there is a wealth of information and experience that provides good direction, sound advice and proof that it can be done.

The housing trust fund model can be adapted in many ways to make it possible to dedicate public funding to addressing critical housing needs. They have been created in many states, in small cities, rural counties, and large metropolitan areas. Do not think of the obstacles; rather, focus on the possibilities. Housing trust funds are as innovative as they are reliable.

At any given time, there can be as many as 50 housing trust fund campaigns underway in cities, counties, and states across the country. Some are focused on creating new housing trust funds; many are working to increase resources to existing housing trust funds.

Here are some steps to take in creating a housing trust fund campaign:

Invite some friends over. The average housing trust fund campaign takes three years ... so don't even think about this, unless you are really serious about spending some time to get there. Begin by bringing together the folks you know that are most committed to making this happen. This core group will keep the campaign focused and see it through to a successful conclusion. Think through what you want.

Develop a proposal for a housing trust fund. Spend time thinking through a mission, how much in dedicated revenue is most desirable each year, who should administer the fund, what kind of oversight should there be, who would be eligible for funding, what kinds of affordable housing/homeless activities should be funded, and what kinds of requirements must be met in order to be eligible for funding (e.g., income targeting, long term affordability, accessibility, green housing, etc.). Pinpoint the specific public revenue source(s) to commit to the fund. You'll need to do some research and gather background information to complete this step well.

Expand your circle of friends. Be very creative in reaching out to those who might want to be part of this campaign. Don't think about the opposition and don't bring them into your circle to convince them you have a good idea. Invite those who will endorse the proposal you have developed and/or add to it. Get commitment to participate; get endorsements to support the proposal. Think through how to talk about your proposal. Housing trust fund campaigns have broken down walls with regard to stereotypes of affordable housing. Bring a face to your campaign;

State and Local Housing Trust Funds

connect housing to education, health, job creation; show that investing in a housing trust fund is good fiscal policy for your city, county or state. Be creative.

Find the best elected champion to work with you. You need to get some kind of ordinance or legislation passed to create the housing trust fund. Talk to your best elected friends and get advice on how to proceed. The first few you think about may not be your best bets; find a true effective legislative champion; get new folks involved in pushing for affordable housing. Then work to get it passed.

Prepare for opposition. Most often opposition is expressed against the dedicated revenue source selected and usually from some industry associated with the revenue source. But opposition may also be expressed to the notion of dedicating public revenue or other specific components of the housing trust fund proposal. Much of the opposition can be countered with facts that accurately reflect what the proposal will cost, what will be funded, and who will benefit. So this background information is important and needs to be explained precisely and straightforwardly. In some cases, it is possible to negotiate with the opposition. But make sure those involved are the ones that can make decisions and be absolutely certain of the elements in your proposal that are not to be compromised.

For More Information

If you are interested in creating a housing trust fund, begin by reading the information that has been compiled by the Housing Trust Fund Project of the Center for Community Change at www.communitychange.org/our-projects/htf. There is a vast amount of information about housing trust funds and campaigns to put them into place as well as useful resources. The Project also produces a quarterly newsletter on current housing trust fund activities that is free and is available by going to the website. To get more information about housing trust funds or to request technical assistance, please contact: Mary Brooks, Housing Trust Fund Project, Center for Community Change, 661-245-0318, mbrooks@communitychange.org.

See also: *National Housing Trust Fund*.

Supplemental Security Income

By Kathy Ruffing, Senior Policy Analyst, Center on Budget and Policy Priorities

Supplemental Security Income (SSI) is a means-tested program that provides cash benefits for low income people who are disabled, blind, or elderly.

The Social Security Administration (SSA) runs the program.

History

Congress created SSI in 1972 to replace the former program of grants to states for aid to the aged, blind, or disabled.

Program Summary

SSI provides monthly cash assistance to persons who are unable to work due to age or medical conditions and have little income and few assets. In 2010, the basic monthly SSI benefit is \$674 for an individual and \$1,011 for a couple. Beneficiaries who live in another person's household and receive in-kind maintenance and support receive one-third less than this amount, while beneficiaries who receive long-term care in a Medicaid-funded institution receive \$30 per month. Many states supplement the federal SSI benefit, though state budget cuts are severely crimping those additional payments.

SSI benefits are reduced when recipients have other income. Each dollar of so-called unearned income over \$20 per month — such as Social Security benefits, pensions, or interest income — reduces SSI benefits by a dollar. Each dollar of earned income over \$65 a month (or \$85 for someone with no unearned income) reduces SSI benefits by 50 cents, a provision that is meant to encourage work. SSI benefits are unavailable to people whose assets exceed \$2,000 for an individual or \$3,000 for a couple (with certain exceptions).

Although run by the the same agency, SSI is distinct from the Old-Age, Survivors, and Disability Insurance (OASDI) programs commonly known as Social Security. To collect Social Security, recipients must have worked a certain number of quarters and paid the requisite payroll taxes, besides meeting certain age or disability requirements. Many SSI recipients have worked long enough to collect Social Security but their Social Security benefit is low enough that they also qualify for SSI. Nearly one-third of adult SSI recipients under age 65, and almost three-fifths of recipients over 65, also get Social Security.

In most states, anyone who receives SSI benefits is automatically eligible for Medicaid. About half of SSI recipients also get food stamps (except in California, which pays an extra cash supplement in lieu of food stamps).

Over 90% of SSI recipients are U.S. citizens. The 1996 welfare reform law eliminated most noncitizens' eligibility for SSI unless they fall into one of three main groups: lawful residents who entered the United States by August 1996, refugees who entered after that date (who can receive SSI only on a temporary basis, currently for eight years), and/or immigrants who entered after August 1996 and have earned 40 quarters of coverage under Social Security.

Individuals may apply for SSI by phone or in person at one of SSA's field offices. SSA will verify the applicant's identity, age, work history, and financial qualifications. In the case of disability applications, state agencies called Disability Determination Services (DDSs) screen the medical and related evidence to judge whether the applicant meets the criteria set out in law — basically, whether he or she suffers from a severe impairment that will last at least 12 months or result in death and that makes it impossible to engage in substantial work. (A slightly different definition applies to disabled children under age 18.) If the DDS initially denies the application, individuals have several levels of appeal, and may choose to be represented by an attorney.

Although SSI benefit levels are low, they are critical to obtaining and maintaining housing for many recipients. SSI benefits enable some homeless recipients to qualify for supportive housing programs or subsidized housing vouchers or units prioritized for persons with disabilities. Supportive housing providers may also receive Medicaid reimbursement for certain services provided to clients who qualify for Medicaid via SSI.

In December 2009, almost 7.7 million people received SSI benefits: 1.2 million children under age 18, 4.5 million disabled adults aged 18-64, and 2 million people 65 or older.

Supplemental Security Income

Funding

As an entitlement program, SSI is available to anyone who meets its eligibility requirements. Total SSI outlays were \$48.1 billion in 2009, including \$3.2 billion for administrative costs (which are subject to annual appropriation).

The American Recovery and Reinvestment Act of 2009 (ARRA) provided SSA with \$1 billion in extra administrative funding, half of it for tackling the disability backlog and half for its National Computer Center. In addition, ARRA directed SSA to send out payments of \$250 each to about 55 million Social Security and SSI recipients, at a total cost of \$13 billion. (SSA got an extra \$90 million to cover the administrative costs of those payments.) Although SSA does not split these effects by program, most of them are associated with Social Security (OASDI), not SSI.

President Obama proposes another round of \$250 payments in 2010, but Congress has not yet acted on the proposal.

What Advocates Need to Know Now

Although SSI benefits provide critically needed resources to persons with disabilities, they can be difficult to obtain. Nationwide, about one-third of SSI claims are approved at the initial level (a rate that rises to 45% to 50% after all appeals). The process is especially challenging for people who are homeless. Barriers include difficulty obtaining medical documentation and in making and keeping appointments. SSA requires evidence of a disability to come from an 'acceptable medical source' such as a physician or psychologist. The list of acceptable medical sources excludes such providers as physicians' assistants, nurse practitioners, and licensed clinical social workers (although such professionals often provide supporting documentation).

Disability claimants often face an extended wait for a decision. Initial review of a disability application typically takes four to five months, although there is a fast-track program for certain severe conditions; appeals to the Administrative Law Judge (ALJ) level may take 500 days to be processed. Nevertheless, helped by funding from the 2009 stimulus package and by future appropriations, SSA hopes to eliminate the hearings backlog by 2013. Some states and localities offer interim assistance while an applicant awaits a decision on SSI, eventually recouping the money from any retroactive benefits.

SOAR. Some initiatives have demonstrated success in increasing SSI access for homeless people with disabilities. The Social Security Outreach and Access to Recovery (SOAR) program has used a train-the-trainer model combined with technical assistance to teach caseworkers how to conduct outreach and assist homeless applicants. SOAR is an interagency initiative involving SSA, HUD, and the Department of Health and Human Services' Substance Abuse and Mental Health Services Administration (SAMHSA). As of summer 2009, clients at SOAR-trained sites in 32 states had an average initial approval rate of 71%.

Although SSI payments may allow recipients to obtain subsidized housing, they are insufficient to enable residents to afford unsubsidized housing. Congress should consider a number of enhancements to SSI, such as increasing the basic benefit, liberalizing the treatment of other income (both earned and unearned), and raising and indexing the resource limits (which have not changed since 1989). Those proposals, however, may cost significant amounts of money at a fiscally challenging time.

What to Say to Legislators

Advocates should urge Congress to continue funding for the SOAR program within SAMHSA's Programs of Regional and National Significance. Congress should ensure that SSA offices, including ALJ services, are adequately staffed. Finally, advocates should urge Congress to improve benefits in the SSI program, while recognizing fiscal realities.

For More Information

Center on Budget and Policy Priorities · www.cbpp.org
National Law Center on Homelessness & Poverty · www.nlchp.org
National Health Care for the Homeless Council · www.nhchc.org
National Policy and Advocacy Council on Homelessness · www.npach.org
National Senior Citizens Law Center · www.nslc.org
Social Security Administration · www.socialsecurity.gov

Sustainable Communities and Livability Initiatives

By *Jeremie Greer, LISC; Radhika Fox, PolicyLink; and Mariia Zimmerman, Reconnecting America*

The Obama Administration has begun unprecedented efforts to integrate housing, transportation, environmental, and economic development strategies within and across federal agencies. Along with the Administration's initiatives, a number of related bills have been introduced in Congress, and related provisions have been suggested for transportation funding reauthorization.

Issue Summary

For far too long, federal support for community strategies that integrate housing, transportation, environmental and economic development strategies has been lacking. Siloed and uncoordinated federal funding for housing, transportation, and community development make it challenging for local leaders to implement integrated approaches to community revitalization that benefit all residents, including low income residents and communities of color.

This is beginning to change. As of 2009, the Obama Administration and several Congressional leaders stepped forward with proposals to promote more livable, sustainable communities. For example, the Obama Administration has launched an Interagency Partnership on Sustainable Communities between the U.S. Environmental Protection Agency (EPA), the U.S. Department of Transportation (DOT) and HUD that will serve to “coordinate federal housing, transportation, and other infrastructure investments to protect the environment, promote equitable development, and help to address the challenges of climate change.”

The Interagency Partnership has issued a set of livability principles to guide its work and provide some definition for what is referred to as a livable community. These six principles include:

1. Provide more transportation choices. Develop safe, reliable, and economical transportation choices to decrease household transportation costs, reduce our nation's dependence on foreign oil, improve air quality, reduce greenhouse gas emissions, and promote public health.
2. Promote equitable, affordable housing. Expand location- and energy-efficient housing choices for people of all ages, incomes, races, and ethnicities to increase mobility and lower the combined cost of housing and transportation.
3. Enhance economic competitiveness. Improve economic competitiveness through reliable and timely access to employment centers, educational opportunities, services and other basic needs by workers, as well as expanded business access to markets.
4. Support existing communities. Target federal funding toward existing communities—through strategies like transit oriented, mixed-use development, and land recycling—to increase community revitalization and the efficiency of public works investments and safeguard rural landscapes.
5. Coordinate and leverage federal policies and investment. Align federal policies and funding to remove barriers to collaboration, leverage funding, and increase the accountability and effectiveness of all levels of government to plan for future growth, including making smart energy choices such as locally generated renewable energy
6. Value communities and neighborhoods. Enhance the unique characteristics of all communities by investing in healthy, safe, and walkable neighborhoods—rural, urban, or suburban.

Building off of the announced Interagency Partnership for Sustainable Communities, HUD has taken a lead role in providing new funding to regions seeking to better integrate housing, transportation and environmental plans and investments. On February 4, 2010, HUD Secretary Donovan announced the launch of HUD's new Office of Sustainable Housing and Communities (OSHC) to serve as center point within HUD and in coordinating with DOT and EPA on livability and sustainable communities.

The need for greater integration of housing and transportation planning at the federal level is captured in a speech HUD Secretary Shaun Donovan made in Seattle on February 4:

“For decades, HUD would build housing in one part of a community and the Department of Transportation would invest in another -- with no coordination and in some cases working at cross-purposes, with highways often

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bypassing rural communities entirely and splitting inner-city neighborhoods in two. As a result, communities from Seattle to Salt Lake have taken matters into their own hands, leveraging public dollars with private and philanthropic capital to expand transportation options and preserve the affordability of neighborhoods. From the moment President Obama was inaugurated, he directed us to not only catch up to what localities are already doing -- but to scale up those ideas, lead the charge and set the pace for change."

What Advocates Need to Know

Several federal opportunities exist in 2010 to advance livable communities and move it from a set of principles to funded projects and new policies.

Sustainable Communities Initiative (HUD; \$150 million). FY10 appropriations provided \$150 million to HUD for a Sustainable Communities Initiative to integrate transportation and housing planning and decisions in a way that maximizes choices for residents and businesses, lowers transportation costs, and drives more sustainable development patterns. Of that amount, \$100 million is available for regional integrated planning initiatives through HUD's Sustainable Communities Planning Grant Program. As part of these grants, HUD will provide funding to a wide variety of multi-jurisdictional and multi-sector partnerships and consortia, from metropolitan planning organizations (MPOs) and state governments to nonprofit and philanthropic organizations. Grants will be designed to encourage regions to build their capacity to integrate economic development, land use, transportation, and water infrastructure investments, and to integrate workforce development with transit-oriented development.

An additional \$40 million was also provided to support Sustainable Community Challenge grants to incent metropolitan and local leaders (and states in certain cases) to make market-shifting changes in local zoning and land use rules, as well as building codes to ensure adequate availability of affordable and low income housing near public transportation and other community amenities.

HUD is also requesting an additional \$2.4 million for its new Office of Sustainable Housing and Communities. The remainder of the \$150 million will be spent on research and evaluation.

Accordingly, OSHC's grants will be coordinated closely with DOT and EPA. President Obama has proposed an additional \$150 million in his FY11 budget for HUD's Sustainable Communities Initiative. For more information on these new grants: http://portal.hud.gov/portal/page/portal/HUD/documents/advance_notice_and_request_for_comments_sustainable_comm.pdf

The Livable Communities Act of 2009. In the 111th Congress Senator Christopher Dodd (D-CT) and Congressman Ed Perlmutter (D-CO) introduced the Livable Communities Act of 2009, which, if passed, would authorize the creation of the Office of Sustainable Housing and Communities at HUD and provide it with additional funding and a more formal basis.

The bill would provide a total of \$4 billion to assist regions in planning better and more affordable places where people can live. These grants will help communities of all sizes that are looking for innovative ways to create and preserve affordable housing, support transit-oriented development, improve public transportation, create walkable and bikeable main streets, foster economic and community development, and provide access to quality jobs and employment opportunities.

The first of these grants, which would likely mirror the Sustainable Communities Planning Grant program described above, would help communities develop comprehensive regional plans that incorporate transportation, affordable and low-income housing, community and economic development and environmental needs. The majority of the funding, \$3.75 billion over three years, would fund HUD's Sustainable Community Challenge grant program to implement projects identified in these comprehensive plans.

Livable Communities Program (DOT; \$527 million). The DOT oversees a large budget and provides billions of dollars annually to states, regions and communities to fund highways, bridges, public transit, rail, and bicycle and pedestrian projects. As partners in the Sustainable Communities Initiative, DOT and HUD have been coordinating to identify strategies to reduce the combined housing and transportation cost burden, and to place a higher priority on preserving and creating affordable housing near transportation amenities. To date, DOT has not had an office or funding specifically to support the Initiative.

The President's FY11 budget proposal includes a request for \$527 million for the DOT to fund its Livable Communities Program. The DOT funding would come from three separate locations: \$307 million in transit funding to increase the planning and project development capabilities, \$200 million in highway funding for a competitive livability grant program, and \$20 million to establish an Office of Livable Communities in the Office of the Secretary.

Smart Growth Technical Assistance (EPA; \$10 million). The Environmental Protection Agency (EPA) is the third partner in the federal Sustainable Communities Initiative. For the past decade EPA has supported smart growth strategies to help communities grow in ways that expand economic opportunity, protect public health and the environment. The Administration's FY11 budget request expands EPA's commitment to smart growth, livability and sustainable communities.

The Administration has also announced a new Office of Sustainable Communities within EPA that will provide technical assistance grants and fund research; \$10 million is requested for this Pilot Technical Assistance Program for Sustainable Communities. This program will support interested states seeking to use their Clean Water State Revolving Fund loan program to better support communities that adopt sustainable strategies, like transit-oriented, mixed-use, affordable development.

Transportation Reauthorization. In September 2009, the federal surface transportation authorization legislation expired and Congress is currently working to write and pass a new bill. Transportation and Infrastructure Chairman Jim Oberstar (D-MN) has introduced a \$450 billion bill in the House of Representatives, the Surface Transportation Authorization Act of 2009, which includes a number of important funding programs and policies to shape the future of our nation's transportation. Affordable, compact, and well-located housing must play an important role in implementing the goals of transportation reform – particularly policies that improve the coordination of transportation, land use, and housing policy.

Recently, a number of affordable housing advocates at the national and state levels have joined forces to assist Congress in building upon the reforms in Chairman Oberstar's transportation authorization bill to better support a more sustainable, equitable and economically competitive future. Specific housing-related policies that could advance these goals include:

- Provide tangible financial incentives to preserve and expand the availability of housing affordable to families with a range of incomes—including low and extremely low income—near public transit stops, job centers, and other essential destinations.
- Target transportation investments to support convenient, complete and inclusive communities with a mix of housing types and incomes, where necessities and amenities are close by, and people can walk, bike, ride transit and drive.
- Ensure that low and moderate income families have access to housing near transportation options through providing direct incentives and support for creation of transit-oriented development districts around corridor transit stations, with bonuses given for preservation and creation of mixed-income housing.
- Establish national minimum guidelines for coordinating state and metropolitan transportation planning with other planning processes to ensure integration of housing, land use and transportation activities resulting in more compact, mixed income communities well served by transit.
- Establish an Office of Livability within DOT responsible for administering new livability programs and policies, coordinating the various offices within the department, working with DOT's federal partners, and ensuring that states and MPOs integrate housing, land use, and environmental uses.

What to Say to Legislators

The Interagency Partnership for Sustainable Communities is a historic commitment by the federal government to work together to support local strategies to create livable communities that are healthy, safe and economically secure for households of all income levels. A number of national organizations have joined together to support the Initiative, and the new funding programs proposed in the President's FY11 budget. Ensuring that all three federal agencies involved in the Initiative, HUD, DOT, and EPA, have funding and staff devoted to sustainable communities can help to accelerate successful projects in communities across the country, and update federal regulations and policies that have often worked against locating and preserving affordable housing in safe neighborhoods with access to jobs, transportation options and community amenities.

For More Information

LISC <http://lisc.org/>

PolicyLink <http://www.policylink.org/site/c.lkIXLbMNJrE/b.5136441/k.BD4A/Home.htm>

Reconnecting America <http://www.reconnectingamerica.org>

NLIHC www.nlihc.org

Link to NLIHC's community planning principles at: <http://www.nlihc.org/doc/Principles-NLIHC-Letterhead.pdf>

HUD Office of Sustainable Communities and Housing Announcement <http://portal.hud.gov/portal/page/portal/>

HUD/press/press_releases_media_advisories/2010/HUDNo.10-028

EPA's Smart Growth Programs <http://www.epa.gov/smartgrowth/>

US DOT Livable Communities Announcement <http://www.dot.gov/affairs/2010/dot2010a.htm>

Temporary Assistance for Needy Families (TANF)

By Sharon McDonald, Senior Policy Analyst, National Alliance to End Homelessness

The Temporary Assistance for Needy Families (TANF) program is a federal block grant program that provides funds to states to assist low income families. Key issues facing the TANF program in 2010 include a proposal to extend the TANF Emergency Contingency Fund and a \$500 million Fatherhood, Marriage, and Families Innovation Fund that can be used to support new strategies to improve the outcomes of low income families with the most significant barriers to self-sufficiency and the outcomes of noncustodial fathers.

TANF is administered by the Office of Family Assistance in the U.S. Department of Health and Human Services.

History and Purpose

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) replaced Aid to Families with Dependent Children (AFDC), an entitlement program established by the Social Security Act of 1935, with the TANF block grant. Many proponents of welfare reform had argued that the ongoing availability of cash assistance did little to promote work, marriage, or self-sufficiency, and had instead encouraged government dependence.

TANF imposed a five-year time limit on receipt of cash assistance for most families, required that 50% of families receiving assistance be engaged in work or work preparation activities, rewarded states for reducing caseloads, and restricted assistance to some immigrant families legally residing in the United States. States were given flexibility in the design of assistance programs and use of funds as long as it met the purposes of the block grant program. Most states adopted time limits far below what is required by federal law, invested significant TANF resources in child care to help families make the transition to the workforce, and used sanctions to reduce or withhold assistance from families that failed to comply with program requirements.

The program was reauthorized by the Deficit Reduction Act of 2005 (DRA) which restricted state flexibility in administering the program. By recalibrating how states are rewarded for caseload reductions, states were required to increase the number who met work participation requirements under DRA to avoid financial penalties. DRA also restricted how states could use state resources to assist families. Regulations issued under DRA narrowed the activities that states could engage families in while still counting as meeting the states' work participation rate.

Program Summary

The purpose of the TANF program includes providing assistance to families "so that children may be cared for in their own homes or in the homes of relatives." The program purpose also includes reducing dependence on cash assistance through promoting work and marriage, preventing out-of-wedlock pregnancies, and promoting the formation and maintenance of two parent families.

TANF dollars are distributed to states on a formula basis that reflects the states' historical spending on providing assistance to low income families. States are required to provide their own funding toward meeting the purposes of the block grant, known as the Maintenance of Effort (MOE). To meet the MOE requirement, states must maintain 75% to 80% of their historical spending on providing assistance to low income families. The program may be administered at the state or county level TANF agency.

Programs can vary widely because states have a lot of flexibility in how the funds are used. There are, however, significant work participation requirements that states must meet to avoid financial penalties when providing assistance to families beyond four months. States are required to engage 50% of all single parent families (and 90% of two parent families) in approved work activities for 30-35 hours per week (20 hours for a single parent with a child under six). Approved activities include: unsubsidized and subsidized employment, work experience, on-the-job training, education directly related to employment or obtaining a GED, community service, and provision of child care services to another individual participating in community service. Rehabilitative services, vocational education, job search, and job readiness are eligible activities; however, the amount of time families can participate in these activities and still be "counted" toward the work participation rate is limited.

Temporary Assistance for Needy Families (TANF)

Cash assistance comprises approximately 30% of how states use federal and state TANF funds. In addition, states typically commit substantial portions of their TANF dollars toward meeting child care needs. States also use the funds for work preparation activities including job training, education, rehabilitative services, and subsidized employment. Some states use TANF resources to help meet the housing needs of families, including through the use of short- or medium-term rental assistance, eviction prevention assistance, and security deposit and first month's rent to help families exit shelter. In some states, TANF resources are also used to support shelters and transitional housing programs serving families.

Eligibility criteria for TANF assistance is largely determined by the state. Typically, households with children and very limited incomes are eligible for TANF cash assistance. Immigrant families cannot receive federally funded TANF assistance unless they have resided in the United States for more than five years, and federal TANF resources cannot be used to provide assistance to families beyond 60 months (though 20% of a caseload can be exempted from this requirement). States can choose to use MOE funds to support families who cannot be supported with federal TANF assistance.

Nationally, 1.7 million families receive cash assistance. The number of families receiving assistance has declined by over 60% since TANF was enacted in 1996. Even before the recession, fewer than half of income-eligible families received assistance, and recent data indicates that less than one-fifth of families entering homelessness programs receive TANF cash assistance. The families who are not receiving cash assistance include those who have been sanctioned off because they have not complied with program requirements or who have reached their state's time limit.

TANF cash assistance is an important source of financial support for families without other sources of income. Benefit levels are set by each state, and are typically well below what families need to pay for housing. The average cash assistance benefit for a family of three is under \$500 a month. An analysis by the Center on Budget and Policy Priorities found that only one state provided families with cash assistance over 50% of the federal poverty level and cash assistance benefits in 20 states leave families below 25% of the federal poverty level. Families served by the TANF programs have high rates of housing instability and homelessness, likely due to their very low incomes. The loss of TANF cash assistance due to sanctions or time limits can increase the risk of housing instability and homelessness.

Families in need may have stopped seeking assistance from their state TANF agency. Throughout the recession, there have been sharp increases in food stamp and unemployment compensation caseloads. In many communities, more and more families are seeking emergency shelter and eviction prevention assistance. Yet, in many states welfare caseloads have not significantly expanded to meet the increased needs of families.

Funding

The TANF block grant provides \$16.5 billion annually to states. States are required to provide their own funding for the purposes of the block grant, known as the Maintenance of Effort.

The American Recovery and Reinvestment Act of 2009 (ARRA) included \$5 billion for the TANF Emergency Contingency Fund (ECF) that is available to states through September 30, 2010. An extension of the ECF will be considered by Congress.

The additional TANF resources provided in ARRA has been used to create 10,000 subsidized jobs for unemployed parents in Los Angeles, to prevent homelessness in Alameda County, CA, and to re-house families in shelter in Salt Lake City, UT. The TANF Emergency Contingency Fund (ECF) has prevented states from making drastic cuts to social service programs for families, including cuts to cash assistance benefits for families that are already well below the poverty level.

Many states have just begun to increase their investments in serving families and accessing the TANF ECF. Extension of the ECF is necessary to continue states' investment in families and to avoid cuts to social service programs.

