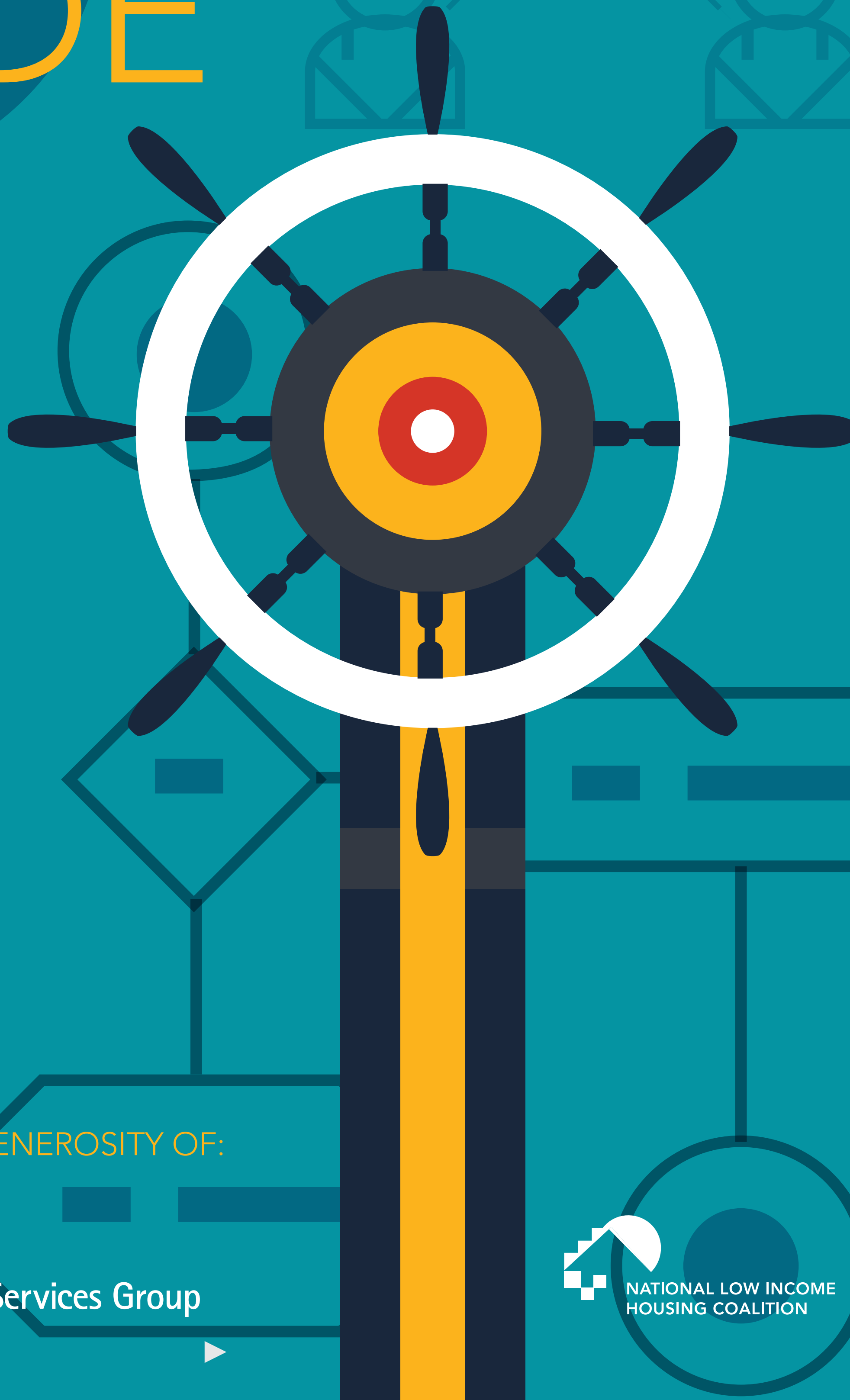
2016 ADVOCATES' GUIDE

An Educational Primer on Federal Programs and Resources Related to Affordable Housing and Community Development



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NATIONAL LOW INCOME HOUSING COALITION

NATIONAL LOW INCOME
HOUSING COALITION

Established in 1974 by Cushing N. Dolbeare, 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.