What Advocates Need to Know

Emergency Contingency Fund. ARRA provided \$5 billion for the TANF ECF to allow states to recoup increased costs they incur assisting low income families during the recession. Specifically, states are eligible to be reimbursed for 80% of increased costs for providing:

- Short-term, non-recurrent benefits (e.g. up to four months of rental assistance, eviction prevention, back utility payments, mortgage assistance);
- Cash assistance (due to increasing caseloads or increasing benefit levels); and
- Subsidized employment.

Approximately \$3.5 billion remains available for states that have increased spending in the above categories through September 30, 2010. While some states have accessed the full amount they are eligible for, other states have not taken advantage of the ECF funds. This is likely due to their reluctance to increase spending in a period of budget deficits, even though 80% of that spending will be reimbursed. There may be considerable state-level advocacy needed to promote states' use of these resources.

Congress is considering extending the ECF and providing \$2.5 billion that can be used to reimburse states for increased expenditures through September 30, 2011. Local advocates should tell their elected representatives that extending the ECF would allow states to provide critically needed assistance to low income families.

Reauthorization. The Administration has indicated that it does not expect TANF to be reauthorized this year as had been expected. To support new strategies, the President's budget includes \$500 million for a Fatherhood, Marriage, and Families Innovation Fund. Half of the funds, \$250 million, would be dedicated to responsible fatherhood initiatives, which could include providing an array of support such as employment assistance, negotiating child support payments, and counseling. The other half would be dedicated to improving child and family outcomes by addressing the employment and self-sufficiency needs of those with the greatest barriers to economic independence. States would apply for funding from the Innovation Fund which would be competitively awarded by the Office of Family Assistance which administers TANF. Successful state strategies may be used to inform TANF reauthorization.

Tips for Local Success

Local advocates should find out how much money their states are eligible to receive through the current TANF ECF and what efforts are being taken to take advantage of these resources. Some states have been reluctant to absorb the costs of the 20% of new spending that will not be reimbursed under ECF. Some innovative strategies to overcome this challenge include helping states identify third party (non-state government) spending as the state match (which is allowable) and by reaching out to foundations and describing how their new philanthropic investments can be increased four-fold when used to leverage the TANF ECF.

Local advocates should continue to monitor the progress of the Innovation Fund proposal. Advocates should anticipate the need for states to submit proposals on how the funds can be used to help low income families and noncustodial fathers, and plan to urge their state to apply for the funds.

What to Say to Legislators

Advocates should ask their Congressional representatives to extend the TANF Emergency Contingency Fund.

For More Information

Center on Budget and Policy Priorities · 202-408-1080 · www.cbpp.org

Center on Law and Social Policy · 202-906-8000 · www.clasp.org

National Alliance to End Homelessness · 202-838-1526 · www.endhomelessness.org

Ten-Year Plans to End Homelessness

By Meghan Henry, Research Associate, National Alliance to End Homelessness

The homeless population was once assumed to be largely mentally ill, urban, and unsolvable. The solution was to manage the problem through the creation of emergency shelters, transitional housing, and other homeless services. This is no longer the case. Over the last few decades, numerous studies have worked to dispel the myths that have surrounded homelessness. Now, communities of all sizes across the country are completing plans to end homelessness, declaring that it is no longer suitable for any community to yield to what we have come to learn is a surmountable problem. Since the early part of the decade, more than 270 communities have completed ten-year plans to end homelessness, and many more are in the process of developing them.

History

In 2000 the National Alliance to End Homelessness (NAEH) released *A Plan, Not a Dream: How to End Homelessness in Ten Years*. Drawing upon years of research and promising approaches from around the country, the blueprint provided the key strategies needed to address the issue of homelessness in ten years. In 2001, the HUD, together with the Bush Administration, endorsed the initiative to end chronic homelessness. In 2002, the Interagency Council on Homelessness (ICH) was reactivated, and in 2003 the ICH challenged 100 cities to create plans to end chronic homelessness. Since that time, hundreds of communities have taken up that challenge, and over 270 have completed their plans to end homelessness.

In 2009, the federal government announced that it would develop a federal strategic plan to end homelessness in the United States. This message was significant as, while the federal government challenged communities to create plans to end homelessness in 2003, there was little in the way of federal assistance toward these plans. The Federal Strategic Plan to Prevent and End Homelessness aims to support local plan implementation, and promote effective strategies across the country.

Components of the Plan

Local plans to end homelessness have been completed in all regions of the country - north, south, east, and west - in all types of communities - rural, urban, and suburban. While some of the elements in the plans may differ, common plan components include a survey of baseline data, strategies for ending homelessness among people currently experiencing homelessness, prevention efforts to reach people at risk of homelessness, and community outreach plans.

Most plans start from the same place: understanding the local homeless population. More than 80% of communities with completed ten year plans collected baseline data on homelessness prior to engaging in planning efforts. This data allows the community to better understand who in their community becomes homeless, how they become homeless, and which programs will work best to solve each community's specific problems.

The strategies outlined in the plans vary widely depending on the unique needs of the community. One common component is the need for permanent housing. Approximately 89% of the plans include permanent housing as a strategy to end homelessness, and 77% identify the need for permanent supportive housing in particular. In total, the plans call for the creation of more than 375,000 units of affordable and permanent supportive housing for homeless people. Efforts to shorten the length of time people spend homeless through Housing First or rapid re-housing initiatives are included in 94% of the plans.

While the initial challenge was to create plans to end chronic or long-term homelessness, most communities (74%) extended their plans to include all homelessness. Many plans outline additional strategies to address the unique needs of various subpopulations such as veterans, youth, families, victims of domestic violence, and the elderly. Of the completed plans to end homelessness, 70% identify strategies to end chronic homelessness (including those that target it specifically). Furthermore, 50% lay out strategies to end homelessness among youth, 49% provide strategies to end family homelessness, and 32% address the housing needs of former prisoners re-entering the community.

Prevention is an integral part of ending homelessness in every community. By identifying and serving those most at-risk of becoming homeless, communities can cutoff endless streams of people entering into homelessness.

Emergency prevention strategies, such as eviction prevention through rent, utility, or mortgage assistance, case management, and landlord intervention are included in 83% of the plans. Systems-level prevention, such as discharge planning from correctional facilities, mental health facilities, youth aging out of foster care, and residential treatment programs, are included in 83% of the plans.

Outreach plays an important role in ending homelessness by engaging persons on the street and helping them both get into housing and access needed services. Over 62% of plans focus on increasing outreach efforts to people living on the streets and provide them with basic services such as food, medical care, and housing. Many already have outreach activities, such as Assertive Community Treatment (ACT) teams and safe havens, in place. The provision of, or links to, mainstream services are included in 78% of the plans. Increasing income through job training services, Supplemental Security Income (SSI) outreach, Transitional Aid to Needy Families (TANF) outreach, or Earned Income Tax Credit (EITC) outreach was included in over three-quarters of the plans.

Housing Type	Percent of Ten-Year Plans that Included or Identified a Need for Additional:
Permanent Housing Total	89%
Permanent Supportive Housing	77%
Affordable Housing	50%
Public Housing	6%
Project-Based Section 8	10%
Tenant-Based Section 8	28%
Other Rental Assistance Vouchers	32%
Inclusionary Zoning	19%

Tips for Local Success

To be successful, the planning process should be participatory and involve multiple sectors of the community. Receiving input from the public, private, and nonprofit sectors allows for greater community buy-in and a smoother transition from planning to implementation. The 270 completed plans incorporate a wide range of stakeholders in the process, from formerly homeless persons to the local chamber of commerce. Approximately 40% involved public sector stakeholders, 36% involved the nonprofit community, and 25% of plans had private sector representation.

It has been 10 years since NAEH released *A Plan Not a Dream*, and seven years since the ICH challenged communities to end chronic homelessness. In that time the country has dramatically improved the way we respond to homelessness. As a result, the number of people experiencing homelessness across the country, particularly the number of chronically homeless individuals, has declined. However, there is much more to be done. While over 270 communities have completed these plans to end homelessness, the transition from planning to implementation can be difficult. Including elements such as ways to measure progress, defining parties responsible for each action step, identifying funding sources, and creating timelines can help communities stay on track. Further, plans should be living documents that can be modified and updated in response to a community's changing need.

For More Information

National Alliance to End Homelessness · 202-838-1526 · www.endhomelessness.org

See also: *Interagency Council on Homelessness*.

Weatherization Assistance Program

By Meg Power, Ph.D., Executive Director, Economic Opportunity Studies, Inc.

The Department of Energy (DOE) Weatherization Assistance Program (Weatherization or WAP) funds improvements that reduce home energy consumption and costs. The program serves low income households, primarily those living in privately owned existing homes. However, many HUD-assisted multifamily buildings and other rental units are also eligible. Because of funding received from the American Recovery and Reinvestment Act of 2009 (ARRA), Weatherization must expand from producing 175,000 units yearly to more than three times that size, in order to weatherize almost 600,000 additional homes by March 2012.

In 2010, the top issues are managing a greatly scaled-up program and ensuring that both eligible homeowners and renters are served by the program.

The program is administered by the U.S. Department of Energy.

History and Purpose

The 1976 Energy Conservation and Production Act, as amended, established the Weatherization Assistance Program. Weatherization was a pilot program born in the Community Services Administration (CSA) and it moved to the newly formed DOE in FY77. Legislative changes in 1984 and again in 1993 established requirements for the use of approved, computerized building energy audits, evaluation of the house as a “system,” and prioritizing long-lasting investments. These changes require specialized skills and a trained workforce.

While surviving occasional efforts to terminate it entirely, the program size fluctuated through the 1990s, grew from 2000-2004 when it was a “Presidential Priority,” and ended up with \$227 million in FY08 DOE funding. In 2009, ARRA both provided a dramatic funding increase of \$5 billion, and expanded program eligibility and the investment per home. ARRA funding contracts were executed with most local programs between September and November 2009.

The Weatherization Assistance Program is designed to “. . . increase the energy efficiency of dwellings owned or occupied by low income persons, reduce their total residential energy expenditures, and improve their health and safety, especially low income persons who are particularly vulnerable such as the elderly, the handicapped, and children.” Under ARRA, it is also funded as an engine for ramping up construction trade employment.

Program Summary

The Weatherization program provides funds to states to increase the energy efficiency of residential properties. Traditionally, Weatherization has primarily funded renovation and repairs in single-family homes, although rental housing is also represented in the mix of weatherized units.

The program is a formula-based state categorical program. About 700 Community Action Agencies (CAAs) and 250 other nonprofit organizations, including a number of non-profit housing developers, deliver the program services with program-trained and specially equipped employees or contractors. The same sub-recipient organizations are involved each year, so long as they perform well. With ARRA, many states funded a few additional sub-recipients and have offered them training. In 2010, utility programs, housing-related funding, and Low Income Home Energy Assistance Program (LIHEAP) programs will continue to expand local Weatherization programs’ resources so they can combine delivery of additional housing improvement measures using Weatherization equipment and methods.

Until ARRA, DOE funding had made up about one-third to one-half of the total used for all Weatherization services delivered by the local agencies. LIHEAP funds and utility programs for low income efficiency investments in most states added another \$300 million to \$500 million to WAP programs. Many Weatherizers partner with affordable

housing rehab projects; some assist in new construction using non-DOE funds. In 2008, Weatherization local agencies collectively had about \$800 million in Weatherization and coordinated resources. As a result, more than 175,000 units were weatherized by the network in FY08, of which about 92,000 were DOE funded. For 2010, some states have withdrawn LIHEAP contributions, which will limit repairs and furnace replacements by Weatherization crews.

Technical protocols approved by DOE are used to ensure quality, safety, and the return on the investment of federal funds. Local agencies use employee crews and/or private contractors supervised by a skilled agency technician. They measure the systems that heat, ventilate, and cool the whole home. Each federal dollar spent must meet a Savings-to-Investment benchmark (SIR); it must produce a dollar of energy savings over the life-cycle of the measures used for each dollar invested. Expenditures are further limited by the \$6,500 statutory ceiling on average per-home direct expenditures, calculated statewide. In a typical job, workers pressurize the house to identify leaks in the building's shell using blower doors and infrared imaging, and then check for blocked air movement or conflicting pressures, safety hazards, and heating system performance, including water heating, cooling equipment, lighting fixtures, and equipment performance. States may allow a small share of program funds to be used for minor home repairs and health/safety improvements. DOE counts (and funds) only the homes that are "fully weatherized" using these protocols and only measures that will result in lifetime energy savings equal to their cost.

Program eligibility is linked to LIHEAP. Households income-eligible for LIHEAP (for more information see LIHEAP chapter) or with incomes at or below 200% federal policy guidelines, if higher, are eligible for Weatherization. Before ARRA, recipients have been disproportionately homeowners living in northern tier states. Many elderly and disabled households are among those served. Renters can be served if the services "primarily" benefit the eligible tenant, not the landlord.

Changes in the ARRA Era

The passage of ARRA has brought several changes to the Weatherization program.

Clean energy projects. The ARRA allows DOE to fund \$102 million of Weatherization agencies' local clean energy projects that would not be consistent with the strict DOE payback requirement. The results will lead to expanding the program's tools and skills with approaches to clean energy and carbon dioxide emissions reduction.

Region. The homes weatherized before 2009 are disproportionately in the northern tier of the United States because the distribution formula disproportionately directs funding below \$234 million to colder states. In contrast, ARRA directs funds in excess of \$234 million be distributed based on low income population. The ARRA distribution means Texas' program grows 16-fold over three years, while the Wisconsin program barely doubles.

Industry and career development. The number of building contractors used by the program has expanded dramatically with ARRA. Several dozen nonprofit and local government organizations are being added to the Weatherization delivery system in 2010, and a few weaker organizations may lose programs that are not managed well.

Most new workers needed Weatherization-financed training in specialized "green-collar" skills required and on-the-job practice. New training materials and support will be offered to them. However, a shortage of trainers has impeded program acceleration. This expansion has introduced conventional remodelers to new efficiency- and safety-related tools and skills that they can integrate with their convention work in the future.

Weatherization training is being formalized and variants promulgated to dozens of new training partners. More than a dozen Weatherization agencies are part of the projects funded by DOL "Green Jobs" projects. Training curricula and apprenticeships for green-collar careers will result.

Mass outreach. Weatherization rarely advertised before ARRA, as waiting lists culled from LIHEAP and other CAA programs averaged four years. Active outreach and the general publicity surrounding ARRA Weatherization have brought many new applicants to local programs. As of 2010, many report their current applications exceed their entire ARRA budget.

Investor outreach. A vastly expanded program offers value to potential private partners who want to achieve carbon reductions in a large share of the population. Weatherizers expect more partners to add value to the program's

Weatherization Assistance Program

resources, to help achieve more savings per home and to develop more community-wide benefits.

Multi-family buildings. Rising energy costs can pose a significant threat to maintaining affordable rental housing. Energy efficiency upgrades in rental housing is a cost-effective approach to lowering operating expenses and maintaining affordability for low income households.

Weatherization has always served multifamily-family structures. However, apartment dwellers spend a much smaller share of their income on energy than others of the same income and may not be prioritized when a building has relatively low tenant out-of-pocket bills as compared to others. Further, landlord agreements to share the benefits with tenants and to avoid rent increases are required; some states require private landlords to contribute to WAP projects. To be eligible for improvements to the common spaces and the common energy equipment (if any), a building must have at least 67% of its units occupied by eligible tenants, or 50% in the case of large buildings

Coordination between DOE and HUD. For housing advocates, perhaps the most important change under ARRA is the increased coordination between the DOE and HUD. Early in 2009, DOE's concern that there would be insufficient demand for ARRA Weatherization led HUD and DOE to design a federal outreach strategy for multifamily building owners. One key element was a HUD list of buildings that were eligible for whole-building Weatherization based on the tenant income data in HUD records. This innovation saves local agencies the time and risk of recruiting door-to-door seeking income data. Some program restrictions mean not all buildings listed as income-eligible will qualify for Weatherization services.

In January 2010, DOE promulgated the rule making most, but not all, occupants of HUD and USDA-assisted housing eligible for Weatherization and establishing the information exchange with HUD and USDA.

The new regulation reinforces the statutory requirement that the tenant be the primary beneficiary of Weatherization services, and states will issue implementation guidance. This means that buildings in which all tenants' shelter costs are capped (as in the Brooke Amendment) will have a substantial burden of proof to win a place on the waiting list. Additional DOE guidance has, however, clarified that states may consider benefits other than reduced utility costs, including the preservation of affordable housing, when demonstrating that weatherization benefits accrue to tenants who do not directly pay utilities have an opportunity to participate in the program.

Many Weatherization agencies are prepared to begin work on listed buildings. Owners may still be asked to contribute. Several states designated a share of their funding for multifamily Weatherization and allocated it to state agencies other than the Weatherization management office. In some states, there are Weatherization subgrantees that lack experience in using the approved energy audits or in overseeing the trades that work on commercial-size equipment will subcontract to others.

The total estimated 2008 production of the 900 Weatherization network agencies was about 175,000 weatherized homes, of which more than 90,000 received DOE funds.

In addition to homes weatherized with regular appropriated funds, ARRA funding is expected to result in about 600,000 weatherized units from 2010 through March 2012.

The program historically reduces all fuel consumption in the average home by 30.5 mmbtu, or 21%; this means a 30% reduction in main fuel usage. Electric baseload savings have not been evaluated. Average savings, which persist for about 20 years, were estimated at \$413 per year in 2008. The energy savings equaled about \$1.67 for every federal dollar invested. Results vary among homes by the amount of energy the home was using pre-treatment and energy prices. Weatherization reduces the carbon dioxide emissions of the average natural gas heated home by 1.8 tons.

Major evaluations of traditional and ARRA programs are underway. The results may show positive, but less dramatic, savings-to-investment ratios. Because more investment per home is possible, many agencies will do all the cost-effective measures, including those that pay back 1:1. In the past, investment would have stopped after only the most cost-effective investments were made because total expenditures were more limited. The ARRA multifamily building projects are also not expected to be as cost-effective, because while the savings-to-investment rule is implemented with calculations that use the wages set by Davis Bacon for workers in buildings of 4 stories or less, those who work on taller buildings will be paid higher rates.

In September 2009 the Department of Labor (DOL) confirmed that, for the ARRA-funded portion of the program, commercial Davis-Bacon rates, rates requiring contractors on some federally funded projects to be paid prevailing wages, would remain in effect for buildings over four stories. Adhering to this requirement meant most Weatherization investments would not meet DOE's savings-to-investment ratio (SIR) requirement. In November, DOE waived the (SIR) restriction for ARRA work, and long-delayed multifamily-family projects began. Nevertheless, the problem of finding a long-term, cost-effective energy retrofit strategy for this housing stock remains unresolved.

Funding

ARRA provided \$5 billion for Weatherization over three years. In addition, \$450 million dollars was appropriated for "regular" FY09 funding and \$180 million for the 'regular' FY10. Federal guidance requires ARRA funds to be spent before regular funds and both may not be co-mingled in one home.

What Advocates Need to Know Now

Long-term funding challenges. The Weatherization Program's future and that of its workforce are in serious doubt. Despite the infusion of ARRA funding, DOE's leadership publicly says the program cannot count on robust federal funding and must find private or local government funding sources to upgrade low income housing after the 2011 program year. The Weatherization community will be following housing advocates' lead and relying on their expertise in making the case that private investors and local government are unlikely foundations for sustained investments in low income housing upgrades.

The Weatherization network agencies are concerned about the potential collapse of the program and its workforce when ARRA ends - especially if a mature market demanding millions of home retrofits has not yet emerged. While their leadership is beginning to work on creative leveraged partnerships for 2012, it also seeks the authorized funding level, \$1.4 billion, and supports pending Senate Energy legislation's \$1.7 billion for 2012 and beyond.

In addition to stabilizing funding, advocates would like to see the following program improvements made:

Eligibility. Eligibility is inconsistent with that of HUD programs. Weatherizers want the DOE statute changed to match the "low income" definition to align with those of HUD programs.

Substandard housing. Because very limited amounts of DOE or LIHEAP Weatherization funds are set aside for home repair, Weatherizers are not able to insulate homes with major leaks or to tighten air flow in homes with mechanical or other hazards. Major rehab funding and partnerships are rare. Weatherizers favor a separate fund for simple repairs (costing up to \$10,000) that do not include comprehensive rehab.

Good jobs and living wages. Cost expectations must change if the green-collar labor market is to engage in massive energy retrofits of residences. The DOL created a Weatherization worker wage, because the work does not fit the definition of other construction jobs. Most areas' wages were determined to be essentially the same as the past program wage, generally not as high as a "living wage" for the area. Costs for skilled trades involved in mechanical upgrades shot up dramatically, as did the cost of work in tall apartment buildings. Energy benefits-to-program cost ratio will drop where wages rose. Advocates must join in re-designing the program performance tests to allow low income households to participate in projects that pay a living wage.

The program disappointed those who expected thousands of unskilled workers to be hired and trained in green jobs, because the work requires mid-level building skills, and ARRA projects could not wait for the 6-12 months needed to train new entrants. However, many experienced but unemployed builders have been recruited.

For More Information

<http://www.W.A.P.tac.org/> Technical and program information site with links to all network partners.
<http://www.W.A.P.tac.org/sp.asp?id=9088> Videos demonstrate Weatherization training and service delivery in the field
<http://apps1.eere.energy.gov/weatherization/> The Department of Energy Weatherization gateway page
<http://www.weatherizationplus.org/> Economic Opportunity Studies' pages on partnerships and expansion
<http://weatherization.ornl.gov/> Studies and evaluations of the program.

Federal Data Sources for Housing Advocacy

By Megan DeCrappeo, Research Analyst, National Low Income Housing Coalition

Accurate, reliable and timely data on housing, demographic and socioeconomic characteristics are critical tools for housing researchers and advocates from the national to the neighborhood level. In recent years, budget shortfalls for national housing data collection efforts were a cause for concern for those who rely on this data to create effective housing policy. Fortunately, the new administration has placed a strong emphasis on the need for high quality research and the President's FY11 budget proposal includes an increase of \$39 million for HUD's Office of Policy Development and Research (PD&R).

The Census

The decennial census is the only comprehensive count of the U.S. population (see table), as it has been since the first census in 1790. The Census Bureau sets out to achieve a full count of the population by distributing a questionnaire requesting basic demographic questions (e.g., age, sex, race) to all households and individuals living in group quarters (e.g., military barracks, nursing homes, college dormitories, prisons, etc.) every ten years. Census figures describe the U.S. population at a specific point-in-time (e.g., April 1) during the census year.

While in recent years there have been growing concerns of undercounting in poor and minority urban populations, the decennial census conducted by the Census Bureau is the official source for counts of the number of people and houses in the United States, and it is used to apportion congressional representatives among the states, draw legislative districts, determine the number of electoral votes assigned to each state, and distribute federal funds.

What Advocates Need to Know Now. By the time of this publication, the majority of American households will have mailed in their census form and Bureau workers will be following up with nonresponsive households in order to ensure that every person is counted. The American Recovery and Reinvestment Act of 2009 included \$1 billion for the Census Bureau that funded measures designed to increase the accuracy of the census, particularly as it relates to hard-to-count populations. These measures included the hiring of additional census takers, increasing the number of community partnership specialists, and stepped-up efforts at outreach and advertising. The omnibus bill that controlled appropriations for the FY10 budget included \$7.325 billion for the 2010 census, which will allow the Census Bureau to maximize the accuracy of Census 2010. It is critical that enough funding is provided in the FY11 budget for the Bureau to continue processing data from the census, conduct extensive evaluations of census operations, and begin publishing the results of the census. The President's proposed FY11 budget asks for \$1.267 billion to enable the Bureau to accomplish these important tasks.

Many consumers of federal data have long supported the removal of the Census Bureau from the Department of Commerce, and legislation introduced but not enacted in the 110th Congress would have done just that, making it a stand-alone agency and creating a fixed five-year term for its director. This bill was supported by seven previous Census Bureau Directors. Although the future of this legislation is uncertain, the Obama White House directly partnered with the Commerce Secretary in overseeing Census 2010, representing a bigger role for the White House than in recent censuses.

American Community Survey

Historically during the decennial census, one in six households received an expanded questionnaire, or "long form", that also included specific questions regarding a household's income, education, employment, and other socioeconomic characteristics along with questions about their housing unit. While continuing to conduct a census every ten years through the use of the "short form," as constitutionally mandated, the Bureau will replace the survey component of the decennial census (i.e., the long form) with the American Community Survey (ACS) in 2010.

Under development since the mid-1990s, the ACS has produced annual estimates for every jurisdiction with more than 250,000 residents since 2000. (Full data from the first two years are available through the 2000 and 2001 Supplemental Surveys.) The sample size was expanded from 800,000 to three million households when data were collected in 2005; as a result, one-year estimates for jurisdictions as small as 65,000 residents in the 50 states, the

District of Columbia, and Puerto Rico have been available since the release of the 2005 data. In addition to these one-year estimates, the release of 2007 data in 2008 was the first to include estimates based on three years of data for all areas with a population greater than 20,000. And ACS data released in 2010 will include five-year estimates of population and housing characteristics for areas as small as block groups. In 2006, the survey was expanded to include the population living in group quarters; as a result, 2006 ACS estimates and those that follow are considered more comparable with decennial census estimates.

As is true with all surveys - including the long form component of the decennial census that it will replace - there are margins of error associated with ACS data because estimates depend on the responses of a sample of a population, rather than every member. Furthermore, since the sample is based on official census population estimates, the decennial census and the Bureau's Population Estimates Program remain the preferred source for official population counts. Unlike the point-in-time nature of the decennial census, the ACS produces period estimates and is thus ideally suited for describing the characteristics of a population during the data collection period and for measuring annual differences across geography and through time.

What Advocates Need to Know Now. The President's FY2011 budget proposal to Congress includes a request for an increase of \$44 million for the ACS, which would allow the Census Bureau to increase the sample size to 3.5 million households. This funding increase would also allow for improved data collection methods, 100% follow-up with unresponsive households in remote areas and a comprehensive review of three-year and five-year ACS estimates.

American Housing Survey

The American Housing Survey (AHS) is the only comprehensive national survey specifically focused on housing. The survey is longitudinal in nature, tracking changes in the same housing units over time, and it produces national and regional estimates on housing characteristics every two years. In addition to the national survey, a metropolitan area survey is also conducted. Both surveys are conducted during a 3- to 7- month period. The metro survey program has changed many times, mostly in response to changes in the AHS budget. In 2007, the number of metropolitan areas to be over-sampled as part of the national survey was reduced to 21, with seven surveyed every two years. Prior to that, during the period 1985-2004, the AHS surveyed 41 areas. During 1985-1995, there were metro surveys every year. During 1996-2004, the metro surveys were conducted in even numbered years, although there was none in 2000. In addition, during that period, the six largest metropolitan areas (Chicago, Detroit, Los Angeles, New York, Northern New Jersey, and Philadelphia) were surveyed every four years (that is, in 1995, 1999, and 2003) as part of the national survey.