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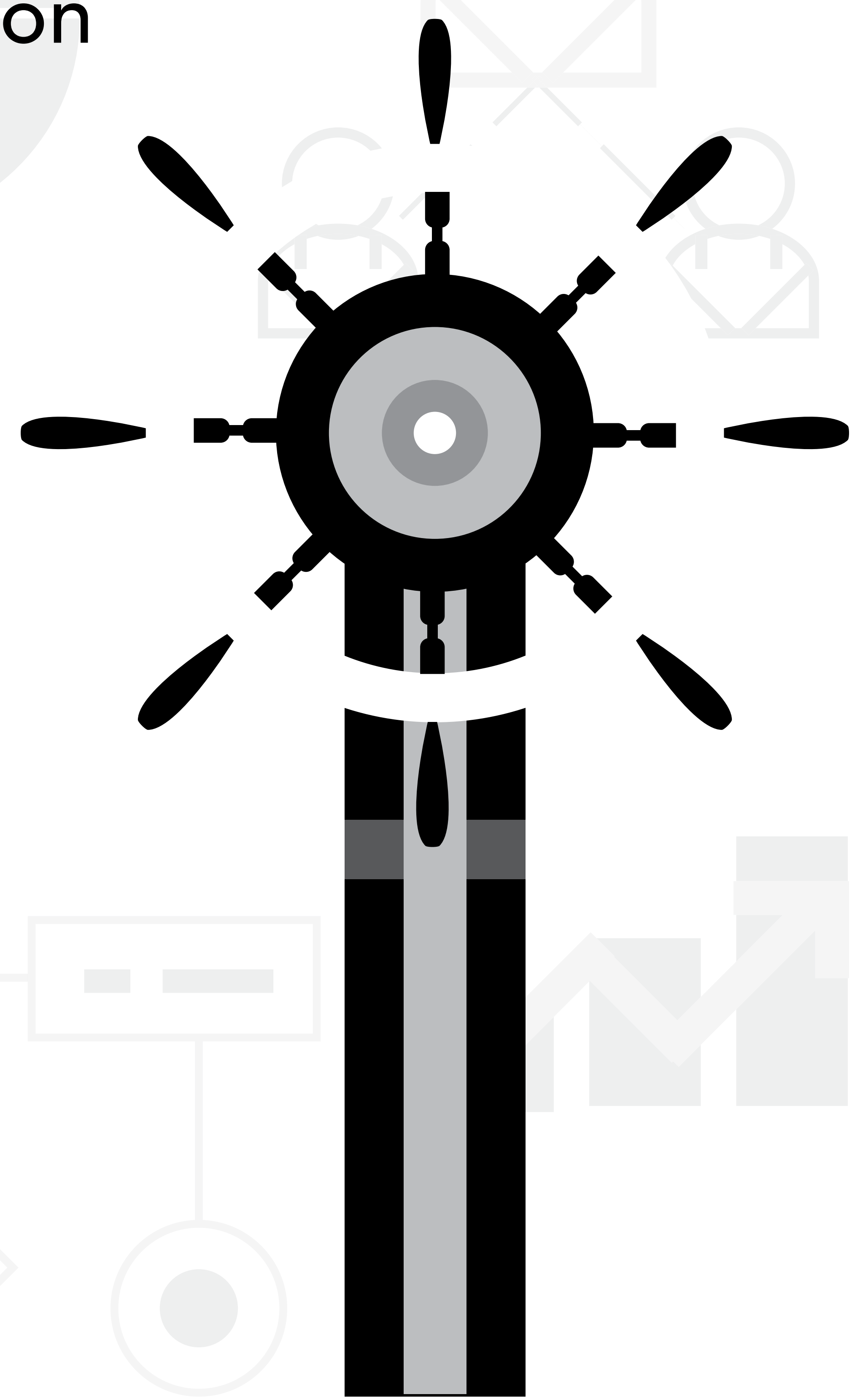

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About the Advocates' Guide

The Advocates' Guide: An Educational Primer on Federal Programs and Resources Related to Affordable Housing and Community Development, is as the title suggests a guide to affordable housing. But on many levels it is much more than that. It is hundreds of pages of useful resources and practical know-how written by leading experts in the affordable housing and community development field with a singular purpose—to educate advocates and affordable housing providers of all kinds about the programs and policies that make housing affordable to low-income people across America.

The National Low Income Housing Coalition (NLIHC) is pleased to present the 2016 edition of the Advocates' Guide. For many years, the Advocates' Guide has been the leading authoritative reference for advocates and affordable housing providers seeking a quick and convenient way to understand affordable housing programs and policies.

With the right information and a little know-how, all of us can effectively advocate for housing programs with our Members of Congress and other policymakers. Whether you are a student in an urban planning program, a new employee at a housing agency or community development corporation, or a seasoned affordable housing advocate looking for a refresher on key programs, this book will give you the overview of housing programs and advocacy tools you need to be a leader in the affordable housing movement and to advocate effectively for socially just housing policy for low income Americans.

HOW TO USE THIS GUIDE

The first section orients you to affordable housing and community development programs with articles that explain how affordable housing works, why it is needed, and what NLIHC believes are the highest housing priorities, including the National Housing Trust Fund. The advocacy resources section provides vital information to guide your advocacy with the legislative and executive branches of government, as well as tips about how organizations and individuals can be effective advocates.

The next few sections cover housing programs for low income households, additional housing and community development programs, special housing issues, housing tools, community development resources, and low-income programs and laws. These are the core affordable housing programs and issues you need to understand.

Take this Guide with you to meetings with lawmakers. And share the Guide with your friends and colleagues. The more advocates using this Guide, the greater our collective impact will be.

TELL US WHAT YOU THINK

Take a moment to tell us how we're doing and what we can do to improve. Please send an email to outreach@nlihc.org to provide comments or to ask a question about something you've read.

A NOTE OF GRATITUDE

The Advocates' 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 Advocates' Guide would not be possible without them. Several articles build on the work of authors from previous versions of the Advocates' Guide, and we appreciate and acknowledge their contributions as well.

Thank you to PNC for their ongoing support for this publication.

National Low Income Housing Coalition 2016 Public Policy Agenda

APPROVED NOVEMBER 15, 2015

NLIHC supports all federal policy initiatives that advance our mission and our goals.

OUR MISSION IS:

NLIHC 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.

OUR THREE GOALS ARE:

Goal 1: To preserve existing federally assisted homes and housing resources.

- There will be no further loss of federally assisted affordable housing units or federal resources for affordable housing or access to housing by extremely low income (ELI) people.

Goal 2: To expand the supply of low income housing.

- The federal government will increase its investment in housing in order to produce, rehabilitate, and/or subsidize at least 3,500,000 units of housing that are affordable and accessible to the lowest income households in the next 10 years.

Goal 3: To establish housing stability as the primary purpose of federal low income housing policy.

- Housing stability in the neighborhood of one's choice will be understood and accepted as the desired outcome of federal low income housing programs and as foundational to good health, employment, educational achievement, and child well-being for people with the lowest incomes.

In the 114th Congress, NLIHC will focus on achieving the policy outcomes detailed below. NLIHC will also monitor the federal policy environment and respond to emerging issues as needed.

NATIONAL HOUSING TRUST FUND (NHTF)

- Obtain funding for the NHTF of at least $5 billion a year, with a goal of $30 billion a year for 10 years.
- Advance legislation to fund the NHTF with savings gained from reform of the Mortgage Interest Deduction (MID).
- Monitor and influence federal housing finance reform legislation to:
    1. Ensure that dedicated funding for NHTF is in the final bill at the level provided for in the Johnson-Crapo bill at the very least.
    2. Protect the statutory authority for the NHTF.
- Monitor and prevent enactment of all legislative attempts to defund NHTF or otherwise inhibit its implementation.
- Advocate for HUD to base rents in NHTF-funded units at the lower of 30% of 30% of area median income (AMI) or 30% of poverty level.
- Determine need, if any, for other legislative or regulatory action to improve implementation.

FEDERAL TAX REFORM

- Advance legislation to fund the NHTF with savings gained from reform of the MID; advocate for reform that lowers the cap to $500,000 and/or converts the deduction to a credit; support other tax reform proposals that would fund NHTF at a goal of $30 billion a year for 10 years and potentially other programs to expand housing supply and subsidies for ELI households
- Monitor and influence all proposals to change MID or other homeowner tax subsidies to assure that maximum savings are directed to housing purposes that benefit ELI households.
- Support tax reform proposals that improve the economic conditions of low income people and reduce income inequality.