Even with the reduction in the number of metropolitan areas, sample sizes have also been reduced to meet budget demands. National data were last released in 2008, as were estimates for the following metropolitan areas: Baltimore, Boston, Houston, Miami, Minneapolis, Tampa, and Washington, DC. National data from the 2009 AHS will be released in summer 2010 along with the estimates for five of the six largest metropolitan areas (Los Angeles was excluded). Another seven metropolitan surveys should have been done in 2009, but due to severe budgetary issues, surveys were only done in Seattle and New Orleans. The New Orleans survey was done at the request of the Administration and included special questions about Hurricane Katrina.

What Advocates Need to Know Now. The American Housing Survey (AHS) suffered significantly as a result of cuts to the budget for HUD's Office of Policy Development and Research (PD&R) from FY06 through FY09. These budget cuts reduced the survey's sample size and scaled back the number of metropolitan areas from 47 to 21 (seven surveyed every other year in a six-year cycle). More recent cuts further reduced the number of metropolitan areas to be surveyed in 2009 from seven to six and called into question the survey's future. Fortunately, this trend has been reversed with the new Administration and the AHS is slated to return to the robust survey it once was.

HUD and the Census Bureau recently announced plans to redesign the AHS, and if the President's proposed budget increase for PD&R is approved, there is a very good possibility that this redesign will take place. Under the proposed changes, in the 2011 and 2013 surveys, the number of metropolitan areas studied would increase to 30 each year, for a total of 60 areas that would be revisited every four years. The sample sizes would also be increased. Further proposed changes include a streamlining of the survey itself, and a system of rotating topical modules that will appear intermittently. Some examples of topical modules include transportation and walkability, healthy homes, housing modifications to improve accessibility, energy efficiency and disaster planning. The most significant changes

will occur in the 2015 survey, after the decennial census data are available, because for the first time since 1985, a new sample will be drawn, enabling HUD and the Census Bureau to present data in terms of current metropolitan geography and will give a break to the returning respondents who have been in the survey in some cases for thirty years.

Residential Finance Survey and Home Mortgage Disclosure Act

A focus on housing finance, rather than people or units, sets the Residential Finance Survey (RFS) and Home Mortgage Disclosure Act (HMDA) data apart from the Census Bureau efforts discussed above. Last conducted in 2001, the former is a decennial investigation of the financial characteristics of residential properties, and the latter is an annual collection of data from disclosure filings made available to advocates to monitor the lending patterns of financial institutions. A newly revamped RFS that focuses on multi-unit rental properties will be conducted as early as 2011. At publication, the most recent HMDA data available covered mortgage lending that occurred in 2008.

What Advocates Need to Know Now. Another victim of PD&R's former budgetary woes, the 2011 RFS was previously unfunded and was not expected to be conducted following the decennial census as it has been since 1951. However, the FY2010 budget included increased funding to PD&R which allowed the department to create a new RFS that will be carried out in 2011 and will target multifamily properties. This is currently the only source of information on the mortgage and financial characteristics of multi-unit rental properties, so it remains critical that this survey be funded and implemented.

Current Population Survey

The last national survey detailed in the following table – the Current Population Survey, or CPS – is distinct in that it does not produce any estimates of housing characteristics. It is mentioned here because it includes an Annual Social and Economic (ASEC) Supplement, which is the source of official estimates of income and health insurance coverage of the non-institutionalized population (i.e., individuals not considered “patients” or “inmates”) and is the primary source of data on the annual poverty status of U.S. residents. For this reason, the CPS is a very important source of data for low income housing advocates.

Data on the Subsidized Rental Stock

HUD makes publicly available information on the location and characteristics of a subset of the nation's federally subsidized rental housing stock. While HUD does not produce a comprehensive, integrated dataset, it does provide project-level files for the following programs: project-based Section 8 and other federal rent subsidies for multifamily housing; FHA insured/subsidized mortgages; Sections 202 and 811; and the Low Income Housing Tax Credit program. In addition to data for these individual programs, HUD produces a dataset called A Picture of Subsidized Households, which includes public housing in addition to the previously mentioned files. This dataset was recently updated and currently reflects data collected in 2008; the previous version was for 2000. It is expected that these updates will now happen on a more regular basis.

With an understanding of the programs, database skills, and significant effort, advocates can integrate these datasets to create a partial database of the subsidized housing in a particular geography. And thanks to data released by HUD in 2008 and updated on a quarterly basis, the database can include the three most recent Real Estate Assessment Center (REAC) scores that quantify the properties' physical conditions. Information for projects receiving subsidies from the following programs will be omitted, however, because HUD does not make it available to the public: HOME; multifamily housing bonds; Section 8 Mod Rehab; project-based vouchers; HOPWA; and McKinney-Vento permanent housing. Data from the U.S. Department of Agriculture on subsidized rural housing is also not publicly available at this time.

Fair Market Rents

HUD also annually updates Fair Market Rents (FMRs) for every metropolitan area and rural county in the U.S. Although it is primarily an administrative dataset used to determine the “payment standard amount” for the Section 8 voucher program, it is of interest to housing advocates given its frequency and comprehensive geographic coverage. Commonly set at a community's 40th percentile gross rent, FMRs reflect HUD's best estimate of the cost of a decent, modest apartment and are published for various unit sizes.

Additional Surveys

Other surveys not described in the table but nonetheless of importance to housing advocates and researchers include:

- **Housing Vacancy Survey**, a Census Bureau survey that quantifies rental and homeowner vacancy rates, the characteristics of vacant units, and the overall homeownership rate on a quarterly (nation, regions) and annual (states, 75 largest metropolitan areas) basis. Data collected for the Housing Vacancy Survey are also used to produce the annual CPS estimates.
- **Survey of Construction**, a Census Bureau product that tracks the number and value of residential units permitted, constructed, sold, and improved for the nation and select metropolitan areas.
- **Survey of Market Absorption**, a HUD-sponsored survey of the absorption rate of newly constructed multifamily units conducted by the Census Bureau.
- **Survey of Income and Program Participation**, a Census Bureau survey that tracks families for between two and four years, investigating household members' sources of income, participation in and effectiveness of government transfer programs, and basic demographic characteristics.

What Else Advocates Need to Know Now: Current Issues Facing All Federal Data Sources

New poverty definition expected. In fall 2011 the Commerce Department expects that the Census Bureau will release a new Supplemental Poverty Measure (SPM). The new measure, according to the Interagency Technical Working Group assigned to develop the SPM, should take into account all food, shelter, clothing and utility expenditures for a family with exactly two children, including single-parent families. This is an improvement over the official poverty measure, developed in 1964, which largely estimates poverty by only looking at a household's cash income. While this measure will not replace the official poverty measure when estimating eligibility for government assistance, advocates do expect it will provide a more accurate understanding of economic conditions and trends in the United States.

Federal preservation data legislation. Advocates can also use data from HUD on the location and characteristics of certain subsidized properties to develop a database of assisted housing in a particular geography. This kind of database can be used to preserve affordable housing by raising awareness of projects at-risk of leaving the subsidized housing stock. (See NLIHC's work summarizing the available data and how it can be used at <http://nlihc.org/template/page.cfm?id=133>.)

However, data-driven preservation efforts today cannot be maximized because HUD does not publish data on all of its programs in one easy-to-use database. To the contrary, the data that HUD currently makes available to the public are not complete, not always updated in a timely fashion, and require a certain level of database expertise to utilize fully. Legislation is expected to be introduced in the House that would require HUD to improve upon the quantity, quality, and usability of the subsidized housing data that the agency provides to the public.

Tips for Local Utilization and Success

First and foremost, housing advocates should encourage everyone to fully participate in Census 2010 and to respond to other federal housing surveys. The research conducted with these datasets can only fully capture the housing experiences of the nation if everyone is counted.

Advocates can also be end-users of the vast array of survey and census data. Research produced by advocates both clearly illustrates the depth and breadth of the affordable housing crisis and also demonstrates the importance of these federal data collection efforts. Quantifying the problem by calculating the scarcity of units affordable to the lowest income families, for example, can make it easier to set specific and defensible goals for expanding the affordable housing stock.

What to Say to Legislators

Call your Members of Congress and ask to speak to the person who deals with appropriations with the message that funding for the collection and analysis of housing data is vital to understanding the breadth and depth of the nation's affordable housing crisis. Informed and effective housing policy is possible only with a concrete understanding of today's housing issues.

Federal Data Sources

- Ask the Member to support the collection and analysis of housing data in the appropriations process by:
- Meeting the Census Bureau's request for funding to effectively and efficiently complete and evaluate Census 2010.
- Continuing to provide increased funding to HUD's Office of Policy Development & Research.
- Continuing to fully fund the American Community Survey and working to increase its sample size and accuracy.

Advocates should also ask to speak to the person who deals with housing issues and emphasize the need for a comprehensive, accurate, easy-to-use and timely dataset from HUD that will assist affordable preservation efforts around the country.

For More Information

Many organizations that understand the importance of federal statistics have formed coalitions and membership groups that track federal data collection efforts, advocate for their continued funding, and provide members with an opportunity to communicate directly with the federal agencies collecting the data. A few of these groups include the Council of Professional Associations on Federal Statistics (<http://www.copafs.org/>), The Census Project (<http://www.thecensusproject.org>), and the Housing Statistics Users Group (<http://groups.google.com/group/housing-statistics-users-group>).

National Low Income Housing Coalition - 202-662-1530 - www.nlihc.org

Comparison of Selected National Datasets

	American Community Survey	American Housing Survey	Census	Residential Finance Survey	Home Mortgage Disclosure Act	Current Population Survey
Survey or Census?	Survey	Longitudinal survey	Census and survey components	Survey	Census of qualifying institutions	Survey
Sample Size	Sample size expanded from 800,000 to 3 million households (1:40) in 2005	55,000 units are surveyed nationally every odd-numbered year; circa 3,000 units are included in each metro survey	Census of all households and group quarters	Roughly 68,000 properties in 2001	Roughly 34 million loan records in 2006 reported by 8,886 financial institutions	Roughly 55,000 households per month for labor force estimates; 75,000 annually for socioeconomic data
Survey of...	Population and housing	Housing units; household and individual characteristics data also available	Population and housing	Residential properties; interviews with owners and mortgage lenders	Individual loan applications as reported by large banks and lending institutions in metro areas	Households representing the civilian, non-institutionalized population
Data Available	Basic population, housing, and income variables	Detailed housing, income, and neighborhood variables	Basic population, housing, and income variables	Financing and other project characteristics; owner demographics	Home mortgage lending activity by institution and race/income of applicant; socioeconomic and housing data from census & HUD	Labor force, poverty, income, and health insurance data, cross-tabulated by demographic and employment characteristics
Frequency	Annual since 2000	National survey is biennial; each survey covers 7 of 21 large metros; each metro is surveyed every 6 years	Decennial since 1790	Decennial since 1950	Annual since 1997	Monthly estimates of labor force; annual for income, poverty, and health insurance

	American Community Survey	American Housing Survey	Census	Residential Finance Survey	Home Mortgage Disclosure Act	Current Population Survey
Data Comparability Over Time	Surveys fairly comparable since 2000, although 2006 ACS is first to include group quarters	Designed to track changes in individual units, but can be problematic; some variables change year to year	Data are largely comparable though some caution is necessary due to changes in methods and questions	1991 and 2001 survey instruments are largely comparable	Caution is urged due to frequent changes in coverage and required reporting	Use of different census-based controls and sample designs affect comparability
Level of Geographic Detail	Population: >250k since 2000; >65k in 2005 ACS; >20k in 2007 ACS; tracts and block groups in 2009 ACS	National, regional, and select major metropolitan areas	All levels of census geography, down to the block level	National and regional (for select data)	National, metro areas, and census tracts (for select data); reporting institutions	National, census regions and divisions, and states
Format of Available Data	Demographic profiles, rankings and geographic comparisons, customized tables, maps, microdata, etc.	Data tables and microdata	Demographic profiles, rankings and geographic comparisons, customized tables, maps, microdata, etc.	Data tables and microdata	Data tables and microdata	Data tables and microdata
Agency Charged with Data Collection	Census Bureau	Census Bureau sponsored by HUD	Census Bureau	Census Bureau, historically sponsored by HUD	Federal Financial Institutions Examination Council	Census Bureau and the Bureau of Labor Statistics
Status	Proposed FY11 budget would increase funding for ACS and allow for an increased sample size	National sample size and number of metro areas will be increased in 2011 if proposed FY11 budget increases are passed	Constitutionally required; currently ongoing. Sufficient funds needed in FY11 budget for completion and evaluation of census 2010	HUD and Census will conduct a redesigned survey in 2011 that focuses on multifamily properties	Data collection required by act of Congress	No known threats

Lobbying by 501(c)(3) Organizations

Contrary to what many nonprofits believe, 501(c)(3) organizations may lobby in support of their organization’s charitable mission. How much lobbying the organization can do depends on how the organization chooses to measure its lobbying activity. There are two options to determine lobbying limits for 501(c)(3)s: the insubstantial part test and the 501(h) expenditure test.

Insubstantial Part Test

The Insubstantial Part Test automatically applies unless the organization elects to come under the 501(h) expenditure test. The default insubstantial part test requires that a 501(c)(3)’s lobbying activity be an “insubstantial” part of its overall activities. Unfortunately, the Internal Revenue Service and courts have been reluctant to define the line that divides substantial from insubstantial. Most lawyers agree that if up to 5% of an organization’s total activities are lobbying, then the organization is generally safe. The insubstantial part test is an activity-based test that tracks both activity that the organization spends money on, as well as activity that does not cost the organization anything (for example, when unpaid volunteers lobby on behalf of the organization). There are no clear definitions of lobbying under the insubstantial part test.

501(h) Expenditure Test

Fortunately, there is an alternative test that provides much clearer guidance on how much lobbying a 501(c)(3) can do and what activities constitute lobbying. The 501(h) Expenditure Test was enacted in 1976 and implementing regulations were adopted in 1990. This choice offers a more precise way to measure an organization’s lobbying limit because measurements are based on the organization’s annual expenditures. The organization is only required to count lobbying activity that actually costs the organization money (i.e., expenditures); therefore, activities that do not incur an expense do not count as lobbying. A 501(c)(3) can elect to use these clearer rules, by filing a simple, one-time form - IRS Form 5768 (available at www.irs.gov).

To determine its lobbying limit under the 501(h) expenditure test, an organization must first calculate its overall lobbying limit. This figure is based on an organization’s “exempt purpose expenditures,” which, generally, is the amount of money an organization spends per year. Once an organization has determined its exempt purpose expenditures, the following formula is applied to determine the organization’s overall lobbying limit:

**20% of the first \$500,000
+15% of the next \$500,000
+10% of the next \$500,000
+5% of the remaining**

There are two types of lobbying under the 501(h) expenditure test: direct lobbying and grassroots lobbying. An organization can use its entire lobbying limit on direct lobbying, or if it chooses to engage in grassroots lobbying, it can only use one-fourth of the overall lobbying limit on grassroots lobbying.

There is a \$1 million yearly cap on an organization’s overall lobbying limit. This means that if an organization chooses to measure its lobbying under the 501(h) expenditure test, it also agrees not to spend more than \$1 million on lobbying activity each year.

Direct lobbying is a communication with a legislator (federal, state or local) or legislative staff member that refers to specific legislation and takes a position on the legislation. Remember that a legislator also includes the president or governor when you are asking them to sign a bill into law or veto a bill and officials who have the ability to influence legislation.

Grassroots lobbying is a communication with the general public that refers to specific legislation and takes a position on the legislation, and the communication must have a call to action. A call to action refers to four different

Lobbying by 501(c)(3) Organizations

ways the organization asks the public to respond to its message: 1) asking the public to contact their legislators; 2) providing the contact information (for example, the phone number) for a legislator; 3) providing a mechanism for contacting legislators (for example, a tear off postcard or e-mail link sending a message directly to legislators); or 4) listing those voting, undecided or opposed to specific legislation. Identifying legislators as sponsors of legislation is not a call to action. Fortunately, the 501(c)(3)'s members are treated as a part of the organization, so urging them to contact public officials about legislation is considered direct, not grassroots, lobbying.

Ballot Measures. Communications with the general public that refer to and state a position on ballot measures (including, for example, referenda, ballot initiatives, bond measures and constitutional amendments), count as direct lobbying, not grassroots lobbying, because the public are presumed to be acting as legislators when voting on ballot measures.

Lobbying Exceptions. There are some specific exceptions for activities that otherwise might appear to be lobbying under the 501(h) expenditure test. It is not lobbying to prepare and distribute a substantive report that fully discusses the pros and cons of a legislative proposal (even if the analysis comes to a conclusion about the merits of that proposal). The report cannot ask readers to contact their legislators or provide a mechanism to do so and it must be widely distributed to those who would both agree and disagree with the position (for example, through an organization's web site and to all members of the legislature). Nor is it lobbying to respond to a written request for testimony or assistance at the request of the head of a government body (for example, a legislative committee chair). It is also not lobbying for an organization to support or oppose legislation if that legislation impacts its tax-exempt status or existence. This lobbying exception is narrow and should be used with caution after consultation with an attorney. Broad examinations and discussions of broad social, economic and similar problems are also not considered lobbying. For example, discussions that do not refer to specific legislation if they are used to communicate with a legislator or if such discussions communicate with the general public and express a view on specific legislation, they do not have a call to action. Litigation and attempts to influence administrative (regulatory) decisions also fall outside definitions of lobbying, as do enforcement of existing laws and executive orders.

Recordkeeping. A 501(c)(3) organization, when it is measuring its lobbying under the insubstantial part test or the 501(h) expenditure test, is required to reasonably track its lobbying in a way sufficient to show that it has not exceeded its lobbying limits. There are three cost centers that 501(h)-electing organizations must count toward their lobbying limits: staff time, direct costs and overhead. Examples of each cost center include:

- Staff Time: Paid staff time spent meeting legislators, preparing testimony, or encouraging others to testify;
- Direct Costs: Printing, copying or mailing expenses to get the organization's message to legislators; and
- Overhead: The pro-rated share of rented space used in support of lobbying (a good way to handle this is to prorate the cost based on the percentage of staff time spent lobbying).

For More Information

Alliance for Justice (www.afj.org) publishes a detailed, plain-language guide to the 501(c)(3) lobbying rules called *Being a Player: A Guide to the IRS Lobbying Regulations for Advocacy Charities*. Alliance for Justice also publishes guides on related topics and offers workshops and technical assistance for nonprofit organizations.

Alliance for Justice · www.afj.org · 202-822-6070

Lobbying and Advocacy Tips

While some think that there is a mystique to lobbying, it really comes down to talking to your Member of Congress or a staff person about an issue of concern to you. Every American has that right. As a housing advocate, you can, and should, lobby your congressional delegation. It is important to remember that you do not have to be an expert on housing policy to lobby. The experience and information you can provide on the housing situation in your Member's district is very valuable to him or her. Indeed, you are the expert when it comes to what is going on in your district or state. And it is the responsibility of Members of Congress and their staff to be responsive to the concerns of their constituents.

Visiting Your Member of Congress

If you have never lobbied before, it may help to think of the visit as a 20-minute conversation that will give both your organization and your Member added insight into where each of you stands on a given topic.

A face-to-face meeting with a Senator or Representative is often the most effective way to get your voice heard. However, given the schedule of most Members, you may end up meeting with the staff person who deals with housing issues. Do not be disappointed if this is the case. Staffers have significant input into many policy decisions, so getting to know the staff person and building a relationship with him or her is crucial.

Setting the meeting. If you know you will be visiting D.C., call in advance for an appointment. If you do not know your Member's phone number, call the U.S. Capitol Switchboard at 202-224-3121 and ask to be transferred. Ask to meet with your Member or his or her staff person who works on housing issues. Tell the person who sets up your appointment: 1) where you are from and what organization you represent; 2) the purpose of the meeting; and 3) the number of people who will be attending the meeting. You may be asked to fax in a request for the meeting rather than giving the information over the phone. E-mail the staff person you will meet with to confirm the meeting date, time and purpose and to send any information you think would be useful for the Member or staff person to review in advance. The day before the visit, call to confirm the appointment.

Planning the meeting. A planned meeting will be more relaxed and productive. Before you go, set an agenda based on how much time you have - usually no more than 20 minutes or half an hour. Decide what issues you'd like to discuss (usually no more than two or three), how to frame your message positively, and what specific action or actions you would like your Member to take. Unless you have met with them before, do not assume that Members and staff understand the problem. It is best to start with a description of the problem in your community, and then move on to solutions.

In deciding how to frame your message, it helps to know your Member's professional interests and personal concerns, including congressional committee assignments, memberships and affiliations (often listed on a Member's web site). This may help you gauge what your Member's priorities are and why he or she should be interested in what you have to say. It also helps to know how your Member voted on housing issues. You can review roll call votes on key bills at <http://thomas.loc.gov>. If the Member's record is favorable, remember to acknowledge his or her past support during the meeting. If a record is unfavorable you may express your concern, but remember that today's opponent may be tomorrow's ally.

Gather written materials to leave with the staff person. To remind Members and staff of the extent of the housing crisis in their districts, copy pages from *Out of Reach* that show the hourly housing wage in each county and Congressional District Profiles that show housing affordability data for renters by Congressional District, as well as other NLIHC research reports, (or download data from www.nlihc.org). For information on the National Housing Trust Fund as part of the solution, download a copy of the policy proposal and a list of endorsers from your state at www.nhtf.org. Finally, decide who from the group will lead the meeting and what everyone else's roles will be.

Lobbying and Advocacy Tips

The meeting. Be punctual! Security at the House and Senate office buildings can be tight and, if there are hearings or other events in those buildings, the lines to enter the building can be long, so be sure to leave extra time. Be sure also to leave behind items that may trigger a security concern.

Begin the meeting by introducing the attendees and stating the purpose of the meeting. As you raise your first issue, state your views clearly. Remember to start with the problem and then to move on to solutions. Include personal stories and experiences to make key points. Have concrete and specific suggestions for action, such as supporting, sponsoring, co-sponsoring or opposing a bill.

Be honest. If you are asked a question to which you do not know the answer, tell your Member or staff person you will find out the answer and get back to him or her soon. In fact, rather than feeling bad about not having the answer or information, think of it as an excellent reason to get back in touch with your Member or staff person later. Do not make a scapegoat of other programs in making your point. If the Member or staff person suggests that you engage in a discussion of another program, do not get off point. Come back to your agenda. Keep in mind that the Member or the staff person may have to cut the meeting short, so stick carefully to your agenda. Do not do all of the talking. Listen and get a sense of your Member's views on the issue. The Member might have legitimate concerns about the issue that your group should address.

Before closing the meeting it is important to know where a Member stands on the issues and to try and get an answer on specific legislation even if it is ' maybe' or 'no'. Information is important as it will enable you to develop any follow up that must be done. Leave the relevant materials. Thank the Member or the staff person for his or her time.

Keep the door open for further discussion and lay the foundation for future contact. Even if your Member seems to be leaning against your position, do not write him or her off. Consider your meeting an opportunity to build your relationship with the staff person and to educate the office about your organization's work. Every meeting is an investment that will pay off in the future.

Following your visit. Send a letter or e-mail to your Member and his or her staff thanking them for their time and reaffirming your views and any agreements made in the meeting. Send any information or materials you agreed to provide. If you lobbied on an issue being tracked by your state coalition or NLIHC, report the results of the meeting to them. This is especially crucial on an issue such as the National Housing Trust Fund. Monitor your Member's actions on your issue. Continue to communicate with him or her as the issue advances.

Writing Your Member of Congress

Letters can also be effective in letting your Representative or Senator know how you feel about issues. Some offices have said that a letter from a constituent is viewed as representing 100 to 200 voters from the Member's district! When writing, make sure you state the issue concisely and specifically, using bill numbers where applicable. To make sure the correct person receives your letter, address it to the attention of the housing staff person. Because security concerns mean that letters are significantly delayed in reaching Congress, it is a good idea to fax as well as mail your letter. Call your Member's office to get his or her fax number.

Handwritten letters can be especially effective. If you are having a meeting of agency staff, board members, clients, etc., start the meeting by handing out blank paper and having everyone take 10 minutes to handwrite a letter to his or her Member. You can provide a sample letter, but encourage people to describe the problem as they see it. Collect the letters and then fax and mail them over the course of a few days. Address letters as follows:

Senate

The Honorable (full name)
Attn: Housing Staffer
United States Senate
Washington, DC 20510

House

The Honorable (full name)
Attn: Housing Staffer
United House of Representatives
Washington, DC 20515

Calling Your Member of Congress

If a letter represents 100 voters, a call from a constituent may be considered as representing as many as 10. Calls can be especially effective if a staff person receives several calls on the same topic within a few days of each other, so you may want to encourage others in your district to call at the same time you do. When you call, ask to speak to the staff person who deals with housing issues. Be sure to say who you are, where you are from and what organization or constituency you represent. When possible, have names and numbers of bills you are calling about. The days before a key vote or hearing are critical decision times and an especially effective time to call. You can locate the address and phone number of your Member by going on the NLIHC web site and using our Contact Congress option. A Member of Congress may also be contacted through the Capitol Switchboard at 202-224-3121.

Emailing Your Member of Congress

Unless you are using an email service like the one on the NLIHC web site, it is generally not a good idea to attempt to correspond with your Member using email. Members can receive upwards of 50,000 emails a month and many of these messages will never be read by the appropriate staff. But once you have established a relationship with a staff person and have that staff person's direct email address, email can be an easy and effective way to keep in touch.

Other Advocacy Ideas

Visits, letters and calls are not the only ways to communicate your positions to Congress. You can also:

- Invite your Representative or Senator to speak at your annual meeting or conference.
- Organize a tour for your Member of your organization's projects that feature real people telling their success stories.
- Get media coverage. Organize a tour for a local reporter or set up a press conference to tie your issue into a local event. You can also call in to radio talk shows and write letters to the editor of your local paper. Or call your newspaper's editorial page editor and set up a meeting to discuss the possibility of the paper's support for your issue. If you get an editorial or other press coverage, be sure to send the clippings to your Member's office.
- Elicit the support of potential allies who are influential with your Member - your city council, mayor, local business or religious leaders.
- Finally, be creative. How else can you build a relationship with your Member and increase public support for your issues?

Contacting Congress, the White House, and Federal Agencies

Congress · Capitol Switchboard · 202-224-3121

U.S. House of Representatives · www.house.gov

U.S. Senate · www.senate.gov

All Members of Congress can be reached by phone by calling the Capitol Switchboard and asking for that Member's office. To find the website of a Member of Congress, visit the homepage for either the House or Senate and use the drop-down menu to choose a specific Member.

To find your member of Congress, visit www.nlihc.org and enter your Zip Code in the 'Contact Congress' box.

White House · 202-456-1414 · www.whitehouse.gov

Department of Housing and Urban Development (HUD) · 202-708-1112 · www.hud.gov

Department of Housing and Urban Development-HUD USER · 202-708-1112 · www.huduser.org

Office of Management and Budget · 202-395-3080 · www.whitehouse.gov/OMB

Department of Agriculture, Rural Development · 202-720-3631 · www.rurdev.usda.gov

Department of Health and Human Services, Office of Community Services · 202-690-7000 · [www.acf.hhs.gov/
programs/ocs](http://www.acf.hhs.gov/programs/ocs)

Department of Justice · 202-514-2000 · www.usdoj.gov

Department of Transportation · 202-366-4000 · www.dot.gov

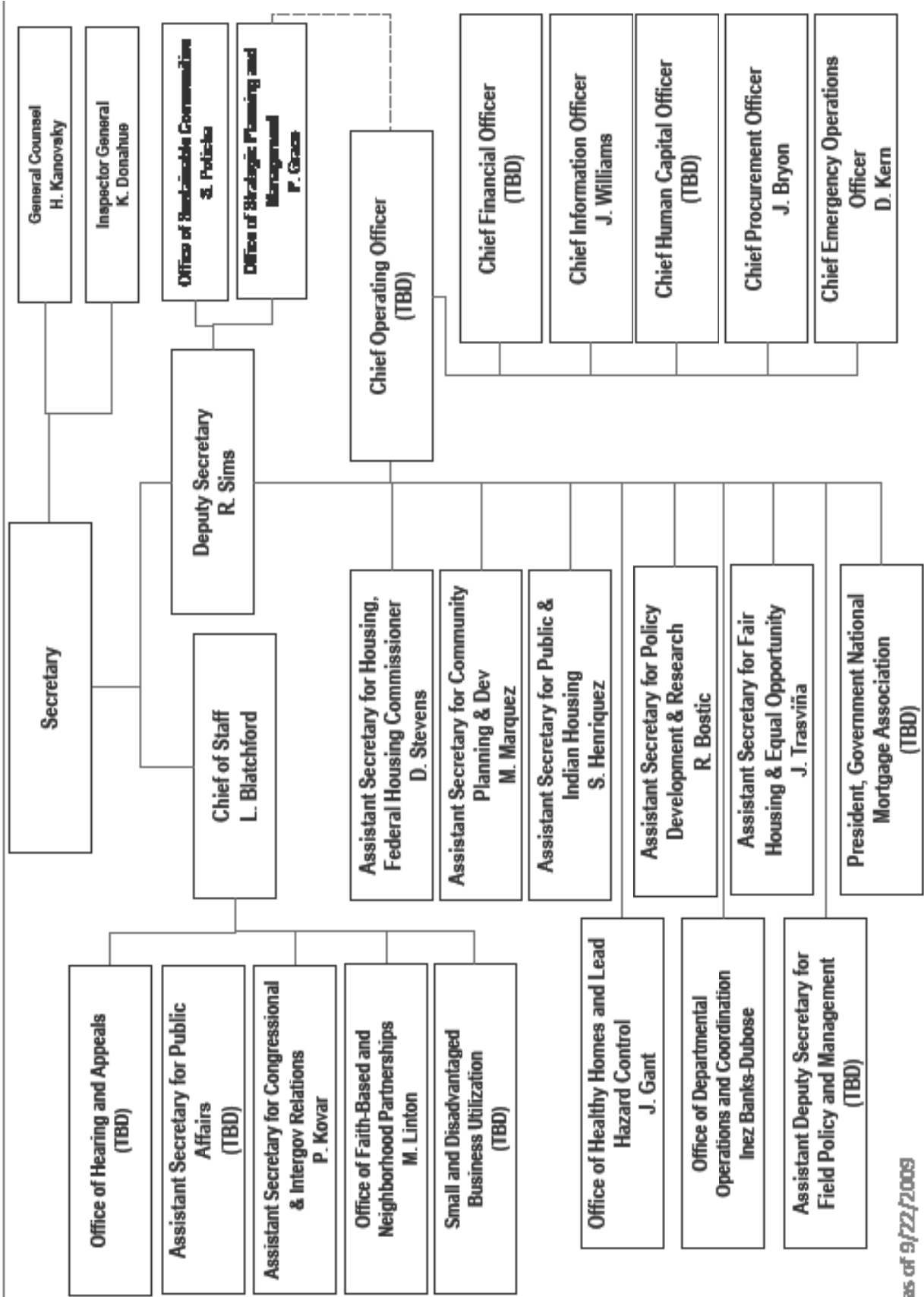
Department of Treasury, Community Development Financial Institutions Fund · 202-622-1100 · www.treas.gov/cdfi/

Environmental Protection Agency · 202-272-0167 · www.epa.gov

Federal Housing Finance Agency · 866-796-5595 · www.fhfa.gov

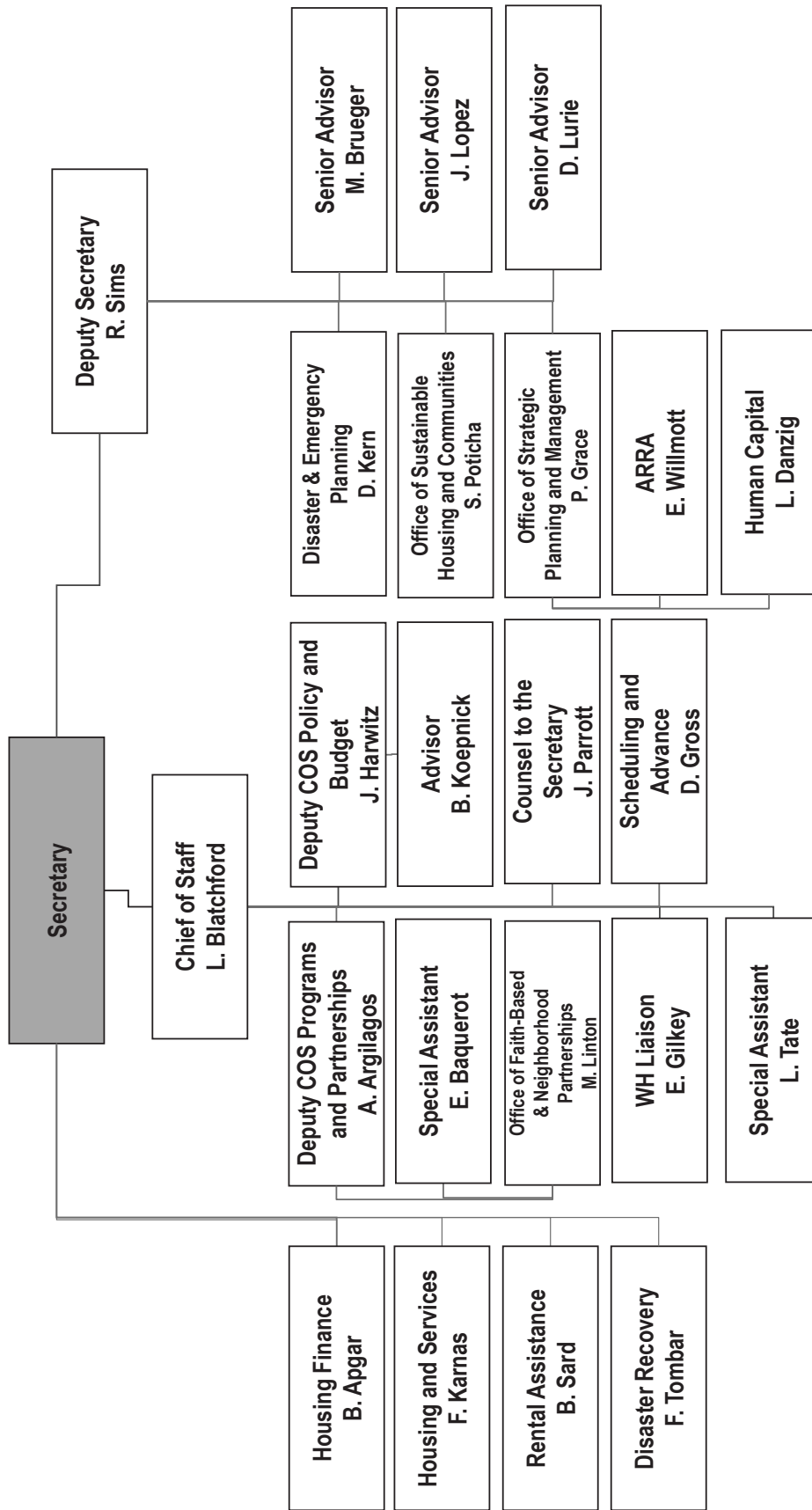
Small Business Administration · 202-205-6600 · www.sba.gov

HUD Organizational and Reporting Structure



as of 9/22/2009

Office of the Secretary Organizational Structure



as of 9/22/2009

White Houses Offices

The White House develops and implements policy through a variety of means. The Obama Administration has focused on housing and urban policy to a greater extent than the previous administration. These offices in the White House are responsible for policy development relating to housing and economic development issues.

Domestic Policy Council (DPC)

The DPC coordinates the domestic policy making process in the White House and offers advice to the President. The DPC also supervises the execution of domestic policy and represents the President's priorities to Congress. Melody Barnes is the President's Domestic Policy Adviser and the Director of the Domestic Policy Council.

For more information see: <http://www.whitehouse.gov/administration/eop/dpc>

National Economic Council (NEC)

NEC coordinates policy making for domestic and international economic issues, coordinates economic policy advice for the President, ensures that policy decisions and programs are consistent with the President's economic goals, and monitors implementation of the President's economic policy agenda. Lawrence H. Summers is the Director of the National Economic Council.

For more information see: <http://www.whitehouse.gov/administration/eop/nec>

Office of Faith-based and Neighborhood Partnerships (OFBNP)

OFBNP is part of the DPC and works to build bridges between the federal government and nonprofit organizations, both secular and faith-based, to better serve Americans in need. The Office advances this work through 11 Agency Centers across government and a Strategic Advisor at the Corporation for National and Community Service. Joshua DuBois is the executive director of the OFBNP.

For more information see: <http://www.whitehouse.gov/administration/eop/ofbnp>

Office of Public Engagement (OPE)

OPE, which is part of the Office of Public Engagement and Intergovernmental Affairs, creates and coordinates opportunities for direct dialogue between the Obama Administration and the American public, including acting as a point of coordination for public speaking engagement for the Administration and the various departments of the Executive Offices of the President. Christina M. Tchen is the director of the OPE.

For more information see: <http://www.whitehouse.gov/administration/eop/ope>

Office of National AIDS Policy (ONAP)

ONAP is part of the DPC and is tasked with coordinating the continuing efforts of the government to reduce the number of HIV infections across the United States. The Office emphasizes prevention through wide-ranging education initiatives and helps to coordinate the care and treatment of citizens with HIV/AIDS. Jeffrey Crowley is the Director of the Office of National AIDS Policy and Senior Advisor on Disability Policy at the White House.

For more information see: <http://www.whitehouse.gov/administration/eop/onap>

Office of Urban Affairs (OUA)

OUA, which is part of the Office of Public Engagement and Intergovernmental Affairs, provides leadership for and coordinates the development of the policy agenda for urban America across executive departments and agencies. Adolfo Carrión is the Director of the White House Office on Urban Affairs and Deputy Assistant to the President.

For more information see: <http://www.whitehouse.gov/administration/eop/oua>

Key Congressional Committees

For all committees, Members are listed in order of seniority. Subcommittee members are marked with an asterisk.

House of Representatives Committee on Financial Services The Committee on Financial Services oversees all components of the nation's housing and financial services sectors including banking, insurance, real estate, public and assisted housing, and securities. The committee reviews the laws and programs relating to HUD, the Federal Reserve Bank, the Federal Deposit Insurance Corporation, Fannie Mae and Freddie Mac, and international development and finance agencies such as the World Bank and the International Monetary Fund. The committee also ensures enforcement of housing and consumer protection laws such as the U.S. Housing Act, the Truth in Lending Act, the Housing and Community Development Act, the Fair Credit Reporting Act, the Real Estate Settlement Procedures Act, the Community Reinvestment Act, and financial privacy laws. <http://financialservices.house.gov/>

The Subcommittee on Housing and Community Opportunity focuses on public, affordable, and rural housing, community development, and flood insurance. The Subcommittee oversees HUD.

MAJORITY MEMBERS (DEMOCRATS)

Chairman Barney Frank (MA) [Chair]
Paul E. Kanjorski (PA)*
Maxine Waters (CA)* (Subcommittee Chair)
Carolyn B. Maloney (NY)
Luis V. Gutierrez (IL)*
Nydia M. Velázquez (NY)*
Melvin L. Watt (NC)
Gary L. Ackerman (NY)
Brad Sherman (CA)
Gregory W. Meeks (NY)
Dennis Moore (KS)
Michael E. Capuano (MA)*
Rubén Hinojosa (TX)
William Lacy Clay (MO)*
Carolyn McCarthy (NY)
Joe Baca (CA)
Stephen F. Lynch (MA)*
Brad Miller (NC)
David Scott (GA)
Al Green (TX)*
Emanuel Cleaver (MO)*
Melissa L. Bean (IL)
Gwen Moore (WI)
Paul W. Hodes (NH)
Keith Ellison (MN)*
Ron Klein (FL)
Charles Wilson (OH)
Ed Perlmutter (CO)
Joe Donnelly (IN)*
Bill Foster (IL)
Andre Carson (IN)
Jackie Speier (CA)
Travis Childers (MS)
Walt Minnick (ID)
John Adler (NJ)
Mary Jo Kilroy (OH)*
Steve Driehaus (OH)*
Suzanne Kosmas (FL)
Alan Grayson (FL)
Jim Himes (CT)*
Gary Peters (MI)
Dan Maffei (NY)*

MINORITY MEMBERS (REPUBLICANS)

Spencer Bachus (AL) [Ranking Member]
Michael N. Castle (DE)
Peter King (NY)
Edward R. Royce (CA)
Frank D. Lucas (OK)
Ron Paul (TX)
Donald A. Manzullo (IL)
Walter B. Jones (NC)*
Judy Biggert (IL)*
Gary G. Miller (CA)*
Shelley Moore Capito (WV)* (Subcommittee Ranking Member)
Jeb Hensarling (TX)
Scott Garrett (NJ)
J. Gresham Barrett (SC)
Jim Gerlach (PA)
Randy Neugebauer (TX)*
Tom Price (GA)
Patrick T. McHenry (NC)
John Campbell (CA)
Adam Putnam (FL)*
Michele Bachmann (MN)
Kenny Marchant (TX)*
Thaddeus McCotter (MI)*
Kevin McCarthy (CA)
Bill Posey (FL)
Lynn Jenkins (KS)*
Christopher Lee (NY)*
Eric Paulsen (MN)
Leonard Lance (NJ)

House of Representatives Committee on Appropriations

Members of the Appropriations Committee are responsible for determining the amount of funding made available to all authorized programs each year.

The Subcommittee on Transportation, Housing and Urban Development, and Related Agencies determines the amount of government revenues dedicated to HUD, among other agencies.

MAJORITY MEMBERS (DEMOCRATS)

David R. Obey (WI), [Chair]*
 John P. Murtha (PA)
 Norman D. Dicks (WA)
 Alan B. Mollohan (WV)
 Marcy Kaptur (OH)*
 Peter J. Visclosky (IN)
 Nita M. Lowey (NY)
 José E. Serrano (NY)
 Rosa L. DeLauro (CT)
 James P. Moran (VA)
 John W. Olver (MA)* (Subcommittee Chair)
 Ed Pastor (AZ)*
 David E. Price (NC)*
 Chet Edwards (TX)
 Patrick J. Kennedy (RI)
 Maurice D. Hinchey (NY)
 Lucille Roybal-Allard (CA)*
 Sam Farr (CA)
 Jesse L. Jackson, Jr. (IL)
 Carolyn C. Kilpatrick (MI)*
 Allen Boyd (FL)
 Chaka Fattah (PA)
 Steven R. Rothman (NJ)
 Sanford D. Bishop Jr. (GA)
 Marion Berry (AR)*
 Barbara Lee (CA)
 Adam Schiff (CA)
 Michael Honda (CA)
 Betty McCollum (MN)
 Steve Israel (NY)
 Tim Ryan (OH)
 C.A. Ruppersberger (MD)
 Ben Chandler (KY)
 Debbie Wasserman Schultz (FL)
 Ciro Rodriguez (TX)*
 Lincoln Davis (TN)
 John Salazar (CO)

MINORITY MEMBERS (REPUBLICANS)

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 C.W. Bill Young (FL)
 Harold Rogers (KY)
 Frank R. Wolf (VA)*
 Jack Kingston (GA)
 Rodney P. Frelinghuysen (NJ)
 Todd Tiahrt (KS)
 Zach Wamp (TN)
 Tom Latham (IA)* (Subcommittee Ranking Member)
 Robert B. Aderholt (AL)
 Jo Ann Emerson (MO)
 Kay Granger (TX)
 Michael K. Simpson (ID)
 John Abney Culberson (TX)
 Mark Steven Kirk (IL)
 Ander Crenshaw (FL)
 Dennis R. Rehberg (MN)
 John Carter (TX)*
 Rodney Alexander (LA)
 Ken Calvert (CA)
 Jo Bonner (AL)
 Steven LaTourette (OH)*
 Tom Cole (OK)

Key Congressional Committees

Senate Committee on Banking, Housing, and Urban Affairs

The Committee on Banking, Housing, and Urban Affairs oversees legislation, petitions, and other matters relating to the financial institutions, economic policy, housing, transportation, urban development, international trade and finance, securities, and investments.

The Subcommittee on Housing, Transportation, and Community Development is the primary oversight committee for the U.S. Department of Housing and Urban Development (HUD). The subcommittee oversees urban mass transit systems and general urban affairs and development issues, HUD community development programs, the Federal Housing Administration, the Rural Housing Service, and Fannie Mae and Freddie Mac. The subcommittee also oversees all issues related to public and private housing, senior housing, nursing home construction, and Indian housing issues.

MAJORITY MEMBERS (DEMOCRATS)

Christopher J. Dodd (CT), [Chair]
Tim Johnson (SD)*
Jack Reed (RI)*
Charles E. Schumer (NY)*
Evan Bayh (IN)
Robert Menendez (NJ)* (Subcommittee Chair)
Daniel K. Akaka (HI)*
Sherrod Brown (OH)*
Jon Tester (MT)*
Herb Kohl (WI)*
Mark Warner (VA)*
Jeff Merkley (OR)*
Michael Bennet (CO)

MINORITY MEMBERS (REPUBLICANS)

Richard C. Shelby (AL), [Ranking Member]
Robert F. Bennett (UT)
Jim Bunning (KY)
Mike Crapo (ID)*
Bob Corker (TN)*
Jim DeMint (SC)*
David Vitter (LA)* (Subcommittee Ranking Member)
Mike Johanns (NE)*
Kay Bailey Hutchison (TX)*
Judd Gregg (NH)*

Senate Committee on Appropriations

Members of the Appropriations Committee are responsible for determining the amount of funding made available to all authorized programs each year.

The Subcommittee on Transportation, Housing and Urban Development, and Related Agencies has jurisdiction funding for the departments of Housing and Urban Development and Transportation. It also oversees funding for the Federal Housing Administration and economic and community development programs, such as the Community Development Block Grant program.

MAJORITY MEMBERS (DEMOCRATS)

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Robert C. Byrd (WV)*
Patrick J. Leahy (VT)*
Tom Harkin (IA)*
Barbara A. Mikulski (MD)*
Herb Kohl (WI)*
Patty Murray (WA)* (Subcommittee Chair)
Byron Dorgan (ND)*
Dianne Feinstein (CA)*
Richard J. Durbin (IL)*
Tim Johnson (SD)*
Mary L. Landrieu (LA)
Jack Reed (RI)
Frank R. Lautenberg (NJ)*
Ben Nelson (NE)
Mark Pryor (AK)
Jon Tester (MT)
Arlen Specter (PA)*

MINORITY MEMBERS (REPUBLICANS)

Thad Cochran (MS), [Ranking Member]
Christopher S. Bond (MO)* (Subcommittee Ranking Member)
Mitch McConnell (KY)
Richard C. Shelby (AL)*
Judd Gregg (NH)
Robert F. Bennett (UT)*
Kay Bailey Hutchison (TX)*
Sam Brownback (KS)*
Lamar Alexander (TN)*
Susan Collins (ME)*
George Voinovich (OH)*
Lisa Murkowski (AK)

List of Abbreviated Statutory References

Section 3, Housing and Urban Development Act of 1968, 12 U.S.C. 1701u, economic opportunities for low and very low income persons.

Section 5, United States Housing Act of 1937, 42 U.S.C. 1437c, funding for public housing and Section 8 housing.

Section 8, United States Housing Act of 1937, 42 U.S.C. 1437f, low income rental housing assistance.

Section 18, United States Housing Act of 1937, 42 U.S.C. 1437p, demolition and disposition of public housing.

Section 42, Internal Revenue Code of 1986, 26 U.S.C. 42, low income housing tax credit.

Section 108, Housing and Community Development Act of 1974, 42 U.S.C. 5308, loan guarantees.

Section 202, Housing Act of 1959, 12 U.S.C. 1701q, elderly and handicapped housing.

Section 203, National Housing Act, 12 U.S.C. 1709, single-family mortgage insurance.

Section 203k, National Housing Act, 12 U.S.C. 1709(k), single-family mortgage insurance for rehabilitation.

Section 207, National Housing Act, 12 U.S.C. 1713, multifamily mortgage insurance.

Section 221, National Housing Act, 12 U.S.C. 1715, multifamily mortgage insurance.

Section 221(d)(3), National Housing Act, 12 U.S.C. 1715(d)(3), below market interest rate (BMIR) rental housing mortgage insurance.

Section 221(d)(4), National Housing Act, 12 U.S.C. 1715(d)(4), mortgage insurance refinancing.

Section 221(g)(4), National Housing Act, 12 U.S.C. 1715(g)(4), assignment of mortgages to HUD.

Section 223(a)(7), National Housing Act, 12 U.S.C. 1715n(a)(7), insurance for refinancing.

Section 223(d), National Housing Act, 12 U.S.C. 1715n(d), insurance for multifamily operating loss loans.

Section 223(f), National Housing Act, 12 U.S.C. 1715n(f), mortgage insurance for multifamily refinancing.

Section 231, National Housing Act, 12 U.S.C. 1715v, mortgage insurance for elderly and handicapped rental housing.

Section 235, National Housing Act, 12 U.S.C. 1715z, home mortgage interest reduction payments.

Section 236, National Housing Act, 12 U.S.C. 1715z-1, rental and cooperative housing interest reduction payments.

Section 241, National Housing Act, 12 U.S.C. 1715z-6, multifamily supplemental loans.

Section 502, Housing Act of 1949, 42 U.S.C. 1472, rural direct and guaranteed single-family housing loans.

Section 504, Housing Act of 1949, 42 U.S.C. 1474, rural very low income home repair loans and grants.

Section 514, Housing Act of 1949, 42 U.S.C. 1484, farm labor housing loans.

Section 515, Housing Act of 1949, 42 U.S.C. 1485, rural rental and cooperative housing.

Section 516, Housing Act of 1949, 42 U.S.C. 1486, farm labor housing grants.

Section 521, Housing Act of 1949, 42 U.S.C. 1490a, rural rental assistance.

Section 533, Housing Act of 1949, 42 U.S.C. 1490m, rural housing preservation grants.

Section 538, Housing Act of 1949, 42 U.S.C. 1490p-2, guaranteed rural rental housing loans.

Section 811, Cranston-Gonzalez National Affordable Housing Act, 42 U.S.C. 8013, supportive housing for persons with disabilities.

Selected List of Major Housing and Housing-Related Laws

AIDS Housing Opportunity Act (Housing Opportunities for Persons with AIDS or HOPWA), title VIII, subtitle D of the Cranston-Gonzalez National Affordable Housing Act, P.L. 101-625, 104 Stat. 4079.

American Recovery and Reinvestment Act of 2009, P.L. 111-5, 123 Stat. 115.

Civil Rights Act of 1964, P.L. 88-352, 78 Stat. 241.

Fair Housing Act, title VII, Civil Rights Act of 1968, P.L. 90-284, 82 Stat. 81.

Cranston-Gonzalez National Affordable Housing Act, P.L. 101-625, 104 Stat. 4079.

Department of Housing and Urban Development Act, P.L. 89-17, 79 Stat. 667.

HOME Investment Partnerships Act, title II, Cranston-Gonzalez National Affordable Housing Act, P.L. 101-625, 104 Stat. 4079.

Home Mortgage Disclosure Act, P. L. 94-200, 89 Stat. 1125.

Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH), Division B, Helping Families Save Their Homes Act of 2009, P.L. 111-222, 123 Stat. 1633.

Housing and Economic Recovery Act of 2008, P.L. 110-289, 122 Stat. 2654.

Housing and Community Development Act of 1974, P.L. 93-383, 88 Stat. 633.

Housing and Community Development Act of 1987, P.L. 100-242, 101 Stat. 1815.

Housing and Community Development Act of 1992, P.L. 102-550, 106 Stat. 3672.

Housing and Urban Development Act of 1965, P.L. 89-117, 79 Stat. 451.

Housing and Urban Development Act of 1968, P.L. 90-448, 82 Stat. 476.

Housing and Urban Development Reform Act of 1989, P.L. 101-235, 103 Stat. 1987.

Housing and Urban-Rural Recovery Act of 1983, P.L. 98-181, 97 Stat. 1153.

Housing Act of 1959, P.L. 86-372, 73 Stat. 654.

Multifamily Housing Property Disposition Reform Act of 1994, P.L. 103-233, 108 Stat. 342.

National Housing Act, P.L. 73-479, 48 Stat. 1246.