- Oppose deficit reduction plans that are not balanced with revenue raisers.
- Oppose adverse changes to federal tax expenditures that benefit low income people, including the low income housing tax credit program, the earned income tax credit, and the child tax credit.

FEDERAL BUDGET

- Advocate for a sufficient nondefense discretionary level in the FY17 budget resolution to provide for HUD and Rural Housing Service in FY17.
- Advocate for the highest level of FY17 funding for HUD, ensuring sufficient funding to preserve all existing affordable low income housing units, rental assistance, and resources for ELI households.
- Advocate for the highest level of FY17 funding for the Rural Housing Service, with a focus on rental housing program serving households with the lowest incomes.
- Advocate for homeless assistance funding at level necessary to end "chronic homelessness."
- Advocate to restore HOME funding to $2 billion.
- Advocate for sufficient funding for the U.S. Census, including the American Community Survey.
- Support canceling sequestration and replacing it with a deficit reduction plan that will protect all affordable housing and other programs that serve low income people.
- Oppose sequestration replacement plans that are not balanced with increased revenues or that implement across-the-board or other cuts to non-defense discretionary and mandatory programs serving low income households.

ALIGNING FEDERAL HOUSING RESOURCES WITH NEED

- Advocate for a third option for Low Income Housing Tax Credit developers, to allow a project to serve households with incomes that average 60% AMI as long as at least 30% of units serve households below 30% of AMI. Seek support from congressional offices to introduce legislation.
- Advocate for a 30% basis boost to properties that choose for this income averaging option.

HOUSING CHOICE VOUCHERS

- Advocate for increased funding for the housing choice voucher program to restore vouchers lost because of the 2013 sequester.
- Advocate for full funding for all current vouchers in FY17 HUD budget and to increase VASH, FUP, DV, and NED vouchers.
    1. Advance the next iteration of voucher reform legislation, without:
    2. Time limits.
    3. MTW expansion beyond what is in 2012 stakeholder agreement.
    4. Minimum rent increases without strong improvements to hardship exemptions.
- Support legislation or regulation to incentivize state and regional voucher administration.
- Monitor Small Area Fair Market Rent demonstration; seek additional resources so as to encourage PHA participation in demonstration.
- Support federal policies that ensure formerly incarcerated individuals have meaningful access to affordable housing.

PRESERVATION OF PUBLIC HOUSING

- Advocate for sufficient funding to meet annual public housing operating and capital costs, as well as increased funding to address backlog of public housing capital needs.
- Monitor the Rental Assistance Demonstration to assure compliance with tenant protections and maintaining public ownership of public housing. Ensure full participation for all residents, including those with project-based vouchers. Ensure housing after conversion continues to serve previously served population or population of households on the waiting list.
- Advance regulatory reform or administrative action to assure that all public housing redevelopment must provide:
    1. One-for-one replacement.
    2. Right to return of residents.
    3. Full and ongoing resident participation, with resources for such participation.

4. Public ownership of housing and land.

- Oppose expansion of MTW beyond what is in the 2012 stakeholder agreement.
- Protect resident participation funds.
- Support federal policies that ensure formerly incarcerated individuals have meaningful access to affordable housing.

PRESERVATION OF ASSISTED HOUSING

- Advocate for full funding of existing project-based rental assistance contracts.
- For project-based rental assistance, advance legislative or regulatory reform that includes:
  1. A required unique identifier for each federally assisted housing property, includes public housing.
  2. Establishment of a national preservation inventory.
  3. Full resident participation, enhanced voucher protections, and resident first right to purchase their buildings.
  4. Alternatives to converting to market rate for properties with expiring contracts or maturing mortgages.
  5. Tools and resources for residents and advocates to work on preservation of public and assisted housing.
  6. Prohibition of involuntary displacement.
  7. One-for-one replacement when demolition is unavoidable.
- Protect resident participation funds.
- Support federal policies that ensure formerly incarcerated individuals have meaningful access to affordable housing.