Protecting Tenants At Foreclosure Act, Division A, title VII, Helping Families Save Their Homes Act of 2009, P.L. 111-22, 123 Stat. 1633.

Stafford Disaster Relief and Emergency Assistance Act, P.L. 100-707.

Quality Housing and Work Responsibility Act of 1998, P.L. 105-276, 112 Stat. 2461.

Supportive Housing for Persons with Disabilities, Section 811, Cranston-Gonzalez National Affordable Housing Act, P.L. 101-625, 104 Stat. 4079.

Stewart B. McKinney Homeless Assistance Act, P.L. 100-77, 101 Stat. 482.

United States Housing Act of 1937, P.L. 75-412, 50 Stat. 888.

Housing Act of 1949, P.L. 81-171, 63 Stat. 413.

How Laws Are Made

The House and Senate processes are replete with rules and procedures to hasten, thwart and kill legislative proposals. The political power and will of those seeking to use these tools can prove critical to their success. The role of congressional staff cannot be overstated. Members of Congress have personal staff in their individual offices. Committee and subcommittee leadership (in both the majority and the minority) have separate committee staff. Both personal and committee staff have significant input in the legislative process.

Laws may be initiated in either chamber of the Congress, the House of Representatives or the Senate. This description, found on the web site of the Government Printing Office (GPO), tracks a bill introduced in the House of Representatives:

1. When a Representative has an idea for a new law, he or she becomes the sponsor of that bill and introduces it by giving it to the clerk of the House of Representatives or by placing it in a box, called the hopper. The clerk assigns a legislative number to the bill, with H.R. for bills introduced in the House of Representatives and S. for bills introduced in the Senate. GPO then prints the bill and distributes copies to each representative.
2. Next, the bill is assigned to a committee by the Speaker of the House so that it can be studied. The House has standing committees, each with jurisdiction over bills in certain areas. The standing committee (or often a subcommittee) studies the bill and hears testimony from experts and people interested in the bill. The committee then may release the bill with a recommendation to pass it, or revise the bill and release it, or lay it aside so that the House cannot vote on it. Releasing the bill is called reporting it out, while laying it aside is called tabling.
3. If the bill is released, it then goes on a calendar (a list of bills awaiting action). Here the House Rules Committee may call for the bill to be voted on quickly, limit the debate, or limit or prohibit amendments. Undisputed bills may be passed by unanimous consent or by a two-thirds majority vote if members agree to suspend the rules.
4. The bill then goes to the floor of the House for consideration and begins with a complete reading of the bill (sometimes this is the only complete reading). A third reading (title only) occurs after any amendments have been added. If the bill passes by simple majority (218 of 435), the bill moves to the Senate.
5. In order to be introduced in the Senate, a Senator must be recognized by the presiding officer and announce the introduction of the bill. Sometimes, when a bill has passed in one chamber, it becomes known as an Act; however, this term usually means a bill that has been passed by both chambers and becomes law.
6. Just as in the House, the bill is then assigned to a committee in the Senate. It is assigned to one of the Senate's standing committees by the presiding officer. The Senate committee studies and either releases or tables the bill just like the House standing committee.
7. Once released, the bill goes to the Senate floor for consideration. Bills are voted on in the Senate based on the order in which they come from the committee; however, an urgent bill may be pushed ahead by leaders of the majority party. When the Senate considers the bill, it can be debated indefinitely. When there is no more debate, there is a vote on the bill. In many cases, a simple majority (51 of 100) passes the bill.
8. The bill now moves into a conference committee, which is made up of members from each chamber of the Congress. The conference committee works out any differences between the House and Senate versions of the bill. The revised bill is sent back to both chambers for their final approval. Once approved, the bill is printed by the GPO in a process called enrolling. The clerk from the introducing chamber certifies the final version.
9. The enrolled bill is now signed by the speaker of the House and then the vice president. Finally, it is sent for presidential consideration. The president has 10 days to sign or veto the enrolled bill. If the president vetoes the bill, it can still become a law if two-thirds of the Senate and two-thirds of the House then vote in favor of the bill and override the veto.

For More Information

How a Senate bill becomes the law, from the U.S. Senate: www.senate.gov/reference/resources/pdf/legprocessflowchart.pdf

The Legislative Process from about.com: <http://usgovinfo.about.com/library/weekly/aa010899.htm>

Forms of Legislative Action from the U.S. House of Representatives: www.house.gov/house/Tying_it_all.shtml

Introduction to the Federal Regulatory Process

Once Congress changes an existing law or creates a new one, federal agencies such as HUD must add, delete or modify the text of existing rules by publishing “proposed” regulations for public comment. Advocates and residents can take advantage of the regulatory comment process by using their knowledge and experience to shape how laws are carried out. After final regulations are put into effect, residents and advocates can use them to ensure that local officials abide by the law as directed through regulations.

When Congress changes an existing law or creates a new one, federal agencies such as HUD must add, delete or amend the text of regulations. Laws spell out the general intent of Congress but often cannot include all of the technical details important to achieving Congress’ wishes; regulations add those details and present the law’s requirements in language that is easier to understand.

Two publications are keys to the federal regulatory process. The *Federal Register* is a daily publication that contains proposed regulations, final rules, official notices, presidential documents and other items. All final regulations published in the daily *Federal Register* are eventually gathered together, or “codified,” in the Code of Federal Regulations (CFR). The HUD-related rules in the CFR are updated each April. The federal government uses the words regulation and rule interchangeably.

Summary of the Federal Regulatory Process

After Congress amends a law or passes a new law, the responsible federal agency (HUD, for example) must carry out those changes. To do that, the agency writes proposed rules that are published in the *Federal Register* for public comment. After considering all comments, the agency publishes final regulations and sets a date in the near future for them to go into effect. (The Office of Management and Budget [OMB] reviews both proposed and final rules before they are placed in the *Federal Register*.) Between the date final rules are published and the date they go into effect, the regulations are reviewed by the congressional subcommittee with authority over the issue covered by the rules in order to ensure that they meet but do not overstep congressional intent.

Proposed Regulations. In order to implement laws, Congress has given federal agencies such as HUD the power to write rules and enforce them. When housing law is created or modified, HUD must draft suggested regulations that specify how the law is to be carried out. These are proposed regulations. Sometimes the law that triggered the need for rules will give HUD a deadline for issuing a proposed rule.

Prior to publishing proposed regulations, HUD must send them to OMB (a part of the Executive Office of the President) which has up to 90 days to check whether the proposed rules are consistent with Executive Order 12866 (see the last section of this appendix for more). If OMB judges the proposed regulations to be inconsistent, they are sent back to HUD for further consideration; however, HUD technically has authority from Congress to issue the rules.

Once cleared by OMB, HUD must publish a “notice of proposed rule making” (NPRM) in the *Federal Register* that contains the proposed language of the regulations with references to the changes in law that triggered the need for new or amended rules. The public must have an opportunity to submit written comments and is generally given a 60-day period to comment.

The public can read and copy comments made by others at HUD Headquarters, or at www.regulations.gov.

Final Regulations. HUD must consider all public comments and can make changes based on them to then issue final rules. (Before publishing the final rules in the *Federal Register*, HUD must again submit them to OMB for review, which can take up to another 90 days.)

HUD must publish the final rules in the *Federal Register*. In the preamble to the final regulations, HUD must present all meaningful comments received and explain why each was accepted or rejected. In addition to the actual text of the changed or new regulations, the final rules must state a date when they will go into effect, generally 30 or 60 days in the future.

But, before the final regulations do go into effect, they are sent to the congressional subcommittee responsible for the subject matter, as well as to the Government Accountability Office (GAO), to ensure that the rules meet, but do not overstep, congressional intent. It is not unusual for more than a year to pass between publication of proposed rules and issuance of final rules.

Other Regulatory Options. In addition to proposed and final rules, the regulatory process can occasionally include:

- Advanced Notice of Proposed Rulemaking (ANPR): HUD can ask for information from the public to help it think about issues before developing proposed regulations.
- Interim Final Rules: HUD can issue regulations that are to be followed as if they are final, yet ask for continued public comment on some parts of the rules. Subsequent final rules can include changes based on any additional public comment.
- Direct Final Rules: HUD can issue regulations thought to be minor and non-controversial, but must withdraw them if negative comments are submitted.

Negotiated Rulemaking, a seldom-used approach, engages knowledgeable people to discuss an issue and negotiate the language of proposed regulations. For example, the FY04 Appropriations Act required HUD to use negotiated rulemaking to make changes to the Public Housing Authority (PHA) operating fund formula. In response, HUD convened a 28-member committee representing PHAs, tenant organizations and tenant advocacy groups.

Petition for Rulemaking allows anyone to submit suggested regulations, along with supporting data and arguments in support of the suggestions. If HUD agrees, it will publish proposed rules; if HUD denies the petition, it must be in writing and include the basis for denial. Seasoned advocates are not aware of the successful use of this approach by low income advocates.

HUD has the authority to gather information from people by using informal hearings or other forms of oral presentations. The transcript or minutes of such meetings will be on file in the Rules Docket. (Advocates are not aware of informal hearings; however, HUD has used informal meetings of interested parties to help inform HUD prior to the development of proposed regulations. For instance, before the Consolidated Plan regulations were drafted, HUD held numerous meetings with a wide array of stakeholders.)

Existing regulations not specifically required by law can be waived by the HUD Secretary. In the past some advocates have succeeded in convincing HUD to waive harmful rules.

How to Find Proposed and Final Regulations in the Federal Register. The advanced search page of the *Federal Register* at www.gpoaccess.gov/fr/advanced.html allows for searches of proposed and final rules by typing available information such as “page 12345,” or “24 CFR part 92,” or “housing and urban development AND HOME program.”

To learn whether today’s *Federal Register* contains any proposed or final rules, go to www.gpo.gov/su_docs/aces/fr-cont.html and scroll down to “Housing and Urban Development Department.”

The web page www.regulations.gov provides all rules open for comment and enables electronic submission of comments.

How to Read the Federal Register. There are standard features in the *Federal Register* for both proposed and final rules. The opening heading will look like this (with different numbers and topics):

Department of Housing and Urban Development
24 CFR Part 990
[Docket No. FR-4874-F-08]
RIN 2577-AC51
Revisions to the Public Housing Operating Fund Program
AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD
ACTION: Final rule

Below the heading there will be:

Introduction to the Federal Regulatory Process

SUMMARY: This is a short presentation of what is proposed or implemented and what the related issues and rulemaking objectives are.

DATES: Here is either: “Comment due date,” the date by which comments to proposed rules are due; or “Effective Date,” the date final rules will go into effect.

ADDRESSES: For proposed regulations only, this section provides the room number and street address for sending written comments. More and more it also provides a web address when electronic commenting is possible.

FOR FURTHER INFORMATION CONTACT: The name of a major HUD staff person responsible for the issue is presented, along with a phone number and office address.

SUPPLEMENTARY INFORMATION: This section is often called the “preamble” and can go on for many pages. It contains a detailed discussion of the issues and the rule making objectives. The law or sections of a law that give legal authority for the regulations are generally mentioned. With final rules, there must also be a discussion of all of the significant public comments submitted, along with HUD’s reasons for accepting or rejecting them.

List of Subjects in nn CFR Part nnn: The actual changes begin at this heading. Key words are presented here.

Then there is a sentence that says: “Accordingly, for the reasons described in the preamble, HUD revises [or proposes to revise] nn CFR Part nnn to read as follows:”

The sections of the regulations subject to change then follow in numerical order.

At the very end the document is dated and signed by the appropriate HUD official.

Sending Comments about Proposed Regulations. To send comments, follow the guidance provided in the addresses section. For example, regarding proposed changes to the Consolidated Plan rules one would have addressed comments to:

Regulations Division, Office of General Counsel
Room 10276, Department of Housing and Urban Development
451 Seventh Street, SW Washington, DC 20410-0500

RE: Docket No. FR-4923-P-01; HUD 2004-0028
Revisions and Updates To Consolidated Plan

It is very important to indicate the docket number, and it is helpful to include the subject title as it appeared in the heading of the proposed rule.

Beyond that there is no set format for writing comments. It is best to indicate which of the proposed rules are of concern by citing them and commenting on them individually. For example:

ABC Tenant Organization thinks that there are problems with proposed section 91.315(k)(3) because...
We strongly endorse proposed section 91.205(b)(1) because...

Advocates should rely on their experiences to explicitly state why they agree or disagree. When there is disagreement, suggest words that address the concern. Don’t just write about the problems; be sure to tell HUD what is good. Declaring support for key provisions is often essential to counterbalance negative comments from those in opposition.

The Code of Federal Regulations (CFR). All final rules published in the daily *Federal Register* are eventually codified by placing them in the *Code of Federal Regulations*. The CFR is updated each April for HUD-related rules. To look up a rule that has not changed in the past year, turn to the CFR.

There are 50 titles in the CFR, each representing a broad topical area. The HUD-related regulations are in Title 24. Each title is divided into parts that cover specific program areas. For example, within Title 24, Part 92 covers the HOME program rules, Part 582 has the Shelter Plus Care regulations, and Part 903 lays out the Public Housing Agency Plan (PHA Plan) rules.

There are four ways to look up regulations in the CFR.

The traditional approach to finding rules in the CFR is to go to www.gpoaccess.gov/cfr/index.html. To find a regulation either type in the title and part number (if known) or click on the link “Browse and/or search the CFR.” From that browse/search feature, scroll down to Title 24 and click on the most recent year. That will bring up Title 24 and all of its parts. This is not adequate if the part number is not known because not all parts are listed logically. For example, although the HOME program (Part 92) is run by the Office of Community Planning and Development, Part 92 is not in the CPD section. However, by entering HOME Program in the Search Terms box, Part 92 is the second option listed. For a list of key parts, see the last section of this appendix.

A second option for looking up housing rules is to find a link on the web page of the HUD program area of interest. Many, but not all, HUD programs make it easy. However, sometimes the most recent version is not linked.

There are now two relatively new ways to find regulations. One new approach is the test site for the “e-CFR” at www.gpoaccess.gov/databases.html. Click on Electronic Code of Federal Regulations (e-CFR), which brings up the e-CFR home page. On the e-CFR home page, select Title 24 from the dropdown box and a list of HUD-related parts will appear. The e-CFR is updated frequently, so it should contain changes made by final rules in the *Federal Register* before those changes are placed in the formal *Code of Federal Regulations* in April. The Office of the Federal Register stresses that the rules available there are not an official legal edition of the CFR.

The other relatively new way to find rules is to use www.regulations.gov. The Regulations by Topic link offers the topic Family, Home, and Community, which links to Title 24 in the CFR.

Talking About Regulations. Two levels of regulatory citation have already been mentioned, the title and the part. Below that come the section that covers one provision of a program rule, and then a paragraph that provides specific requirements.

For example, the PHA Plan regulations are in Title 24 at Part 903, written as 24 CFR 903. Resident Advisory Boards (RABs) and their role in developing the annual PHA Plan are presented in Section 13, cited as 24 CFR 903.13. Paragraph (c) specifies that PHAs must consider the recommendations made by the Resident Advisory Board, and subparagraph (c)(1) goes into more detail by requiring PHAs to include a copy of the RAB’s recommendations with the PHA Plan. This is written as 24 CFR 903.13(c)(1).

The Principles in Executive Order 12866

The principles that OMB uses to review proposed and final rules include:

- Identify and assess available alternatives to direct regulation.
- Design regulations in the most cost-effective manner to achieve the regulatory objective.
- Assess both the costs and benefits of the intended regulation, and propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs.
- Base decisions on the best reasonably obtainable scientific, technical, economic and other information.
- Identify and assess alternative forms of regulation.
- Tailor regulations to impose the least burden on society.

For More Information

National Low Income Housing Coalition · 202-662-1530 · www.nlihc.org

National Archives and Records Administration (NARA) has a good online tutorial at www.archives.gov/federal-register/tutorial/index.html.

Office of the Federal Register · 202-741-6000 · www.archives.gov/federal-register

Regulations.gov · 877-378-5457 · www.regulations.gov

e-CFR · ecfr@nara.gov · www.gpoaccess.gov/databases.html

Freedom of Information Act (FOIA)

Anyone has the right to request federal agency records or information under the Freedom of Information Act (FOIA), and federal agencies must provide the information when requested in writing.

In order to use FOIA, advocates do not have to have legal training or use special forms. All that is necessary is a simple letter. This appendix provides some tips for submitting a FOIA request.

Program Summary

FOIA applies to federal agencies such as HUD and USDA's Rural Development (RD), but not to the central office of the White House, the Congress or the courts. Each federal agency has its own separate practices and regulations indicating how the FOIA process works within it.

- HUD's FOIA webpage is <http://www.hud.gov/offices/adm/foia/index.cfm>.
- USDA's FOIA webpage is <http://www.usda.gov/da/foia.htm>.
- RD's FOIA webpage is <http://www.rurdev.usda.gov/efoia/index.html>.

The federal agency with primary responsibility for FOIA is the U.S. Department of Justice. Its web site (www.usdoj.gov/foia) has all of the basic information and links to all of the other agencies' FOIA websites.

Records include not only print documents (such as letters, reports and papers) but photos, videos, sound recordings, maps, email and electronic records. Agencies are not required to research or analyze data for a requester. Agencies are not required to create a record or document in response to your request; they are only obligated to look for and provide existing records. Amendments to the law in 1996 do, however, require agencies to make reasonable efforts to search for records in electronic form and defines "search" to mean to review, including by automated means, agency records (e.g., performing relatively simple computer searches).

A FOIA Might Not Be Necessary. Before considering a FOIA request, it is best to carefully explore the HUD or RD websites and be fairly confident that the information you are looking for is not already available online.

HUD's website is difficult to navigate if you don't already have a link to a specific program area. One way to get started is to go to the HUD home page and click on "About HUD." On that page, in a box titled "HUD Offices," the key "Program Offices" are linked (<http://www.hud.gov/about/index.cfm>).

The RD home page, <http://www.rurdev.usda.gov/rd/index.html>, can also be confusing. From it you can get to the RD programs pages at <http://www.rurdev.usda.gov/rhs/>.

HUD's FOIA webpage also has links to its "E-FOIA Reading Room" <http://www.hud.gov/offices/adm/foia/foiareadingroom.cfm>, and from there to its "Online Library" <http://www.hud.gov/library/index.cfm> and to "Frequently Requested Materials" <http://www.hud.gov/offices/adm/foia/frequentlyrequestedmaterials.cfm>.

Start With an Informal Verbal Request. The information that you seek might be readily available from agency staff in the field, regional, or headquarters offices. It is often quicker and easier to start with an informal approach. Simply phone the agency office and ask for information or send an email using informal language; agency staff are frequently willing to provide information. Formal, written requests generally trigger a slower, more formal, process.

HUD local offices can be found at <http://www.hud.gov/local>.

RD State Offices, Area Offices and Local Offices can be located at http://www.rurdev.usda.gov/recd_map.html. USDA Service Centers (which might have an RD Area Office) can be found at <http://offices.sc.egov.usda.gov/locator/app>.

How To Make a FOIA Request

Decide to whom to send your letter.

- Letters to HUD should be addressed to HUD Field Offices, the "HUD FOIA Liaison." <http://www.hud.gov/>

[offices/adm/foia/foiarequestorservicecentercontacts.doc](http://www.hud.gov/offices/adm/foia/foiarequestorservicecentercontacts.doc). If you are not happy with the response from a FOIA Requester Service Center, you can write the Regional FOIA Public Liaison, <http://www.hud.gov/offices/adm/foia/foiaservicecenters.cfm>.

For requests to HUD Headquarters, specific program area “FOIA Liaisons” are at <http://www.hud.gov/offices/adm/foia/HeadquartersFOIALiaison.doc>. If you are not happy with the response from the Headquarters program FOIA Liaison, write to the HUD Headquarters “FOIA Public Liaison,” <http://www.hud.gov/offices/adm/foia/foiaservicecenters.cfm>.

If you are not sure to which program office to send a FOIA request, you can either write to the “Chief FOIA Officer” in the Office of General Council or submit an electronic FOIA request at <http://www.hud.gov/offices/adm/foia/foia.cfm>.

Rural Development. For records held at the local level, write to the Rural Development FOIA Coordinator in that state, <http://www.rurdev.usda.gov/efoia/requests.htm#goto>. For records held at Headquarters or the Finance Office in St. Louis, write to the Rural Development FOIA Officer in Washington, D.C., <http://www.rurdev.usda.gov/efoia/requests.htm>. If you are not sure where the information is located, send the FOIA request to the Rural Development FOIA Officer in Washington, D.C.

Contents of a FOIA Letter. The FOIA letter can be very simple and short. Just write a simple letter asking for information, being as specific as possible. You don’t have to have a legal background to write one. You don’t have to explain why you are making the request; however, in order to get fees waived, you essentially do have to explain why (see the third step below).

First, state that you are making a request under the Freedom of Information Act.

Second, describe what you are looking for in as much detail as possible.

- It helps to include the title of a document or the number of a form, but it isn’t necessary.
- Give specifics about dates, locations, types of beneficiaries, etc. in order to narrow the search for information to only what you need.
- Try to follow the instructions given by the agency on its website and/or in its regulations. (This just helps to minimize delays and misunderstanding. Go ahead and write a FOIA letter even if you can’t find the agency’s instructions on its website of if you are not comfortable reading regulations.)

Third, request a waiver of any fees by writing: “I request a waiver of all fees because disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of HUD [or RD], and because as a nonprofit organization we have no commercial interest in the information.” (*This language comes from a Congressional sample letter and echoes the law.*)

Be sure to explain your organization’s mission and its nonprofit nature in order to demonstrate that you don’t have a commercial interest in the information. Explain how this information will:

- Be of interest to more than a small number of people and how your organization can distribute the information to many people.
- Lead to a level of public understanding of a HUD or RD activity that is greater than currently exists.

Other elements to consider including in a FOIA letter are:

- A telephone number so that a FOIA Liaison can call for clarification about your request.
- Whether you prefer the information in paper or electronic formats. (The law requires agencies to provide information in the form requested if the agency can readily reproduce it in the requested format.)
- A sentence asking for a detailed justification if any information is denied.
- A sentence reminding the FOIA Liaison that the law requires the agency to write back within 20 days indicating whether the request will be processed.

Sending a FOIA Letter. Beyond the mail, HUD has its own online submission option for general requests to Headquarters, <http://www.hud.gov/offices/adm/foia/foia.cfm>, and the list of “FOIA Requester Service Centers”

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includes fax numbers. It is a good idea to call the office you intend to send the request to and ask what methods are preferred. RD's FOIA web page states that requests may be sent by mail or fax, but email is not acceptable because a signature is necessary.

Fees and Fee Waivers. Low income housing advocates should always attempt to get fees waived. The law says: *Documents shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if the disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.* [5 USC Section 522(a)(4)(A)(iii)]

Current HUD regulations mostly echo the law; however, instead of saying "shall" furnish without charge, the regs say HUD "may." USDA and RD regulations do not directly address waivers; waivers are discussed in Appendix A of the USDA regs. Appendix A primarily repeats the Department of Justice's ambiguous 1987 guidance (see below), but also adds two potentially beneficial points:

- RD may waive fees for nonprofits undertaking public safety, health or welfare activities.
- RD may waive fees for nonprofits when it is in the interest of the program.

USDA's web-based "FOIA Reference Guide" simply parrots the law, but RD's FOIA "Instruction 2018 - F" addresses waivers, repeating the provisions of Appendix A of the USDA regs.

Sometimes an agency will ask for more information before granting a waiver.

For any non-commercial requests, agencies will not charge for the first two hours of searching for the information or for the first 100 pages of copying. Each agency is allowed to set fees that are "reasonable standard charges" for the direct cost of searching and copying. In most instances, fees are based on the salaries and benefits of the staff involved in responding to the FOIA request. The fees are presented in each agency's regulations. HUD's are at Section 110(c), and USDA's are in Appendix A of the regulations.

If you don't think you qualify for a fee waiver or reduced fees, or if you have been denied a waiver or reduction and still want to proceed with a FOIA request, you might want to set limits in your FOIA letter. For example, you might ask HUD or RD to contact you if estimated search and copying fees exceed a dollar amount that you won't go beyond. HUD and RD will not charge for fees under \$25. Agencies can't require an advance payment unless fees are estimated to be greater than \$250.

You can appeal a denial of a fee waiver. HUD's regs require an appeal of a denial of a fee waiver to include: the address of the office which denied the waiver, the fee charged, why you think fees should be waived and copies of any correspondence regarding fees. HUD must respond in 20 working days. USDA's regs and "FOIA Reference Guide" state that you can appeal a fee waiver denial and requires appeals to be made within 45 days following the regular appeal instructions (as mentioned in Appeals, below).

The Department of Justice (DOJ) issued government-wide fee waiver policy guidelines on April 2, 1987. HUD's regulations, USDA's regulations (in Appendix A), and RD's "Instruction 2018 - F," all echo the DOJ guidance. The DOJ guidelines "encourage agencies to waive fees...whenever the statutory fee waiver standard is met." However, DOJ admits that these guidelines establish a more rigorous standard for meeting "the public interest." For nonprofits the guidance contains four basic factors (directly from words in the statute) presented in rather ambiguous language.

1. Does the subject of the request concern the "operations or activities of the government? DOJ admits that in most cases records held by a federal agency will likely meet this threshold.
2. What is the "informative value" of the information? Is it "likely to contribute to an understanding of government operations or activities?" What "potential does it hold for contributing to the public understanding of government operations or activities?"
3. Will it contribute to "public understanding" as opposed to an individual's understanding or that of a "narrow segment of interested persons?" DOJ says the identity of the requester should be considered to determine whether the requester is in a position to contribute to public understanding. What is the requester's qualifications or

expertise, and is the requester intending to and able to get the information to the general public?

4. Is the information likely to contribute “significantly” to public understanding? DOJ says that assessing “significance” is an objective determination, not a subjective one.

Timeline. HUD and RD must grant or deny your FOIA request within 20 working days of receiving it. This response is simply to tell you whether the agency intends to provide the information. There is no time limit on actually providing the information, however, USDA’s regulations require RD to approximate the date the information will be provided. If HUD or RD denies your request they must tell you why and explain that you have a right to appeal

If there are “unusual circumstances” the agency can tack on an extra 10 days, and must give you written notice. According to HUD and USDA regs, unusual circumstances include the need to review large numbers of records, consult with other agencies and collect information from remote locations.