PLANNING FOR JUST COMMUNITIES

- Monitor and influence the implementation of final regulations to Affirmatively Further Fair Housing, including intersection with NHTF implementation and support for a balanced approach to fair housing that supports both preservation and new housing opportunities.
- Monitor and advocate against all legislation seeking to undermine HUD's AFFH rule and Fair Housing Act's disparate impact standard.
- Develop and advance alternative models for determining Fair Market Rents in rural areas, including analysis of using rent reasonableness, rent comparability studies conducted for other federal or state programs, and/or HUD Secretary discretion to approve alternates.
- Monitor and influence improvements to the Consolidated Plan process, including attention to environmental justice implications.
- Support legislation or regulation to incentivize state and regional voucher administration.
- Support legislation and/or administrative reforms to prohibit involuntary displacement.

FORECLOSURE INTERVENTION

- Advance legislation to make permanent the Protecting Tenants in Foreclosure Act (PTFA), to give tenants a private right of action, and to require monitoring and enforcement by federal agencies.
- Monitor and influence implementation of PTFA by federal agencies and GSEs.

HOUSING PLUS SERVICES

- Support legislative and regulatory action to improve the Section 3 program.
- Monitor use of service funds to assure they are well-connected to mainstream housing resources.
- Support partners' work on implementation of HEARTH Act.
- Support partners' work on implementation of the Section 811 Project Rental Assistance (PRA) Program, including expansion of integrated accessible and affordable housing opportunities for people with disabilities, including people who are homeless, across all states; support streamlining the PRA program to work effectively and efficiently with LIHTC, HOME and NHTF Programs.
- Advocate for HUD guidance to inform stakeholders that tenant selection policies can provide preference based on services provided, that those services do not have to be offered in a segregated setting, and people would have to be eligible to receive those services to be given the preference.

- Support partners' work on the Section 202 Housing for the Elderly program.
- Support partners' work to improve formula for distribution of HOPWA funds.
- Monitor ongoing implementation of Violence Against Women Act (VAWA) housing protections and urge HUD/USDA/Treasury to issue informal guidance whenever possible while agencies finalize VAWA regulations.
- Support federal policies that ensure formerly incarcerated individuals have meaningful access to affordable housing. ■

A Brief Historical Overview of Affordable Rental Housing

Affordable housing is a broad and complex subject intertwined with many disciplines: finance, economics, politics, and social services, to name a few. In spite of the complexity, advocates can come to an understanding of the essential workings of affordable housing and in doing so be prepared to advocate effectively for the programs and policies that can ensure access to decent, affordable housing for the people in need in their communities.

This article provides a broad, though not exhaustive, overview of the history of affordable rental housing programs in the United States and attempts to paint a picture of how those programs work together to meet the housing needs of low income people.

HISTORY

As with any federal program, federal housing programs grew and changed based on the economic, social, cultural, and political circumstances of the times. The programs and agencies that led to the federal department now known as HUD began in the early 1930s with construction and finance programs meant to alleviate some of the housing hardships caused by the Great Depression. An act of Congress in 1934 created the Federal Housing Administration, which made home ownership affordable for a broader segment of the public with the establishment of mortgage insurance programs. These programs made possible the low down payments and long-term mortgages that are commonplace today but were almost unheard of at that time.

In 1937, the U.S. Housing Act sought to address the housing needs of low income people through public housing. The nation's housing stock at this time was of very poor quality in many parts of the country. Inadequate housing conditions such as the lack of hot running water or dilapidation was commonplace for poor families. Public housing was a significant improvement for those who had access to it. At the same time, the post-World War II migration from urban areas to the suburbs meant declining cities. Federal programs were developed to improve urban infrastructure and to clear "blight." This often meant wholesale destruction of neighborhoods and housing, albeit often low-quality housing, lived in by immigrants and people of color.

In 1965 Congress elevated housing to a cabinet-level agency of the federal government, creating HUD, which succeeded it predecessors, the National Housing Agency and the Housing and Home Finance Agency (HHFA), respectively.

HUD is not the only federal agency to have begun housing programs in response to the problems of the Great Depression. The U.S. Department of Agriculture (USDA) sought to address the poor housing conditions of farmers and other rural people through the 1935 creation of the Resettlement Administration, predecessor to USDA's Rural Development. USDA's rural rental and homeownership programs improved both housing access and housing quality for the rural poor.

The cost of operating public housing soon eclipsed the revenue brought in from resident rents, a reality endemic to any program that seeks to provide housing or other goods or services to people whose incomes are not great enough to afford the prices offered in the marketplace. In the 1960s, HUD began providing subsidies to public housing agencies (PHAs) that would help make up the difference between revenue from rents and the cost of adequately maintaining the housing. In 1969, Congress passed the "Brooke Amendment," codifying a limitation on the percentage of income a public housing resident could be expected to pay for rent. The original figure was 25% of income, and was later raised to the 30% standard that exists today. Advocates often refer to these as "Brooke rents," for Senator Edward W. Brooke, III (R-MA), for whom the amendment is named.

Beginning in the late 1950s and continuing into the 1960s, Congress created a number of programs that leveraged private investment to create new affordable rental housing. In general, these programs provided low interest rates or other subsidies to private owners who would purchase or rehabilitate housing to be rented at affordable rates. The growth in these private ownership programs resulted in a boom in affordable housing construction through the 1970s, but once the contracts forged by HUD and private owners expired, or owners decided to pay their subsidized mortgages early, those affordable units could be lost from the stock.

The Civil Rights Acts of 1964 and 1968 included housing provisions that were intended to prevent discrimination against members of protected classes in private or public housing. Different presidential administrations have prioritized these fair housing provisions to varying extents, but their existence has provided leverage to advocates seeking to expand access to affordable, decent housing, particularly for people of color.

In January 1973, President Richard Nixon created a moratorium on the construction of new rental and homeownership housing by the major HUD programs. The following year, the Housing and Community Development Act of 1974 made significant changes to housing programs, marked by a focus on block grants and an increase in the authority granted to local jurisdictions (often referred to as "devolution of authority"). This act was the origin of the tenant-based and project-based Section 8 rental assistance programs, and it created the Community Development Block Grant (CDBG) from seven existing housing and infrastructure programs.

Structural changes in the American economy, deinstitutionalization of persons with mental illness, and a decline in housing and other support for low income people resulted in the dramatic increase in homelessness in the 1980s. The shock of visible homelessness spurred Congressional action, and the McKinney Act of 1987 (later renamed the McKinney-Vento Act) created new housing and social service programs within HUD specially designed to address homelessness.

Waves of private affordable housing owners deciding to "opt out" of the project-based Section 8 program occurred in the 1980s and 1990s. Housing advocates–including PHAs, nonprofit affordable housing developers, local government officials, nonprofit advocacy organizations and low income renters–organized to preserve this disappearing stock of affordable housing using whatever funding and financing was available to them.

The Department of the Treasury's Internal Revenue Service was given a role in affordable housing development in the Tax Reform Act of 1986 with the creation of the Low Income Housing Tax Credit, which provides tax credits to those investing in the development of affordable rental housing. That same act codified the use of private activity bonds for housing finance, authorizing the use of such bonds for the development of housing for homeownership, as well as the development of multifamily rental housing.

The Cranston-Gonzales National Affordable Housing Act of 1990 (NAHA) created the Comprehensive Affordable Housing Strategy (CHAS) obligation of jurisdictions to identify priority housing needs for determining how to allocate the various block grants (such as CDBG) that they receive. CHAS is the statutory underpinning of the current Consolidated Plan obligation. Cranston-Gonzales also created the HOME program, which provides block grants to state and local governments for housing. In addition, NAHA created the Section 811 program, which has provided production and operating subsidies to nonprofits for housing persons with disabilities.

Beyond changes to the structure of many federal housing programs, no significant investment in new housing affordable to the lowest income people has been made in more than 30 years, and there still exists a great shortage of housing affordable to that population. Since the creation of the Section 8 programs in the early 1970s, no new federal program has the deep income targeting necessary to meet the needs of people with the greatest housing affordability burdens. As studies from NLIHC show, the federal investment in housing has not increased at pace with the overall increase in the federal budget, and expenditures on housing go overwhelmingly to homeownership, not to rental housing for people with the greatest need. Federal spending caps, enacted in 2011, have only served to further strain efforts to adequately fund programs.

Housing advocates have worked for more than a decade for the establishment and funding of the National Housing Trust Fund (NHTF), which will, once funded, build, preserve, rehabilitate, and operate housing affordable to extremely low income people. NHTF, was signed into law by President

George W. Bush in 2008 as a part of the Housing and Economic Recovery Act, but the original source of funding was suspended and the program is not yet in operation. In December 2014,s the Federal Housing Finance Agency lifted the suspension so that money can flow to the NHTF. The first NHTF funds are expected to go to states from HUD in mid-2016.