Most of the time the 20-day response period is not met due to limited numbers of staff and high volumes of requests. The law allows you to consider a request to be denied if the deadline is not met, enabling you to file an administrative appeal or a lawsuit. However, it is generally more productive to simply call and ask about the status of your request. Keep notes of phone calls and copies of all correspondence. Given the reality of request backlogs at agencies, it is helpful to keep in contact with your FOIA Liaison to make sure your request hasn’t been forgotten and to emphasize that you are still interested. But, don’t hound your FOIA Liaison, be reasonable and assume that the Liaison is simply overworked.

Expedited Requests. If there is an imminent threat to the life or physical safety of someone or if there is an urgent need to inform the public, you can ask for expedited processing. HUD and RD will notify you within 10 working days whether it will speed up processing, giving your request priority and bumping other requests ahead of yours in the queue. When seeking expedited processing, your request letter should demonstrate a compelling need and state: “I certify that the statements contained in this letter are true and correct to the best of my knowledge and belief.”

Regarding a situation of urgently needing to inform the public, HUD’s regs describe a “compelling need” for expedited processing as a situation in which an organization is “primarily engaged in distributing information and there is an urgency to inform the public concerning actual or alleged federal government activities.” USDA’s regs require a nonprofit to demonstrate that their primary activity involves publishing or otherwise disseminating information “to the public as a whole, and not just a particular segment or group.” USDA explains that “urgency” implies that the information has particular value that will be lost if not disseminated quickly.

Denial of Requests. Information can only be denied if it is “exempt.” The law lists nine exemptions, such as classified national defense information, trade secrets or personal information.

One exemption might be relevant to housing advocates, “internal government communications.” The intent of this exemption is to promote uninhibited discussion among federal employees engaged in policy making. This exemption would apply to unfinished reports, preliminary drafts of materials and other internal communications taking place as agency staff undertake a decision-making process. For example, a letter from RD to HUD listing potential ways they could implement a joint tenant protection voucher program would be exempt prior to the program’s implementation. Any factual information in such correspondence must be made available, as long as revealing the facts would not unveil too much of the ongoing decision-making process. Once the program is finalized, such a letter might no longer be exempt because it provides the public with an understanding of the basis for the final policy decision.

The letter denying a FOIA request must give the reasons for denial and inform you of your right to appeal to the head of the agency.

Appeals. To appeal a HUD denial of information, send a letter to the HUD official indicated in the denial letter within 30 days. If that appeal fails, bump up the appeal to the HUD Secretary. To appeal an RD denial, send a letter to the RD official indicated in the denial letter within 45 days. If that appeal fails, bump up the appeal to the RD FOIA Officer; if still not satisfied, write to the Rural Housing Service Administrator. The agency has 20 working days to make a decision regarding an appeal. Appeals can also be made if the agency indicates that no records were located

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and you think the agency failed to carry out an adequate search. If part of your request is accepted but part is denied, there is no harm in appealing the denial

Mark both the envelop and the letter "Freedom of Information Act Appeal" and include any reference number that the agency might have included in its denial letter. HUD's regulations require appeals to include: a copy of the original FOIA request, a copy of the denial letter and your arguments for releasing the information. USDA's regs do not specify the content of an appeal letter, but its online guide suggests including the number assigned to your initial request by RD along with the date of the denial.

Sample FOIA Letter

Date

Agency/Program FOIA Liaison

Name of Agency or Program

Address

RE: Freedom of Information Act Request

Dear _____ :

Under the Freedom of Information Act I am requesting copies of [identify the records as specifically as possible].

I request a waiver of fees because my organization is a nonprofit with a mission to [State the organization's mission and activities, demonstrating that it does not have a "commercial" interest in the information]. In addition, disclosure of the information will contribute significantly to public understanding of the operations and activities of HUD/RD.

[Explain how the information is directly related to HUD/RD.]

[Explain how the information will contribute to public understanding of HUD/RD operations or activities.]

[Explain how not just you or your organization, but a broader segment of the public will gain in understanding.

Describe the role and expertise of your organization as it relates to the information. Describe how the information will be disbursed to a broader audience.]

[Explain how the current level of public understanding will be greatly increased by the release of this information.]

Optional: As provided by law, a response is expected within 20 working days.

Optional: If any or part of this request is denied, please describe which specific exemption it is based on and to whom an appeal may be made.

Optional: If you have any questions about this request, please phone me at _____.

Sincerely,

Name

Address

For More Information

- Public Citizen's Freedom of Information Clearinghouse, http://www.citizen.org/litigation/free_info/.
- The National Security Archive, <http://www.gwu.edu/~nsarchiv/nsa/foia.html>.
- The Reporters Committee for Freedom of the Press, *How to Use the Federal FOI Act*, <http://www.rcfp.org/foiact/index.html>.
- General Services Administration, *Your Right to Federal Records*, http://www.pueblo.gsa.gov/cic_text/fed_prog/foia/foia.pdf.
- U.S. House of Representatives, Committee on Government Reform, *A Citizen's Guide to Using the Freedom of Information Act*, <http://www.fas.org/sgp/foia/citizen.pdf>.
- Department of Justice, *Freedom of Information Act Guide*, <http://www.usdoj.gov/oip/foi-act.htm>.

Glossary

The assistance of the Local Initiatives Support Corporation in the preparation of this document is appreciated.

ADVANCE APPROPRIATION. Budget authority or appropriation that becomes available in one or more fiscal years after the fiscal year for which the appropriation was enacted. For example, an advance appropriation in the FY10 appropriations act would become available for programs in FY11 or beyond. The amount is not included in the budget totals of the year for which the appropriation act is enacted but rather in those for the fiscal year in which the amount will become available for obligation.

AFFORDABLE HOUSING. Housing that costs an owner or renter no more than 30% of household income.

AMORTIZE. Decrease an amount gradually or in installments, especially in order to write off an expenditure or liquidate a debt.

AFFORDABLE HOUSING PROGRAM (AHP). A program of the Federal Home Loan Bank system, AHP provides subsidized cash advances to member institutions to permit them to make below-market loans for eligible housing activities.

ANNUAL ADJUSTMENT FACTOR. The mechanism for adjusting rents in certain types of Section 8-assisted properties, including Section 8 New Construction/Substantial Rehab. HUD publishes annual percentage factors by unit type and region.

ANTI-DEFICIENCY ACT. A federal law forbidding federal employees from spending money or incurring obligations that have not been provided for in an appropriation.

APPROPRIATION. A provision of law providing budget authority that enables an agency to incur obligations and to make payments out of the Treasury for specified purposes. Non-entitlement programs are funded through annual appropriations.

AREA MEDIAN INCOME (AMI). AMI is the midpoint in the income distribution of within a specific geographic area. By definition, 50% of households, families or individuals earn less than the median income, and 50% earn more. HUD calculates family AMI levels for different communities annually, with adjustments for family size. AMI is used to determine the eligibility of applicants for both federally and locally funded housing programs.

ASSISTED HOUSING. Housing where the monthly costs to the tenant are subsidized by federal or other programs.

AUTHORIZATION. Legislation that establishes or continues operation of a federal program or agency either indefinitely or for a specific period of time or that sanctions a particular type of obligation or expenditure within a program.

BELOW MARKET INTEREST RATE (BMIR). See Section 221(d)(3) BMIR.

BLOCK GRANTS. Grants made by the federal government on a formula basis, usually to a state or local government.

BORROWING AUTHORITY. The authority to incur indebtedness for which the federal government is liable, which is granted in advance of the provision of appropriations to repay such debts. Borrowing authority may take the form of authority to borrow from the Treasury or authority to borrow from the public by means of the sale of federal agency obligations. Borrowing authority is not an appropriation since it provides a federal agency only with the authority to incur a debt, and not the authority to make payments from the Treasury under the debt. Appropriations are required to liquidate the borrowing authority.

BROOKE RULE. Federal housing policy that limits a tenant's contribution to rent in public housing and under the Section 8 program to 30% of income. This amount is considered to be the maximum that one should have to pay for rent without becoming 'burdened.' The rule is based on an amendment sponsored by then Senator Edward Brooke (R-MA) to the public housing program in 1971. The original Brooke amendment limited tenant contributions to 25%. The limit was increased from 25% to 30% in 1981.

BUDGET AUTHORITY. The legal authority to enter into obligations that will result in immediate or future outlays of federal funds. Budget authority is provided in appropriation acts.

BUDGET ENFORCEMENT ACT (BEA). An expired 1990 Act of Congress credited in part with creating a budget surplus by establishing limits on discretionary spending, maximum deficit amounts, pay-as-you-go rules for revenue and direct spending, new credit budgeting procedures, and other changes in budget practices. Congress has wrangled over the re-establishment of pay-as-you-go rules and disagreement about whether such rules should apply to both spending and taxation or only to spending.

BUDGET RESOLUTION. A concurrent resolution passed by both houses of Congress that does not require the signature of the president. The budget resolution sets forth various budget totals and functional allocations and may include reconciliation instructions to specific House or Senate committees.

COLONIAS. The rural, mostly unincorporated communities located in California, Arizona, New Mexico, and Texas along the U.S.-Mexico border. Colonias are characterized by high poverty rates and substandard living conditions, and are defined primarily by what they lack, such as potable drinking water, water and wastewater systems, paved streets, and standard mortgage financing.

COMMUNITY AND HOUSING DEVELOPMENT ORGANIZATION (CHDO). A federally defined type of nonprofit housing provider that must receive a minimum of 15% of all federal HOME Investment Partnership Funds.

COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG). The annual grants administered by HUD on a formula basis to cities and other units of government for community development activities. The CDBG program is authorized by Title I of the Housing and Community Development Act of 1974.

COMMUNITY DEVELOPMENT CORPORATIONS. Community development corporations are non-profit, community-based organizations that provide capital locally through the development of both residential and commercial property, ranging from affordable housing to developing shopping centers and even owning businesses.

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION (CDFI). A specialized financial institution that works in market niches that have not been adequately served by traditional financial institutions. CDFIs provide a wide range of financial products and services, including mortgage financing, commercial loans, financing for community facilities, and financial services needed by low income households. Some CDFIs also provide technical assistance. To be certified as a CDFI by the CDFI Fund of the Treasury Department, an institution must engage in community development, serve a targeted population, provide financing, have community representatives on its board, and be a non-governmental organization.

COMMUNITY REINVESTMENT ACT (CRA). A program that requires periodic evaluations of insured depository institutions and their efforts in helping meet the credit needs in their communities.

CONGRESSIONAL BUDGET OFFICE (CBO). An organization created by Congress that provides staff assistance to Congress on the federal budget.

CONSOLIDATED PLAN. The Consolidated Plan, or ConPlan, combines all of the planning, application, and performance requirements previously required separately for Community Development Block Grants (CDBG), Emergency Shelter Grants (ESG), Housing Opportunities for People With AIDS (HOPWA), and programs such as HOME that require a Comprehensive Housing Affordability Strategy (CHAS).

CONTINUING RESOLUTION. Spending bill that provides funds for government operations for a short period of time until Congress and the President agree on an appropriations bill.

CREDIT UNION. A not-for-profit financial institution typically formed by employees of a company, labor union, or religious group and operated as a cooperative. Credit unions may offer a full range of financial services and pay higher rates on deposits and charge lower rates on loans than commercial banks. Federally chartered credit unions are regulated and insured by the National Credit Union Administration.

DISCRETIONARY SPENDING. Budget authority, other than for entitlements, and ensuing outlays provided in annual appropriations acts. The Budget Resolution sets limits or caps on discretionary budget authority and outlays.

EARMARKS. Appropriations that are dedicated for a specific, particular purpose. The funding of the Community Development Fund typically has earmarks as part of the Economic Development Initiative.

EMERGENCY LOW INCOME HOUSING PRESERVATION ACT (ELIHPA). The 1987 statute authorizing the original federal program to preserve federally assisted multifamily housing. The program was active 1987-1992.

ENHANCED VOUCHERS. The tenant-based Section 8 assistance provided to eligible residents when owners prepay their subsidized mortgages or opt out of project-based Section 8 contracts. Rents are set at market comparable levels, instead of the regular voucher payment standard, as long as the tenant elects to remain in the housing.

ENTITLEMENT JURISDICTION. Under the Community Development Block Grant communities that meet certain statutory requirements are “entitled” to receive funding under the program. These communities are known as “entitlement jurisdictions.”

ENTITLEMENTS. Entitlements benefits available based on meeting a certain set of criteria. Access to entitlement benefits, such as social security, is not limited by the need for appropriations.

EXIT TAX. The taxes paid on the recapture of depreciation and other deductions, experienced upon sale of a property. In some affordable housing transactions, sellers may face a significant exit tax even when they do not receive net cash at sale.

EXPIRING USE RESTRICTIONS. The low and moderate income affordability requirements associated with subsidized mortgages under Section 221(d)3 BMIR and Section 236, which terminate when the mortgage is prepaid.

EXTREMELY LOW INCOME. A household income below 30% of area median, as defined by HUD.

FAIR MARKET RENTS (FMR). HUD’s estimate of the actual market rent for a modest apartment in the conventional marketplace. Fair market rents include utility costs (except for telephones). Every year, HUD develops and publishes FMRs for every MSA and apartment type. FMRs are currently established at the 40th percentile rent, the top of the range that renters pay for 40% of the apartments being surveyed, with the exception of some high-cost jurisdictions, where it is set at the 50th percentile.

FANNIE MAE (FEDERAL NATIONAL MORTGAGE ASSOCIATION). A Federally chartered government-sponsored enterprise that purchases mortgages from originators to facilitate new mortgage lending. Similar to Freddie Mac.

FARMERS HOME ADMINISTRATION (FmHA). The former name of the Rural Housing Service.

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC). The federal agency established in 1933 that guarantees (within limits) funds on deposits in member banks and thrift institutions and performs other functions such as making loans to or buying assets from member institutions to facilitate mergers or prevent failures.

FEDERAL HOUSING ADMINISTRATION (FHA). A part of the Department of Housing and Urban Development that insures lenders against loss on residential mortgages. It was founded in 1934 in response to the Great Depression to execute the provisions of the National Housing Act.

FEDERAL HOUSING FINANCE AGENCY (FHFA). The FHFA was created in 2008 to take over the functions of the Office of Federal Housing Enterprise Oversight (OFHEO) and the Federal Housing Finance Board (FHFB). OFHEO was the regulator for Freddie Mac and Fannie Mae, and the FHFB regulated the Federal Home Loan Banks.

FEDERAL HOUSING FINANCE BOARD (FHFB). Federal agency created by Congress in 1989 to assume oversight of the Federal Home Loan Bank System from the dismantled Federal Home Loan Bank Board. The FHFB was merged into the Federal Housing Finance Agency (FHFA) in 2008. The FHFA also regulates Freddie Mac and Fannie Mae.

FEDERAL RESERVE BOARD (FRB). The governing board of the Federal Reserve System. Its seven members are appointed by the president, subject to Senate confirmation, and serve 14-year terms. The Board establishes Federal Reserve System policies on such key matters as reserve requirements and other bank regulations, sets the discount rates, and tightens or loosens the availability of credit in the economy.

FEDERAL RESERVE SYSTEM. The system established by the Federal Reserve Act of 1913 to regulate the U.S monetary and banking system. The Federal Reserve System (“the Fed”) consists of 12 regional Federal Reserve Banks, their 24 branches, and all national and state banks that are part of the system. National banks are stockholders of the Federal Reserve Bank in their region. The Federal Reserve System’s main functions are to regulate the national money supply, set reserve requirements for member banks, supervise the printing of currency at the mint, act as clearinghouse for the transfer of funds throughout the banking system, and examine member banks’ compliance with Federal Reserve regulations.

FINANCIAL INSTITUTION. An institution that collects funds from the public to place in financial assets such as stocks, bonds, money market instruments, bank deposits, or loans. Depository institutions (banks, savings and loans, saving banks, credit unions) pay interest on deposits and invest the deposit money, mostly in loans. Non-depository institutions (insurance companies, pension plans) collect money by selling insurance policies or receiving employer contributions and pay it out for legitimate claims or for retirement benefits. Increasingly, many institutions are performing both depository and non-depository functions.

FISCAL YEAR (FY). The accounting period for the federal government. The fiscal year for the federal government begins on October 1 and ends the next September 30. It is designated by the calendar year in which it ends; for example, FY11 begins on October 1, 2010, and ends on September 30, 2011.

FLEXIBLE SUBSIDY. A direct HUD loan or grant for rehabilitation or operating losses, available to eligible owners of certain HUD-subsidized properties. Owners must continue to operate the project as low and moderate income housing for the original mortgage term. Not currently active.

FORECLOSURE. The process by which a mortgage holder who has not made timely payments of principal and interest on a mortgage loses title to the home. The holder of the mortgage, whether it be a bank, a savings and loan, or an individual, uses the foreclosure process to satisfy the mortgage debt either by obtaining the proceeds from the sale of the property at foreclosure or taking title to the property and selling it at a later date. Foreclosure processes vary from state to state and can be either judicial or non-judicial.

FORMULA ALLOCATION. Formula allocation programs allocate funds to recipients based on a formula. The parameters for the formula are usually established by statute and are often based in the need of the recipient for the program being funded. CDBG and HOME are formula allocation programs.

FREDDIE MAC (FEDERAL HOME LOAN MORTGAGE CORPORATION). A federally chartered government-sponsored enterprise that purchases mortgages from originators to facilitate new mortgage lending. Similar to Fannie Mae.

FREEDOM OF INFORMATION ACT (FOIA). This generally refers to the process of securing documents from HUD or other federal agencies in accordance with required procedures. Certain types of documents, including owner financial statements, are considered privileged and are not available for disclosure to the public.

GOVERNMENT ACCOUNTABILITY OFFICE (GAO). Formerly known as the General Accounting Office, the GAO is a Congressional agency that monitors the programs and expenditures of the federal government.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION (Ginnie Mae). An agency of HUD, Ginnie Mae guarantees payment on mortgage-backed securities, which represent pools of residential mortgages insured or guaranteed by the FHA, the Veterans Administration, or the Rural Housing Service.

GOVERNMENT SPONSORED ENTERPRISE (GSE). An enterprise established by the federal government but privately-owned and operated. Fannie Mae and Freddie Mac are GSEs, as are the Federal Home Loan Banks.

GUARANTEED LOAN. A loan in which a private lender is assured repayment by the federal government of part or all of the principal, interest, or both, in the event of a default by the borrower.

HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME). The HOME program, administered by HUD's Office of Community Planning and Development, provides formula grants to states and localities (see also PARTICIPATING JURISDICTIONS) to fund a wide range of activities that build, buy, and/or rehabilitate affordable housing for rent or homeownership or provide direct rental assistance to low-income people. The HOME program is authorized by Title II of the 1990 Cranston-Gonzalez National Affordable Housing Act.

HOME MORTGAGE DISCLOSURE ACT (HMDA). This act, which was created in 1975, requires most financial institutions that make mortgage loans, home improvement loans, or home refinance loans to collect and disclose information about their lending practices.

HOMELESS EMERGENCY ASSISTANCE AND RAPID TRANSITION TO HOUSING (HEARTH) ACT OF 2009. The HEARTH Act which was signed into law in 2009 (P.L. 111-22) revises the McKinney-Vento Homeless Assistance Grant programs and will provide communities with new resources and better tools to prevent and end homelessness. The legislation: increases priority on homeless families with children, significantly increases resources to prevent homelessness, provides incentives for developing permanent supportive housing and creates new tools to address homelessness in rural areas.

HOUSING ASSISTANCE PAYMENT (HAP). HAP is the payment made according to a HAP contract between the agency issuing a housing choice voucher (HCV) and the landlord renting a unit to the holder of the HCV.

HOUSING BONDS. Bonds that are secured by mortgages on homes or rental properties. Generally the bonds are issued by states and the housing financed by the bond is targeted to lower income families or individuals.

HOUSING CHOICE VOUCHERS (HVC). The Housing Choice Voucher program, also known as Section 8 or Section 8 vouchers, is a rental assistance program funded by HUD. The goal of the program is to assist primarily extremely low income families rent housing in the private market. Under the program the federal government pays a portion of the family's rent each month. Families participating in the Housing Choice Voucher Program can rent a single-family home, an apartment or a condominium. Prior to receiving a subsidy every unit must pass a housing inspection. Once the unit passes inspection and rent guidelines, voucher families pay a percentage of their monthly adjusted income toward monthly rent and utilities (generally not more than 30%) and the rest is paid with the federal subsidy.

HOUSING COSTS. Essentially, they are the costs of occupying housing. Calculated on a monthly basis, housing costs for renters include "contract rent, utilities, property insurance, mobile home park fee." For owners, monthly housing costs are "the sum of monthly payments for all mortgages or installment loans or contracts, except reverse annuity mortgages and home equity lines of credit. Costs also include real estate taxes (including taxes on manufactured/mobile homes, and manufactured/mobile home sites if the site is owned), property insurance, homeowner association fees, cooperative or condominium fees, mobile home park fees, land rent, utilities." Utilities include "electricity, gas, fuels (oil, coal, kerosene, or wood), water, sewage disposal, garbage and trash collection." (2001 AHS, Appendix A, <http://www.census.gov/hhes/www/housing/ahs/ahs01/appendixa.pdf>)

HOUSING FINANCE AGENCY. The state agency responsible for financing housing and administering assisted housing programs.

HOUSING STARTS. The indicator of residential construction activity monitored by the Department of Commerce. Housing starts represent the start of construction of a house or apartment building, which means the digging of the foundation. Other categories are housing permits, housing completions, and new home sales.

HOUSING TRUST FUNDS. Housing trust funds are distinct funds, usually established by state or local governments, that receive ongoing public revenues which can only be spent on affordable housing initiatives, including new construction, preservation of existing housing, emergency repairs, homeless shelters, housing-related services, and multifamily building for nonprofit organizations.

Glossary

HUD INSPECTOR GENERAL. The HUD official appointed by the president who is responsible for conducting audits and investigations of HUD's programs and operations.

INCLUSIONARY ZONING. A requirement or incentive to reserve a specific percentage of units in new residential developments for moderate-income households.

INDEPENDENT AGENCY. An agency of the United States government that is created by an act of Congress and is independent of the executive departments. The Securities and Exchange Commission is an example of an independent agency.

INTERMEDIARY ORGANIZATIONS. Organizations that play a fundamental role in encouraging, promoting, and facilitating business-to-business contacts. These can include both nonprofit and for-profit organizations: chambers of commerce; trade associations; local, civic, and community groups; state and local governments; academic institutions; and private corporations.

LEVERAGING. The maximization of the effects of federal assistance for a project by obtaining additional project funding from non-federal sources.

LOW INCOME HOUSING PRESERVATION AND RESIDENT HOMEOWNERSHIP ACT (LIHPRHA). The 1990 statute authorizing the "permanent" federal multifamily preservation program. The program was active 1990 - 1996.

LOW INCOME HOUSING TAX CREDITS (LIHTC). The LIHTC program was enacted by Congress in 1986 to provide the private market with an incentive to invest in affordable rental housing. Federal housing tax credits are awarded to developers of qualified projects. Developers then sell these credits to investors to raise capital (or equity) for their projects, which reduces the debt that the developer would otherwise have to borrow. Because the debt is lower, a tax credit property can in turn offer lower, more affordable rents. Provided the property maintains compliance with the program requirements, investors receive a dollar-for-dollar credit against their Federal tax liability each year over a period of 10 years. The amount of the annual credit is based on the amount invested in the affordable housing.

LOW INCOME. As applied to most housing programs, household income below 80% of metropolitan area median, as defined by HUD, is classified as low income. See also **EXTREMELY LOW INCOME**, **VERY LOW INCOME**.

MARK-TO-MARKET. The process of reducing above-market rents to market levels. In ordinary usage, this means HUD recognizing defaults on FHA-insured mortgages, paying the mortgage claims, and restructuring the remaining available debt service into a new mortgage.

MARK-UP-TO-MARKET. A federal program to adjust rents on assisted housing up to the market rate.

METROPOLITAN STATISTICAL AREA (MSA). The basic census unit for defining urban areas and rental markets. **Model Cities.** The Model Cities program was an element of President Lyndon Johnson's War on Poverty. It was created 1966 but ended in 1974. The purpose of the program was to improve coordination of existing urban programs and provide additional funds for local plans.

MODERATE HOUSING PROBLEMS. As used in this Guide and by HUD, moderate problems consist of cost burden above 30% but not more than 50% of income, occupancy of housing with moderate physical problems, or overcrowding (more than one person per room).

MORTGAGE BANKER. The company, or individual, that originates mortgage loans, sells them to other investors, services the monthly payments, keeps related records, and acts as escrow agent to disperse funds for taxes and insurance. A mortgage banker's income derives from origination and servicing fees, profits on the resale of loans, and the spread between mortgage yields and the interest paid on borrowings while a particular mortgage is held before resale.

MORTGAGE BROKER. A company or individual that brings together a borrower and a lender for the purpose of assisting a borrower in obtaining a mortgage loan. The broker does not originate or service the loan.

MORTGAGE INTEREST DEDUCTION. The federal tax deduction for mortgage interest paid in a taxable year. Interest on a mortgage to acquire, construct, or substantially improve a residence is deductible for indebtedness of up to \$1 million.

MORTGAGE. The debt instrument by which the borrower (mortgagor) gives the lender (mortgagee) a lien on property as security for the repayment of a loan. The borrower has use of the property, and the lien is removed when the obligation is fully paid.

MOVING TO WORK (MTW). Moving to Work (MTW) is a demonstration program for public housing authorities (PHAs) that provides them the opportunity to design and test innovative strategies that use Federal dollars to help residents find employment and become self-sufficient. MTW gives PHAs exemptions from many existing public housing and voucher rules and more flexibility with how they use their Federal funds. See article on MTW in Guide for more information.

MULTIFAMILY ASSISTED HOUSING REFORM AND AFFORDABILITY ACT (MAHRA). The 1997 statute authorizing the Mark-to-Market program and renewals of expiring Section 8 contracts.

MULTIFAMILY. A building with five or more residential units is a multifamily building.

NEW CONSTRUCTION/SUBSTANTIAL REHAB. A form of project-based Section 8 assistance used in the original development and financing of some multifamily housing. Projects could be both insured and uninsured (with conventional or state/local bond financing). These contracts were long-term (20-40 years). Active 1976 - 1985.

NOTICE OF FUNDING AVAILABILITY (NOFA). A notice by a federal agency, including HUD, used to inform potential applicants that program funding is available.

OFFICE OF AFFORDABLE HOUSING PRESERVATION. Formerly the Office of Multifamily Housing Assistance Restructuring (OMHAR), HUD established this office to oversee the continuation of the Mark to Market program and provide assistance in the oversight and preservation of a wide spectrum of affordable housing programs.