STATE AND LOCAL HOUSING PROGRAMS

State and local governments play a role in meeting the housing needs of their residents. The devolution of authority to local governments that began in the 1970s meant that local jurisdictions had greater responsibility for planning and carrying out housing programs. Some communities have faced the decrease in federal housing resources through the creation of emergency and ongoing rental assistance programs, as well as housing production programs. These programs have been important to low income residents in the communities where they are available, but state and local efforts have not been enough to make up for the federal disinvestment in affordable housing.

Cities, counties, and states across the country have begun creating their own rental assistance programs as well as housing development programs, often called housing trust funds, to meet local housing needs and help fill in the gaps left by the decline in federal housing production and rental assistance. Local funding sources may be targeted to specific income groups, or may be created to meet the needs of a certain population, such as veterans, seniors, or families transitioning out of homelessness. Funding sources include local levy or bond measures and real estate transaction or document recording fees, among others.

Federal decision-making has had a direct impact on states' response to the shortage of housing affordable to extremely low income people. In 1999, the U.S. Supreme Court found in *Olmstead v L.C.* that continued institutionalization of people with disabilities who were able to return to the community constituted discrimination under the Americans with Disabilities Act. This decision means that states are now developing and providing community-based permanent supportive housing for people with disabilities in response to *Olmstead* litigation or in order to avoid future litigation.

DEVELOPING AFFORDABLE HOUSING AT THE LOCAL LEVEL

The expense of producing and operating housing affordable to low income renters, and the multitude of funding sources available to finance it, make affordable housing development a complicated task.

Affordable housing developers, including PHAs redeveloping their housing stock, must combine multiple sources of funding in order to finance housing development or preservation. These funding sources can be of federal, state or local origin, and can also include private lending and grants or donations. Some developers include market-rate housing options within a development in order to generate revenue that will cross-subsidize units set aside for lower income tenants. Each funding source will have its own requirements for income or population targeting, as well as oversight requirements. Some funding sources require developers to meet certain environmental standards or other goals, such as historic preservation or transit-oriented development.

Accessing these many funding sources requires entry into application processes which may or may not have complementary timelines, and developers risk rejection of even the highest merit applications due to a shortage of resources. Developers incur costs before the first shovel hits the ground as they work to plan their developments around available funding sources and their associated requirements.

Developers encounter another set of requirements in the communities in which they work. They must operate according to local land use regulations, and can sometimes encounter community opposition to a planned development, which can jeopardize funder support for a project.

Once developments open, depending on the needs of the residents, services and supports may be included in the development. These can range from after-school programs to job training to physical or mental health care. This can mean working with another set of federal, state, and local programs, as well as nonprofit service providers.

In spite of these challenges, affordable housing developers succeed every day, building, rehabilitating and preserving the quality housing low income people need at rents they can afford.

THE FUTURE OF AFFORDABLE HOUSING

There are serious issues facing those who believe everyone in the U.S. has the right to safe, decent, affordable housing. The need for affordable housing continues to grow, particularly the need for housing affordable to the lowest income people. Nationwide, there are only 31 units of housing affordable and available for every 100 extremely low income Americans. Federal housing assistance only serves one quarter of those who qualify for it. And special populations, such as disabled veterans returning from combat or lower income seniors, are increasing in number and need.

At the same time, the existing stock of affordable rental housing is disappearing due to deterioration and the exit of private owners from the affordable housing market. According to the National Housing Trust, our nation loses two affordable apartments each year for every one created. Local preservation efforts have seen success, and resources like the National Housing Preservation Database are helpful, but it is a race against time.

Finally, the very funding structure of most affordable housing programs puts them at risk, at both the federal and local levels. The majority of federal housing programs are appropriated, meaning that the funding amounts can change from year to year, or disappear altogether. State and local programs can be similarly volatile, because they are often dependent on revenue from fees or other market-driven sources, and are vulnerable to being swept into non-housing uses. Ensuring funding at amounts necessary to maintain programs at their current level of service, much less grow them, is a constant battle.