OFFICE OF RURAL HOUSING PRESERVATION (ORHP). The ORHP processes applications to prepay RHS multifamily housing loans and preserve housing as affordable low and very low income housing.

OFFICE OF THRIFT SUPERVISION (OTS). An agency of the Treasury Department created by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). The OTS replaced the disbanded Federal Home Loan Bank Board and assumed regulatory responsibility for the nation's saving and loan industry.

OUTLAYS. Payments made (usually through the issuance of checks or disbursement of cash) to liquidate obligations. Outlays during a fiscal year may be for payment of obligations incurred in the previous year or in the same year.

PARTICIPATING JURISDICTION (PJ). A HUD-recognized entity that is an eligible recipient of HOME funding.

PAY-AS-YOU-GO or PAYGO. A requirement that Congress offset the costs of tax cuts or increases in entitlement spending with increased revenue or savings elsewhere in the budget.

PAYMENT STANDARD. The amount used to determine how much rent a housing authority will pay monthly to subsidize a housing choice voucher holder, expressed as a percentage of the Fair Market Rent. The payment standard must be at least 80% of the FMR.

PERFORMANCE FUNDING SYSTEM. A system developed by HUD for analyzing costs of operating public housing developments, used as the basis for calculating the need for operating subsidies.

PERMANENT SUPPORTIVE HOUSING. Permanent Supportive Housing (PSH) is decent, safe and affordable permanent community-based housing targeted to vulnerable very low income households with serious and long term disabilities that is linked with an array of voluntary and flexible services to support successful tenancies.

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PREPAYMENT PENALTY. A fee that may be levied for repayment of a loan before it falls due.

PRESERVATION. A program (enacted in 1987 with the Emergency Low Income Housing Preservation Act (ELIPHA) and later amended into the Low Income Housing Preservation and Resident Homeownership Act (LIHPRHA)) that (a) prevented owners of what are called older assisted properties from prepaying their mortgages and converting the buildings to market rate use, and (b) compensated them with financial incentives available through extension or continuation of ownership, or sale to a nonprofit buyer. While neither ELIPHA nor LIHPRHA are currently in effect, their preemption provisions may threaten state and local laws regulating the preservation of federally assisted housing.

PRIMARY MARKET. The primary market is a market where financial instruments, such as loans, are created. When a homeowner gets a loan from a bank they are acting in the primary market.

PROJECT-BASED VOUCHERS. Project-based vouchers are a component of a public housing agencies (PHAs) housing choice voucher program. A PHA can attach up to 20 percent of its voucher assistance to specific housing units if the owner agrees to either rehabilitate or construct the units, or the owner agrees to set-aside a portion of the units in an existing development for lower income families. Rehabilitated units must require at least \$1,000 of rehabilitation per unit to be subsidized, and all units must meet HUD housing quality standards.

REAL ESTATE ASSESSMENT CENTER (REAC). REAC is the office within HUD responsible for tracking, monitoring, and enforcing the regulatory agreements of multifamily housing projects with FHA insurance or project-based assistance, including regular property inspections.

REAL ESTATE INVESTMENT TRUST (REIT). A REIT is a business trust or corporation that combines the capital of many investors to acquire or finance real estate, which may include assisted housing. Cash flow generated by the properties is distributed to investors in the form of stock dividends. The REIT can also provide an attractive tax deferral mechanism by enabling investors to exchange their partnership shares for interests in the REIT, a nontaxable transfer.

REAL ESTATE SETTLEMENT PROCEDURES ACT (RESPA). A statute that prohibits kickbacks and referral fees that unnecessarily increase the costs of certain settlement services in connection with real estate transactions and provides for disclosures in connection with such transactions. HUD enforces RESPA.

RECONCILIATION BILL. A bill containing changes in law recommended by House or Senate committees pursuant to reconciliation instructions in a budget resolution.

RENT SUPPLEMENT. An older HUD project-based rental subsidy program used for some 221(d)3 and 236 properties. The subsidy contract is coterminous with the mortgage. Most rent supplement contracts in HUD-insured projects were converted to Section 8 in the 1970s.

RESIDUAL RECEIPTS. Cash accounts maintained under joint control of the owner and HUD (or Housing Finance Agency) into which is deposited all surplus cash generated over and above the allowable limited dividend or profit. The disposition of residual receipts at the end of the Section 8 contract and/or mortgage is governed by the Regulatory Agreement.

RIGHT OF FIRST REFUSAL. The right of first refusal means the right to match the terms and conditions of a third-party offer to purchase a property, within a specified time period.

RURAL DEVELOPMENT (RD). Part of the U.S. Department of Agriculture, RD administers grant and loan programs to promote and support housing and essential community facilities development in rural communities.

RURAL HOUSING SERVICE (RHS). A part of the Department of Agriculture's Rural Development division, RHS is responsible for administering a number of rural housing programs.

RURAL. As used in this guide, areas that are not urbanized. The Census Bureau defines an urbanized area as "an incorporated place and adjacent densely settled (1.6 or more people per acre) surrounding area that together have a minimum population of 50,000."

SAVINGS AND LOAN ASSOCIATION (S&L). A depository financial institution, federally or state chartered, that obtains the bulk of its deposits from consumers and holds the majority of its assets as home mortgage loans. In 1989, responding to a massive wave of insolvencies caused by mismanagement, corruption, and economic factors, Congress passed a savings and loan “bailout bill” that revamped the regulatory structure of the industry under a newly created agency, the Office of Thrift Supervision.

SAVINGS BANK. A depository financial institution that primarily accepts consumer deposits and makes home mortgage loans. Historically, savings banks were of the mutual (depositor-owned) form and chartered in only 16 states; the majority of savings banks were located in the New England states, New York, and New Jersey.

SECONDARY MARKET. The term secondary market refers to the market in which loans and other financial instruments are bought and sold. Freddie Mac and Fannie Mae, for example, operate in the secondary market because they do not deal directly with the borrower but instead purchase loans from lenders.

SECTION 202. A HUD program created in 1959 to provide direct government loans or grants to non-profits to develop housing for the elderly and handicapped. Currently, the program provides capital grants and project rental assistance contracts.

SECTION 221(D)(3) BELOW MARKET INTEREST RATES (BMIR). A HUD program under which the federal government provided direct loans at a below market interest rate (3 percent) and FHA mortgage insurance to private developers of low and moderate income housing. Active 1963 - 1970.

SECTION 236. A program under which HUD provided interest subsidies (known as Interest Reduction Payments or IRP subsidies) and mortgage insurance to private developers of low and moderate income housing. The interest subsidy effectively reduced the interest rate on the loan to one percent. Active 1968 - 1975.

SECTION 514 LOANS AND SECTION 516 GRANTS. Section 514 loans and 516 grants are administered by RHS and may be used to buy, build, improve or repair housing for farm laborers. Authorized by the Housing Act of 1949.

SECTION 515 RURAL RENTAL HOUSING PROGRAM. A program that provides funds for loans made by RHS to nonprofit, for profit, cooperatives, and public entities for the construction of rental or cooperative housing in rural areas for families, elderly persons, persons with disabilities, or for congregate living facilities. Authorized by the Housing Act of 1949.

SECTION 533 HOUSING PRESERVATION GRANT PROGRAM (HPG). This program, administered by RHS provides grants to promote preservation of Section 515 properties. Authorized by the Housing Act of 1949.

SECTION 538 RENTAL HOUSING LOAN GUARANTEES. RHS may guarantee loans made by private lenders for the development of affordable rural rental housing. This program serves a higher income population than that served by the Section 515 program. Authorized the Housing Act of 1949.

SECTION 8 PROJECT-BASED CONTRACTS or PROJECT-BASED SECTION 8. Administered by HUD’s Office of Multifamily Housing, Section 8 Project-Based Assistance takes the form of a contract between HUD and building owners, who agree to provide housing to eligible tenants in exchange for long-term subsidies. Project-Based Assistance limits tenant contributions to 30 percent of the household’s adjusted income. Assistance may be provided to some or all of the units in a project occupied by eligible tenants and is attached to the unit and stays with the housing after the tenant leaves.

SECTION 8 PROJECT-BASED VOUCHERS. The Section 8 Project-Based Voucher program uses housing choice vouchers to provide place-based assistance to a project by allowing local housing authorities to contract with property owners to place a limited number of vouchers in a project. These vouchers remain with the project even if the assisted tenant moves. The effect is similar to the project-based section 8 program in that the place-based funding helps preserve the affordability of the units. One difference between the two programs is the mobility feature of the project-based voucher program which allows a tenant to move with continued assistance in the form of a housing choice vouchers. This program is administered by HUD’s Office of Public and Indian Housing and local housing authorities.

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SECTION 8 VOUCHERS. Administered by HUD's Office of Public and Indian Housing and local housing authorities, housing choice vouchers are allocated to individual households and provide a rental subsidy, generally limiting the tenant contribution to rent to 30 percent of the household's adjusted income. Local housing authorities can attach a limited number of their housing choice vouchers to individual units, thereby "project-basing" them, see Section 8 project-based vouchers.

SECTION 811. The program provides funds to nonprofit organizations to develop rental housing, with supportive services, for very low-income adults with disabilities and provides rent subsidies for the projects to help make them affordable.

SEVERE HOUSING PROBLEMS. As used by HUD in defining priorities, severe housing problems are homelessness, displacement, housing cost burden above 50% of income, and occupancy of housing with serious physical problems. Data on severe housing problems drawn from the American Housing Survey measures only cost burden and physical problems.

SINGLE-FAMILY. A single-family property is a residential property with fewer than 5 units.

STAFFORD DISASTER RELIEF AND EMERGENCY ASSISTANCE ACT (Stafford Act, Public Law 100-707). The Stafford Act provides a systemic means of providing federal natural disaster assistance to state and local governments. The act establishes the Presidential declaration process for major emergencies, provides for the implementation of disaster assistance, and sets forth the various disaster assistance programs.

STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT. Enacted in July 1987, the McKinney Act, P.L. 100-77 established distinct assistance programs for the growing numbers of homeless persons. Recognizing the variety of causes of homelessness, the original McKinney Act authorized 20 programs offering a multitude of services, including emergency food and shelter, transitional and permanent housing, education, job training, mental health care, primary health care services, substance abuse treatment, and veterans' assistance services. The Act was renamed to the McKinney-Vento Homeless Assistance Act, in 2000 to reflect the late Representative Bruce Vento's (D-MN) work to improve housing for the poor and homeless. The Act was revised in 2002 and again in 2009. See Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act of 2009.

TAX CREDIT. A tax credit is provision of the tax code that specifies an amount by which a taxpayer's taxes will be reduced in return for some behavior.

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF). TANF provides block grants to states administered under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, which established a new welfare system. The TANF block grant replaced Aid to Families with Dependent Children (AFDC). The chief feature of TANF was the abolition of a federal entitlement to cash assistance.

THRIFT. See SAVINGS AND LOAN ASSOCIATION (S&L).

VERY LOW INCOME (VLI). A VLI household is one where the household income is at or below 50% of area median, as defined by HUD.

VOUCHER. A housing voucher is a government payment to, or on behalf of, a household, to be used solely to pay a portion of the household's housing costs in the private market. Vouchers are considered tenant-based assistance because they are not typically connected to a particular property or unit (although they may be "project-based" in some cases) but are issued to a tenant.

WORST CASE HOUSING PROBLEMS. Unsubsidized very low income renter households with severe housing problems. HUD is required to submit a periodic report to Congress on worst case housing problems.

Ana Beltran

Ana Beltran is Special Advisor to Generations United's (GU's) National Center on Grandfamilies, the Center's former Director, and an attorney. For over a decade, she has worked on the housing issues faced by grandfamilies. She helped draft the LEGACY legislation and the change to the HOME provision mentioned in her chapter, and engaged in advocacy efforts to have both enacted. Once LEGACY became law, Ms. Beltran directed GU's subcontract with HUD to help implement it. She is the author of numerous articles and publications, including GU's "Grandparents and Other Relatives Raising Children: An Action Agenda to Create Affordable Housing Opportunities." She is an experienced trainer and spoke at that symposium, in addition to numerous national, state, and local conferences.

Steve Berg

Steven R. Berg, Vice President for Programs and Policy at the National Alliance to End Homelessness, specializes in the impact on homelessness of public policies regarding employment, human services, and housing. He also oversees most of the programmatic work of the Alliance. He came to the Alliance from the Center on Budget and Policy Priorities, where he worked on state-level welfare reform and employment. Before coming to Washington he spent 14 years as a legal services attorney in California and Connecticut, working on housing, government benefits, employment, and family integrity issues.

Nancy Bernstine

Nancy Bernstine serves as the Executive Director of the National AIDS Housing Coalition, a national housing advocacy and policy organization which focuses on the housing needs of people with HIV/AIDS. Previously, she was a member of a Washington, DC law firm representing nonprofit housing organizations and housing industry trade associations and has worked in senior policy positions in other national nonprofit housing organizations. Ms. Bernstine serves on the board of the National Low Income Housing Coalition, is a trustee of the National Housing Conference and is a member of the District of Columbia Bar and the American Bar Association Affordable Housing Forum.

Cathy Bishop

Catherine Bishop has 30 plus years of experience in federal housing law and is a recognized legal expert in the field. A veteran litigator, trainer and advocate, Ms. Bishop has built long-standing relationships with residents of federally assisted housing and legal and policy advocates, as well as with numerous representatives of HUD and housing authority officials, nationwide. Ms. Bishop currently focuses on public housing and voucher issues including full utilization of vouchers, portability and discrimination against source of income, and tenants' rights and participation, the PHA Annual Plan process, HOPE VI, demolition and disposition of public housing, and promoting and improving programs such as Section 3, an employment opportunity obligation attached to housing and community development funding and issues related to ensuring that individuals who have previously been incarcerated and paid their debt to society have the opportunity to reside in federally assisted housing.

Mary Brooks

Mary E. Brooks has worked as a low income housing advocate for more than 30 years. The majority of her work has involved policy advocacy advancing affordable housing, land use and zoning, community development, and civil rights issues. She holds a Masters Degree in City and Regional Planning from Ohio State University, where she received the College of Engineering Distinguished Alumna Award. She was awarded the Community Housing Leadership Award by the National Low Income Housing Coalition in 2004. Currently, she directs the Housing Trust Fund Project of the Center for Community Change.

Corey Carlisle

Corey Carlisle is the Director of Federal Policy and Government Affairs of the Low Income Investment Fund (LIIF). Mr. Carlisle joined LIIF in 2008 and is responsible for the organization's efforts in advancing national legislation and programs in the field of poverty alleviation and community capital. Mr. Carlisle is a member of the National Low Income Housing Coalition's Production Committee, serves on the advisory boards of the National Housing Conference, the Opportunity Finance Network, and New Markets Tax Credit Coalition, chairs the Charter School Lenders' Coalition, and has taken leadership roles within the National Children's Facilities Network. Prior to joining LIIF, he was the Associate Vice President of Governmental Affairs at the Mortgage Bankers Association. Mr. Carlisle began his career as the legislative assistant to Senator Kent Conrad (D-North Dakota) and went on to work for several large financial institutions and banks including Freddie Mac and Bank of America. Mr. Carlisle holds a Master's

of Science degree in Political Economy from the London School of Economics and Political Science and a B.A. in Economics and Political Science from the University of Minnesota.

Judith Chavis

Judith P. Chavis is the Executive Director of the American Association of Service Coordinators (AASC) and has more than 25 years of association, public policy, human services, and community assistance experience. Prior to starting at AASC, Judy was the Assistant Executive Director of the Ohio Job and Family Services Directors' Association where she provided training, legislation development, technical assistance and policy advocacy on public assistance programs (e.g., Medicaid, Food Stamps, child care, TANF, etc.) and issues affecting low income families, workforce development, adult protective services, child support enforcement, and child protective services. Judy has a Master's degree in Public Administration from Ohio University and a Bachelor's degree in Political Science/Sociology from The Ohio State University.

Ben Clark

Ben Clark is the Project Coordinator for Public Policy and Communications at the National Fair Housing Alliance. He joined NFHA in 2009 in this capacity. As Project Coordinator, Mr. Clark represents the interests of NFHA and its members before Congress and federal agencies and coordinates efforts with other civil rights and housing advocacy groups. Prior to NFHA, Mr. Clark was employed by Relman & Dane, PLLC, a Washington, DC based civil rights law firm. Mr. Clark earned his Bachelor of Arts degree from Northwestern University in 2007.

Linda Couch

Linda Couch is the Vice President for Policy for NLIHC. Linda has worked at NLIHC since 1995 except for three years at the American Association of Homes and Services for the Aging, where she worked on affordable housing for low income seniors. Ms. Couch works on public and assisted housing issues, budget and appropriations and NLIHC's campaign to establish a national housing trust fund, among other issues. She also has a background in state governmental affairs, working for a private consulting firm and as a fellow in the Connecticut General Assembly's Office of Legislative Research. Ms. Couch has a Masters of Public Affairs from the University of Connecticut and a B.A. from George Washington University. She lives in Mount Rainier, Maryland with her husband and two young children.

Sheila Crowley

Sheila Crowley is the President and CEO of the National Low Income Housing Coalition, where she heads a membership organization dedicated solely to ending the affordable housing crisis in America. She joined the staff of NLIHC in December 1998, after two decades in Richmond, VA, in organizational leadership, direct service, policy advocacy, and scholarship. She is a social worker with a bachelor's (1976), master's (1978), and Ph.D. (1998) from the School of Social Work at Virginia Commonwealth University. She is an adjunct faculty member for the VCU School of Social Work and for George Mason University Department of Social Work, teaching social policy, social justice, policy advocacy, and community and organizational practice. She was the 1996-1997 Social Work Congressional Fellow, where she served on the Democratic staff of the Housing Subcommittee of the United States Senate Banking Committee. From 1984-1992, she was the Executive Director of The Daily Planet, a multipurpose homeless service and advocacy organization in Richmond.

Megan DeCrappeo

Megan DeCrappeo joined the National Low Income Housing Coalition as the Research Analyst in June 2009. Prior to joining NLIHC as a full-time employee she earned her Master's degree in Public Policy from George Washington University while working as a research intern at NLIHC and then as an intern with the Local Initiatives Support Corporation (LISC) where she worked for the Housing Authority Resource Center, a national program run by LISC. Before moving to DC to pursue her Master's degree, Ms. DeCrappeo spent almost five years working as the Portfolio Analyst at the Low Income Investment Fund in San Francisco. Ms. DeCrappeo has a B.A. in anthropology from Penn State University.

Kai Filion

Kai Filion joined the Economic Policy Institute in 2008. Before that, he worked as a research assistant and student at the University of New Hampshire, spent two years as a Peace Corps volunteer in Jamaica, and three years as an electronic technician. His goal is to create economic analyses that are meaningful and comprehensible, and which

promote income equality. Mr. Filion received his B.S. in Electrical Engineering from UC Berkeley, and his M.A. in Economics from the University of New Hampshire.

Danna Fischer

Danna Fischer is the Legislative Director and Counsel for the National Low Income Housing Coalition. Before joining the Coalition she was a Senior Director at Freddie Mac where she was responsible for the company's relationship with the Department of Housing and Urban Development. Ms. Fischer got her start in housing policy as counsel to the Housing Subcommittee of the House Committee on Banking, Finance and Urban Affairs (now the House Committee on Financial Services). On the committee, she worked on a wide range of housing issues including the development of the HOME program, housing preservation, McKinney revisions, Section 8 reauthorizations, and public housing.

Radhika Fox

Radhika K. Fox, Federal Policy Director at PolicyLink, coordinates the organization's federal legislative agenda. She works with Congress, the Administration, key federal agencies, and partner organizations to ensure the voices of low income people and communities of color are central to policy debates in Washington, DC. Ms. Fox previously worked on promoting equitable affordable housing strategies and bringing shared prosperity to the nation's older industrial cities. Ms. Fox also provides technical assistance, training, and policy development support to local and state equity coalitions. Ms. Fox has a bachelor's degree from Columbia University and masters' degree in city and regional planning from the University of California, Berkeley, where she was a HUD Community Development Fellow.

Lance George

Lance George is a Senior Research Associate at the Housing Assistance Council (HAC) based in Washington, DC. HAC, founded in 1971, is a nonprofit organization that supports affordable housing efforts in rural areas of the United States. Before coming to HAC, Mr. George worked for Frontier Housing, Inc., a nonprofit organization that builds affordable homes for low income families in Appalachian Eastern Kentucky. Mr. George's research and policy analysis at HAC encompasses a wide array of issues and topics related to rural housing.

Ed Gramlich

Ed Gramlich has been at NLIHC since October 2005. Currently he is the Regulatory Director and State Partner Liaison after two years in the role of Outreach Director. For the first two years at NLIHC his primary responsibility was staffing the RegWatch Project, an endeavor to expand the Coalition's capacity to monitor federal regulatory and administrative actions - with a focus on preserving the affordable housing stock, both public and assisted. Prior to joining the staff of the Coalition, Mr. Gramlich worked for 26 years at the Center for Community Change (CCC) where his primary function was to provide technical assistance about CDBG to low income community-based groups. While at CCC, Mr. Gramlich also devoted considerable time to providing technical assistance to groups concerned about the negative impacts of UDAGs in their community.

Jeremie Greer

Jeremie Greer is the Senior Policy Officer with the Local Initiatives Support Corporation in Washington, DC. LISC is the nation's largest nonprofit investor in low income community development, operating through 28 local urban offices and a national rural community program. His work at LISC focuses on federal policies pertinent to LISC's mission of building sustainable communities, including housing, commercial revitalization, employment, green development, community service, smart growth, transportation, and community safety. Before joining LISC, he worked on affordable housing issues at the United States Government Accountability Office (GAO). Mr. Greer has a Bachelors of Social Work from University of St. Thomas in St. Paul, MN and a Masters of Public Policy from George Mason University in Fairfax, VA.

Toby Halliday

Toby Halliday is Vice President for Public Policy for the National Housing Trust. The Trust preserves and revitalizes affordable rental housing through real estate development, lending, and public policy initiatives to better the quality of life for the families and elderly who live there. NHT has helped to save more than 22,000 affordable apartments in 41 states through technical assistance, real estate development, and lending activities. Since joining the Trust in early 2008, Mr. Halliday has worked with other supporters of affordable rental housing to promote policy changes at HUD and in Congress to facilitate the preservation of affordable rental housing.

Meghan Henry

Meghan Henry is a Research Associate for the Homelessness Research Institute, the research and communications arm of the National Alliance to End Homelessness. Joining the staff in July of 2006, she is responsible for writing major reports and briefs, the analysis of various data and research around homelessness and poverty, and connecting policymakers with research on homelessness. Ms. Henry graduated from Tufts University with her Master's degree in Public Policy and Urban Planning in May 2006. While pursuing her Master's degree, she worked at a substance abuse clinic and as a Research Assistant at Tufts University in the field of Urban Economics. Prior to graduate school, Ms. Henry was a researcher for special projects at US News and World Report, and has a Bachelor's degree from the University of Florida.

Jake Kirsch

Jake joined NLIHC in July 2007 as the Outreach Associate covering the Northwest and Southeast regions. Last year, he took over coordination of the Katrina Housing Group, an informal network advocates working on Gulf Coast disaster recovery issues, and now exclusively covers Gulf Coast states. Prior to moving to DC, he filled multiple roles at Northwest Housing Alternatives, a not-for-profit affordable housing developer that also owned and operated a family shelter and transitional units, in his home state of Oregon. He received his bachelor's degree in ethics and political philosophy from Brown University in Providence, RI and has spent the years since working and volunteering on social justice issues.

Mindy La Branche

Mindy La Branche is a legislative and policy associate at the National Council of State Housing Agencies, where she has worked since 2007. Ms. La Branche received her Bachelors of Arts degrees in business administration and global leadership from Huntingdon College and is pursuing her Masters of Business Administration at Georgetown University.

Nancy Libson

Nancy Libson, American Association of Homes and Services for the Aging. Ms. Libson has been the Director of Housing Policy at AAHSA for the last five years, following a more than 30 year career in affordable housing development, policy development, advocacy, and technical assistance. Her experience includes eight years as staff and staff director of the Housing Subcommittee of the House Financial Services Committee, the Office of Legislation at HUD, the Appalachian Regional Commission, the DC Public Housing Authority, the National Center for Housing Management, Hessel, Aluisse, and Neun, and an affordable housing developer.

Jeffrey Lubell

Jeffrey Lubell is Executive Director of the Center for Housing Policy, the research affiliate of the National Housing Conference. From 2000 to 2003, Mr. Lubell served as director of the policy development division of the Office of Policy Development and Research at the U.S. Department of Housing and Urban Development. He has also worked as an independent consultant and as a housing policy analyst for the Center on Budget and Policy Priorities. Mr. Lubell is a graduate of Harvard Law School and Harvard College.

Patrick MacRoy

Patrick MacRoy is the Director of Community-Based Projects for the National Center for Healthy Housing. Prior to joining NCHH as a result of the merger between NCHH and the Alliance for Healthy Homes, Mr. MacRoy served as the Executive Director of the Alliance. He brought to the Alliance substantial experience in public health and public policy, having served as the Program Director for the City of Chicago Childhood Lead Poisoning Prevention Program and as an epidemiologist both in the Chicago and State of Rhode Island CLPPPs. Mr. MacRoy holds a master's in environmental studies and a bachelor's in public policy, both from Brown University. He is also an appointed lecturer in Environmental and Occupational Health Sciences at the University of Illinois at Chicago (UIC) School of Public Health.

Jane Malone

Jane Malone joined the National Center for Healthy Housing as Policy Director in January 2010 upon NCHH's merger with the Alliance for Healthy Homes, where she worked for 11 years. Her current work focuses on advancing commitments to healthy homes by Congress and federal agencies, supporting local partners' policy change work, improving model housing codes and standards, implementing lead-safe renovation requirements, and financing environmental health hazard mitigation. She also directs HUD-funded research projects on the persistence of

lead hazards and integrated pest management in unsubsidized multifamily housing. Prior to focusing on indoor environmental health concerns, she led efforts in Philadelphia to eliminate homelessness and improve public education. She attended the University of Pennsylvania.

Sharon McDonald

Sharon McDonald is a Senior Policy Analyst at the National Alliance to End Homelessness where she focuses on policy and program strategies to end family homelessness. She is a social worker with a BSW, MSW, and Ph.D. in Social Work and Social Policy and has worked as a Licensed Clinical Social Worker. Ms. McDonald began her post-graduate work with individuals and families experiencing poverty and homelessness as a direct practitioner in Richmond, Virginia in 1989. She supervised a community-based seven day a week program that served as the “Living Room” and access point to supportive services and clinical interventions for people experiencing homelessness, primarily adults living outside of the shelter system. Ms. McDonald served as the 1999/2000 Social Work Congressional Fellow in Senator Paul D. Wellstone’s office.

Monica McLaughlin

Monica McLaughlin is the Housing Policy Specialist for the National Network to End Domestic Violence (NNEDV), working on the intersection of domestic violence and housing issues. As a life-long activist in the women’s movement, Ms. McLaughlin began her career as a domestic violence advocate in Montana, Chicago and England. While completing her Masters Degree in Communication Studies, she was the Public Relations and Advocacy Coordinator for a women’s substance abuse treatment program. Her work with survivors afforded her a unique perspective on the issues that impact survivors’ lives and fueled her desire to shape public policy.

Anna Melbin

Anna Melbin is the Housing Programs Manager at the National Network to End Domestic Violence (NNEDV). In this position she oversees NNEDV’s housing projects including providing comprehensive technical assistance to over 200 transitional housing programs across the country, focusing on services for survivors of domestic, sexual and dating violence, and stalking. Ms. Melbin has worked with and on behalf of homeless families and domestic violence survivors for 15 years. Ms. Melbin conducted comparative national and state-wide research on transitional housing programs for battered women, and is first author of “Transitional Supportive Housing Programs: Battered Women’s Perspectives and Recommendations”, published in *Affilia*, 2003. She is Chair of the Board of the Maine Women’s Lobby and has been a member of the Housing Committee of the National Taskforce to End Sexual and Domestic Violence Against Women since 2002. Ms. Melbin holds a Masters of Social Work and a Masters of Public Policy, from the University of Michigan, Ann Arbor.

Todd Nedwick

Todd Nedwick is the Assistant Director for public policy at the National Housing Trust (NHT). He conducts nationwide research and analysis of successful affordable housing preservation policies and practices. He holds a B.A. in Political Science from American University and a M.P.P. from the University of Maryland, School of Public Policy.

Ann O’Hara

Ann O’Hara is co-founder of TAC and Director of TAC’s Housing Center. Ms. O’Hara is nationally known for her public policy work to expand affordable housing opportunities for people with disabilities and her expertise in housing programs for people who are homeless or at-risk of homelessness. She has over 25 years experience in the development and administration of the full range of subsidized rental and homeownership programs funded at the national, state, and local level. Working with a consortium of other national organizations, Ms. O’Hara has successfully advocated for national housing policy initiatives, developed legislative proposals, and assisted numerous federal and state agencies to address the housing problems of extremely low income people with special needs. Prior to joining TAC, Ms. O’Hara served as Assistant Secretary for Housing and Director of Rental Assistance for the Commonwealth of Massachusetts.

Danilo Pelletiere

Danilo Pelletiere has been the Research Director of the National Low Income Housing Coalition since 2003. Prior to NLIHC he held various positions at George Mason University, World Resources Institute, and Virginia’s Center for Innovative Technology. He was also a volunteer leader of the Sierra Club’s “Restore the Core” campaign addressing

the environmental and equity issues of sprawling development in the Washington, D.C. region. Mr. Pelletiere received his B.A. in regional science from the University of Pennsylvania. He received his Ph.D. in public policy from George Mason University in 2003, where he continues to teach and research at the School of Public Policy. In 1994-1995 he was a Fulbright scholar in the field of economic development at the University of Rostock, Germany.

Meg Power

Dr. Meg Power is President and Executive Director of Economic Opportunity Studies (EOS) of Washington, DC, a nonprofit corporation that offers analysis, and technical assistance to organizations that provide resources that help low income families and their communities become more economically secure. She has specialized in projects that provide affordable and fair energy services and environmental benefits for all consumers, including sustainable community development, Weatherization and other clean energy investments. She is also has expertise regarding the governance and management of Community Action Agencies and the measurement of the outcomes of their initiatives.

Melissa Quirk

Melissa Quirk is the Policy Analyst for the National Low Income Housing Coalition. Prior to joining NLIHC, Ms. Quirk was the Assistant Director of the Emergency Shelter Commission in Mayor's Office in the City of Boston working on homelessness policy and planning issues. She also worked for CHAPA, NLIHC's Massachusetts state partner and for a consulting company providing technical assistance to PHAs across the country. Ms. Quirk completed her undergraduate degree in Urban Studies at Vassar College in New York and is finishing her Masters degree in Public Policy and Urban Planning at Tufts University in Massachusetts.

Amanda Sheldon Roberts

As Housing Director on the Public Policy team at Enterprise, Amanda Sheldon Roberts analyzes and advocates for new policies and programs to support the financing of affordable housing in diverse, thriving communities. She conducts research and thoughtful analysis of existing and potential housing policies and works with HUD and Congress to develop and improve housing programs. Ms. Sheldon Roberts is a policy subject expert on the HUD Neighborhood Stabilization Program (NSP) and co-authored "The Challenge of Foreclosed Properties," a publication released in 2009 that analyzed the action plans of 87 NSP grantees. She has shared her NSP knowledge by briefing Congressional staff, giving the keynote address at a Kansas City Federal Reserve Bank conference, and presenting at over a dozen housing or community development conferences and webinars. Ms. Sheldon Roberts holds a Masters in Public Policy from Duke University and a B.A. from Tulane University.

Jeremy Rosen

Jeremy Rosen is the Executive Director of the National Policy and Advocacy Council on Homelessness (NPACH), with responsibility for managing all aspects of the organization. Mr. Rosen previously worked in the National Office of Volunteers of America, where he served as Director for Homelessness and Mental Health. Mr. Rosen has also been employed at the National Law Center on Homelessness & Poverty and Legal Services of Greater Miami. He received his B.A. from the University of Wisconsin-Madison in 1994, and his J.D. from The George Washington University Law School in 1998. Mr. Rosen is an expert on federal, state, and local affordable housing policy, with a focus on homelessness, veterans housing, and housing for children, youth, and families, and has published numerous journal articles and papers.

Jaimie Ross

Jaimie Ross is a public interest lawyer at 1000 Friends of Florida. During her tenure as Affordable Housing Director, Ms. Ross initiated the broad-based coalition that successfully advocated passage of the William E. Sadowski Affordable Housing Act, providing a dedicated revenue source for affordable housing in Florida. She authored *Creating Inclusive Communities in Florida: a Guidebook for Local Elected Officials and Staff on Avoiding and Overcoming the NIMBY Syndrome*. Ms. Ross served on the board of the National Low Income Housing Coalition from 1997-2003, she served as Editor of the NIMBY Report during that time and subsequently served on the National Low Income Housing Coalition NIMBY Report Advisory Committee. Nationally, she serves on the Board of the Innovative Housing Institute. She is a former Fannie Mae Fellow and is currently the President of the Florida Housing Coalition and founding director of the Florida Community Land Trust Institute.

Kathy Ruffing

Kathy Ruffing is a Senior Policy Analyst at the Center on Budget and Policy Priorities, specializing in federal budget issues. Ms. Ruffing spent 25 years at the Congressional Budget Office, where she analyzed a wide range of topics including interest costs and federal debt, federal pay, immigration, and Social Security. Upon her departure, the Congressional Record praised her as a dedicated public servant who worked tirelessly to advance the legislative process and whose analyses displayed the best characteristics of CBO reports: impartiality, clarity, and comprehensiveness. Before joining CBO, Ms. Ruffing spent several years at the Department of Labor and the Social Security Administration. More recently, she helped launch a budget study at the National Academy of Sciences. Ms. Ruffing earned a B.A. in economics and political science at the University of Pittsburgh, and an M.A. in economics at George Washington University.

Josh Silver

Josh Silver has had 17 years experience in the housing and community development field. As Vice President of Research and Policy at the National Community Reinvestment Center (NCRC), Mr. Silver develops policy positions, produces various research studies, engages in proposal writing and fundraising, and supervises a staff of research and policy analysts. He has written NCRC testimony submitted to the Senate and House Banking Committees on topics including financial modernization, predatory lending, and the effectiveness of the Community Reinvestment Act (CRA). Prior to NCRC, Mr. Silver worked at the Urban Institute for five years, where he specialized in housing market analysis and program evaluation. Mr. Silver holds a Master's degree in public affairs from the Lyndon Johnson School of Public Affairs at the University of Texas in Austin and earned a Bachelor's degree in economics from Columbia University in New York City.

Leslie Strauss

Leslie R. Strauss is Senior Policy Analyst at the Housing Assistance Council. She joined HAC in 1991 as Research and Information Director and has also served as Communications Director. Currently she is responsible for a variety of policy and information activities, including much of HAC's work on rental housing preservation. She has a law degree and practiced real estate law for several years before joining HAC. She serves on the board of the National Rural Housing Coalition.

Norm Suchar

Norm Suchar is a Senior Policy Analyst with a focus on chronic homelessness. He joined the staff of the National Alliance to End Homelessness in 2002. Mr. Suchar promotes effective policies and practices related to supportive housing, mental health, substance abuse treatment, health care, and other services for homeless people as well as programs that facilitate rapid rehousing for families and individuals. His prior experience includes three years in the Budget Office at the U.S. Department of Housing and Urban Development, where he focused on homelessness and community development programs, and two years working in child welfare for the State of Utah.

Eric Tars

Eric Tars currently serves as the human rights program director and children and youth staff attorney with the National Law Center on Homelessness & Poverty. Before coming to the Law Center, Mr. Tars was a Fellow with Global Rights' U.S. Racial Discrimination Program, and consulted with Columbia University Law School's Human Rights Institute and the US Human Rights Network. Mr. Tars currently serves as the Chair of the Training Committee of the US Human Rights Network and on the Steering Committee of the Campaign for a New Domestic Human Rights Agenda. Mr. Tars received his JD as a Global Law Scholar at Georgetown University Law Center, his BA in Political Science from Haverford College, and studied international human rights the Institute for European Studies, Vienna, and at the University of Vienna.

Steve Taylor

Steve Taylor, Vice President and Counsel for Public Policy at United Way of America, serves as United Way's lead advocate to Congress and the Federal Government. Mr. Taylor previously spent over ten years working in various capacities as a staff member in the United States Senate, including six years on the Senate Judiciary Committee and most recently serving for two years as General Counsel to U.S. Senator Chuck Hagel (R-NE). Mr. Taylor served on the National Board of the Emergency Food and Shelter Program for nearly three years.

John von Seggern

John L. von Seggern is the President and CEO of the Council of Federal Home Loan Banks. He was first hired in 1998 to become the newly-formed Council's Chief Executive. John von Seggern came to the Council from the Office of Thrift Supervision (OTS) where he served as the Executive Director for External Affairs. In that capacity, he managed the oversight and formulation of OTS' public and congressional affairs. Prior to joining OTS, Mr. von Seggern served as an Officer in the United States Air Force where he spent seven years flying KC-135 aerial refueling aircraft and also served as a conventional and strategic warfare planning officer.

John Wancheck

John Wancheck is the Earned Income Credit Campaign Coordinator for the Center on Budget and Policy Priorities, a Washington-based nonprofit organization that conducts research and policy analysis on issues that have an impact on low income Americans. The Center has spearheaded a national public education campaign on low income tax credits each year since 1989 and distributes a widely-used community outreach kit for the Earned Income Tax Credit and Child Tax Credit. Mr. Wancheck assists local agencies and community groups to organize outreach efforts and to promote free tax filing assistance programs.

Olivia Wein

Olivia Wein is a staff attorney at the National Consumer Law Center (NCLC) focusing on low income energy and utility issues. She is co-author of the fourth edition of NCLC's manual *Access to Utility Service* and co-author of *The Rights of Utility Consumers*. She serves on the board of directors of the National Low Income Energy Consortium, co-chairs the LIHEAP Coalition, serves on the steering committee of the Campaign for Safe and Affordable Drinking Water, and served as a member of the U.S. EPA's National Drinking Water Advisory Council's Small Systems Affordability Work Group. She was an Economic Justice Fellow at Consumers Union.

Ruth White

Ruth White is one of the nation's leading experts on the nexus between housing policy and child welfare. She is co-founder and Executive Director of the National Center for Housing and Child Welfare and former director of Housing and Homelessness for the Child Welfare League of America. For a decade, she has been the leading advocate and trainer on HUD's Family Unification Program, which provides federal housing vouchers to families and youth aging out of foster care. Through White's advocacy, \$40 million in new funding for the Family Unification Program will become available beginning this fall. Prior to joining CWLA, she managed the front door family shelter and scattered site transitional housing programs in Columbus, OH.

Mellor Willie

Mellor C. Willie (Navajo) is the Executive Director of the National American Indian Housing Council. A Native American affairs advocate with extensive experience at the tribal, state and federal level, Mr. Willie has held a number of high-level public policy and public relations positions with a variety of organizations, including The Navajo Nation, National Congress of American Indians, Harvard University's Kennedy School of Government and the New Mexico State Senate. In 1998, Mr. Willie received his bachelor's degree in political science from Southern Utah University. In May 2009, Mr. Willie graduated from The George Washington University's Graduate School of Political Management.

Mariia Zimmerman

Mariia V. Zimmerman is Policy Director at Reconnecting America, a national transportation nonprofit devoted to improving the connection between transportation systems and the communities they serve. In this capacity Ms. Zimmerman is engaged in developing and evaluating federal, state and local policies to support more sustainable communities. She is also part of The Center for Transit-Oriented Development (CTOD), focusing on strategies to better integrate transit investments with community redevelopment, mixed-income housing, economic development and livable community goals. Ms. Zimmerman brings over a decade of experience working on federal transportation policy from a variety of angles. She served in the Federal Transit Administration under the Clinton Administration and spent six years on Capitol Hill with Congressman Earl Blumenauer as Chief of Staff in his Washington DC office. Ms. Zimmerman has advanced degrees in planning and geography from the Pennsylvania State University and the University of Minnesota.

NLIHC Direct Assistance Program

The National Low Income Housing Coalition receives hundreds of calls, emails, and letters each year from people looking for housing they can afford or other kinds of housing problems. We explain to the people who request direct services that NLIHC is not an agency that provides housing assistance to individual people.

Then we suggest that they call the office of their Congressman or Congresswoman and ask to speak to the person who provides constituent services. We help them find the phone number of the office closest to their homes. We explain the constituent service function of Members of Congress and their rights as constituents to such services. In addition to providing this information to people who contact us by mail, email, and telephone, NLIHC now has a “looking for housing” link on its web site which contains similar information. It is available at www.nlihc.org/resources/looking.cfm.

This approach has several advantages.

- (1) First, people who are seeking help receive some tangible information from an empathetic person in lieu of simply being told NLIHC cannot help them.
- (2) Second, people learn how to communicate with the offices of their elected representatives and may be empowered to become more active as advocates.
- (3) Third, the consistent case workers will become more aware of the housing problems of people who live in their Congressional districts and communicate these needs to the Congressmen or Congresswomen.
- (4) Finally, the people in need may actually obtain knowledgeable assistance in their own communities in their search for affordable housing.

Accessing NLIHC Resources

In addition to the Advocates' Guide, NLIHC offers many other resources for advocates, policymakers, students, and others in order to provide information on the most relevant housing and housing-related programs and issues. Here are ways to get the most out of your relationship with NLIHC.

Outreach

Your first point of contact at NLIHC is your Outreach Associate. NLIHC's four Outreach Associates are members' direct points of contact for answers to federal policy or membership questions. The outreach team also coordinates responses from members when there is a federal housing issue that needs attention. NLIHC's outreach associates are each assigned to specific states. Find the contact information your assigned Outreach Associate at <http://nlihc.org/template/page.cfm?id=171> or email outreach@nlihc.org

Policy

NLIHC's policy team tracks, analyzes, and advocates for NLIHC's policy priorities, which can be found by visiting www.nlihc.org and clicking on "Issues and Initiatives." Information on NLIHC's four policy committees, which are comprised of NLIHC board members and members and help set NLIHC's policy agenda, is at <http://www.nlihc.org/template/page.cfm?id=36>

Memo to Members. NLIHC's weekly newsletter, Memo to Members, is the best way to stay up-to-date on with all latest federal housing news and updates. Memo to Members can be accessed from NLIHC's homepage, www.nlihc.org, and is delivered by email to all members.

Research

NLIHC's research team publishes research on housing-related topics throughout the year. From www.nlihc.org, click on the "Research & Publications" tab for the latest research and reports.

Out of Reach. NLIHC's flagship research publication, Out of Reach, offers a side-by-side comparison of wages and rents in every county, Metropolitan Area (MSAs/HMFAs), combined nonmetropolitan area and state in the United States. For each jurisdiction, the report calculates the amount of money a household must earn in order to afford a rental unit at a range of sizes (0, 1, 2, 3, and 4 bedrooms) at the area's Fair Market Rent (FMR), based on the generally accepted affordability standard of paying no more than 30% of income for housing costs. Out of Reach is available on NLIHC's homepage, www.nlihc.org.

Congressional District Profiles. NLIHC's Congressional District Profile offers a snapshot of housing need for each Congressional district in the country. Each profile pulls from a variety of sources and illuminates several dimensions of housing affordability for renter households in each district, the surrounding area, and the state. This resource can be found at www.nlihc.org under the "Research & Publications" tab.

Contact Your Elected Officials

To find contact information for your state or federal elected officials, visit www.nlihc.org and enter your zip code in the "Contact Congress" box on the lower left side of the page.

NLIHC State Partners

NLIHC maintains close ties with our state partners, housing and/or homeless advocacy organizations who serve statewide or regional areas and with whom we work most closely. To find out what's happening in your state, visit www.nlihc.org and click on the "State Resources" tab. NLIHC also maintains a repository of state-generated research, at <http://www.nlihc.org/template/page.cfm?id=139>

NLIHC Annual Housing Policy Conference

NLIHC hosts an Annual Conference every spring in Washington, DC , that offers federal housing policy related workshops, plenaries, and keynote speakers, as well as a lobby day at which members have the opportunity to weigh in with members of Congress and their staffs. For more information and registration, visit www.nlihc.org/conference

NLIHC on Social Media

Facebook. Become a fan of NLIHC on Facebook and get instant updates on the latest housing news and information: <http://www.facebook.com> search: National Low Income Housing Coalition

Twitter. Follow NLIHC on Twitter for daily updates: www.twitter.com/nlihc

Join NLIHC

NLIHC membership dues make up 20% of NLIHC's operating revenue. Your dues are essential to the success of NLIHC's advocacy on behalf of low income people in need of safe and affordable housing. Members receive a number of important benefits as well, including weekly email delivery of Memo to Members.

Become a member by visiting www.nlihc.org/join

NLIHC State Partners

NLIHC state partners are an integral part of the work that we do. Our state partners are housing and/or homeless advocacy organizations serving statewide or regional areas, and are the organizations with whom we work most closely. Please join the partner(s) where you live, as well as NLIHC, to strengthen state and national advocacy for more affordable housing.

Alabama

Alabama Arise
334-832-9060
www.alarise.org

Low Income Housing Coalition of Alabama (c/o Collaborative Solutions)
205-939-0411
www.collaborative-solutions.net/Programs/lihca.html

Alaska

Alaska Coalition on Housing and Homelessness
907-743-5726
www.akcoalition.com

California

California Coalition for Rural Housing
916-443-4448
www.calruralhousing.org

California Housing Partnership Corporation
415-433-6804
www.chpc.net

Housing California
916-447-0503
www.housingca.org

Non-Profit Housing Association of Northern California
415-989-8160
www.nonprofithousing.org

Southern California Association of Non Profit Housing
213-480-1249
www.scanph.org

Colorado

Colorado Coalition for the Homeless
303-293-2217
www.coloradocoalition.org

Connecticut

Connecticut Housing Coalition
860-563-2943
www.ct-housing.org

Delaware

Delaware Housing Coalition
302-678-2286
www.housingforall.org

Florida

Florida Coalition for the Homeless
850-412-0021
www.fchonline.org

Florida Housing Coalition, Inc.
850-878-4219
www.flhousing.org

Georgia

Georgia State Trade Association of Nonprofit Developers
404-526-1260
www.gstand.org

Hawaii

Affordable Housing and Homeless Alliance
808-845-4565
www.hawaiihomeless.org

Illinois

Housing Action Illinois
312-939-6074
www.housingactionil.org

Indiana

Indiana Association for Community Economic Development
317-920-2300
www.iaced.org

Kansas

Kansas Statewide Homeless Coalition
785-354-4990
www.kshomeless.com

Kentucky

Homeless and Housing Coalition of Kentucky
502-223-1834
www.hhck.org

Louisiana

Louisiana Housing Alliance
504-258-8023

Maine

Maine Affordable Housing Coalition
207-553-7780
www.mainehousingcoalition.org

Massachusetts

Citizens' Housing and Planning Association
617-742-0820
www.chapa.org

Michigan

Community Economic Development Association of Michigan
517-485-3588
www.cedam.info

Michigan Disability Rights Coalition

517-333-2477
www.copower.org/mdrc/MDRC.htm

Minnesota

Minnesota Housing Partnership
651-649-1710
www.mhponline.org

Minnesota Coalition for the Homeless

651-645-7332
www.mnhomelesscoalition.org

Missouri

Missouri Association for Social Welfare
573-634-2901
www.masw.org

Nebraska

Nebraska Housing Developers Association
402-435-0315
www.housingdevelopers.org

New Hampshire

Housing Action New Hampshire
603-427-6076

New Jersey

Housing and Community Development Network of New Jersey
609-393-3752
www.hcdnj.org

New Mexico

New Mexico Coalition to End Homelessness
505-982-9000
www.nmceh.org

Supportive Housing Coalition of New Mexico

505-255-3643
www.thehousingcoalition.com

New York

Neighborhood Preservation Coalition of New York State

518-432-6757
www.npcnys.org

New York State Rural Housing Coalition

518-458-8696
www.ruralhousing.org

Supportive Housing Network of New York

646-619-9640 or 518-465-3233
www.shnny.org

Tenants and Neighbors

212-608-4320
www.tandn.org

North Carolina

North Carolina Coalition to End Homelessness
919-755-4393
www.ncceh.org

North Carolina Housing Coalition

919-827-4496
www.nchousing.org

Ohio

Coalition on Homelessness and Housing in Ohio
614-280-1984
www.cohhio.org

Oregon

Housing Alliance (c/o Neighborhood Partnership Fund)
503-226-3001
www.oregonhousingalliance.org

Pennsylvania

Housing Alliance of Pennsylvania
215-576-7044
www.housingalliancepa.org

Rhode Island

Housing Action Coalition of Rhode Island
401-521-1461
www.housingactionri.org

Housing Network of Rhode Island

401-521-1461
www.housingnetworkri.org

Rhode Island Coalition for the Homeless

401-421-6458
www.rihomeless.com

South Carolina

Affordable Housing Coalition of South Carolina
803-808-2980
www.affordablehousingsc.org

Texas

Texas Association of Community Development Corporations
512-916-0508
www.tacdc.org

Texas Homeless Network

512-482-8270
www.thn.org

Texas Low Income Housing Information Service

512-477-8910
www.texashousing.org

Utah

Utah Housing Coalition
801-364-0077
www.utahhousing.org

Vermont

Vermont Affordable Housing Coalition
802-660-9484
www.vtaffordablehousing.org

Virginia

Virginia Housing Coalition
804-497-3060
www.vahousingcoalition.org

Washington

Washington Low Income Housing Alliance
206-442-9455
www.wliha.org

Washington State Coalition for the Homeless

253-761-7446
www.endhomelessnesswa.org

Wisconsin

Housing for All (c/o Independence First)
414-291-7520

Wisconsin Partnership for Housing Development, Inc.

608-258-5560 or 414-226-0380
www.wphd.org

National Low Income Housing Coalition Membership Form

1. Choose one:

Joining NLIHC Renewing Membership (Current Past)

2. Provide your member information (please print):

Mr. Ms. Other: _____

Name: _____

Title: _____

Organization: _____

Address: _____

City: _____ State: _____ ZIP: _____

Telephone: _____ Fax: _____

Cell: _____ Interested in receiving NLIHC alerts via text?

Email: _____

Individual members without email may choose to receive Memo by mail:

Organizations may list up to 10 additional people to receive Memo.
Please use space provided on opposite side of page and/or additional sheet.

Let us know who else should be a member. See top of opposite side.

3. Choose a membership type:

Category	Amount (suggested)
Individual with low income, or student	\$3
Individual	\$100
Resident Association, low income	\$10
Organization, <\$250,000 operating budget	\$200
Organization, \$250,000 – 499,999	\$350
Organization, \$500,000 – 999,999	\$500
Organization, \$1,000,000 – 2,000,000	\$1000
Organization, >\$2,000,000	\$2000

4. Choose a payment option:

Check (please enclose) Visa Mastercard Exp Date: _____

Credit card number: _____ CVC*: _____

Cardholder Signature: _____

**Three-digit code on back of card.*

Benefits of Membership

Memo to Members

Members receive this much admired weekly newsletter by email or mail.

Calls to Action

Members receive email notification of significant policy developments requiring constituent calls or letters to Congress.

Shelterforce Subscription

Discounted Conference Fees

NLIHC hosts an annual policy conference and leadership reception in Washington, DC. The conference draws advocates, researchers, academics, individuals with low incomes, and government experts together to provide expertise and updates on current federal housing policy initiatives.

Free or Discounted Publications

NLIHC produces a number of publications each year, including an *Advocates' Guide* and *Out of Reach*.

Telephone resource referrals with linkage to state and regional networks

Participation in policy-setting decisions of NLIHC.

Dues and gifts are tax exempt under Section 501(c)(3) of the IRS code, except \$15 for production costs.

For internal use only – Mailing code:

Please return to: NLIHC, 6th Floor 727 15th Street, NW Washington, DC 20005 or by fax to 202-393-1973

NLIHC Membership Form: 2010 Advocates' Guide

Think your friends and colleagues should be members of the NLIHC as well?

Let us know to whom else we should send membership materials.

Name:
Organization:
Address:
City:
State:
ZIP:
Telephone:
Fax:
Email:

Name:
Organization:
Address:
City:
State:
ZIP:
Telephone:
Fax:
Email:

Additional Memo recipients (organizations only):

If address left blank, will assume same as primary contact.

Name:
Organization:
Address:
Telephone:
Fax:
Email:

Name:
Organization:
Address:
Telephone:
Fax:
Email:

Name:
Organization:
Address:
Telephone:
Fax:
Email:

Name:
Organization:
Address:
Telephone:
Fax:
Email:



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www.nlihc.org