THE ROLE OF ADVOCATES

Just as the Great Depression caused lawmakers to consider an expanded role for government in the provision and financing of housing, the Great Recession of 2008 and the ensuing slow recovery have inspired advocates, lawmakers, and the general public to take interest in the housing and other needs of lower income people, and to reconsider the role of government in housing, particularly in homeowner-owned housing.

Affordable housing advocates have a unique opportunity to make the case for affordable rental housing with Members of Congress as well as with local policymakers. As the articles in this *Guide* demonstrate, subsidized rental housing is more cost-effective and sustainable than the alternative, be it institutionalization, homelessness, or grinding hardship for working poor families. And after decades of a clear over-investment in homeownership, the housing market collapse, and the growth of a gaping divide between the resources and future prospects of the highest and lowest income people, it is clearly time for federal housing policy to be rebalanced in favor of addressing the greatest housing needs.

Those who wish to see an end to homelessness must be unyielding in their advocacy for rental housing that is affordable to the lowest income people. Over the eight decades of direct federal involvement in housing, we have learned much about how the government, private, and public sectors can partner with communities to create the affordable housing that will improve lives and heal whole neighborhoods. We must take this evidence, and our stories, to lawmakers to show them that this can, and must, be done.

FOR MORE INFORMATION

HUD Historical Background, http://1.usa.gov/11P11P2

NLIHC's Changing Priorities: The Federal Government and Housing Assistance, 1976-2007, http://nlihc.org/library/other/periodic/changing-priorities-1976-2007

NLIHC's Affordable Housing is Nowhere to be Found for Millions, http://nlihc.org/sites/default/files/Housing-Spotlight_Volume-5_Issue-1.pdf

National Housing Trust Fund, www.nhtf.org

United for Homes Campaign, http://nlihc.org/unitedforhomes

The Housing Trust Fund Project of the Center for Community Change, http://housingtrustfundproject.org/

National Housing Preservation Database http://www.preservationdatabase.org/ ■

The National Need for Housing

By Dan Emmanuel, Research Analyst, NLIHC

The economic recession combined with demographic changes have contributed to a significant increase in the renter population. The number of renter households grew by nearly 9 million, to 43 million, between 2005 and 2015, representing the largest gain in any 10-year period.[1] The rental vacancy rate averaged 7.1% for the first three quarters of 2015, the lowest level in 30 years, and rents have risen faster than inflation and household incomes in recent years.[2] Furthermore, the production of new rental units has been concentrated at the higher-priced end of the market.[3]

Incomes have not kept paced with the rise in rents, especially among low wage workers. According to a study by the National Employment Law Project, real median wages across almost 800 occupations dropped by an average of 4% from 2009 to 2014, while the lowest paying 20% of occupations saw an average decline of 5.7%.[4] According to NLIHC's annual *Out of Reach* report, a worker needs to earn an hourly wage of $19.35, over two and half times the federal minimum wage, in order to afford a two-bedroom rental home at the national average Fair Market Rent of $1,006. The average wage of renters, nationwide, is $15.16.

The United States faces a shortage of affordable housing, and the shortage is most severe for extremely low income (ELI) households. An ELI household, one with income at or below 30% of the area median income (AMI), can only afford rent of $509 a month.[5] Based on NLIHC analysis of the 2014 American Community Survey,[6] there are 10.4 million ELI renter households and only 5.8 million rental units affordable to them, using the standard affordability measure of spending no more than 30% of household income on housing costs. This leads to an absolute shortage of 4.6 million rental homes for these households nationwide.

The challenge for ELI renters is even greater than it appears, because many of the units affordable to ELI households are occupied by higher income households. Thus, on a nationwide basis, the shortage of affordable and available rental homes for ELI households is 7.2 million. Nationally, there are only 31 affordable and available rental homes for every 100 ELI renter households.

The most vulnerable ELI renters, including households relying on Supplemental Security Income (SSI) and minimum wage workers, face the greatest challenges when seeking affordable housing. According to the Technical Assistance Collaborative, one-bedroom rents exceeded 100% of monthly SSI income in 161 housing markets across 33 states in 2014.[7] And there are 3.4 million more deeply low income renter households, who earn 15% of AMI or less, than there are rental units available to them.

In light of the significant shortage of affordable and available housing, the lowest income renters continue to make sacrifices in order to make ends meet. Seventy-five percent of ELI renters spent more than half of their incomes on housing costs in 2014, leaving very little for other basic necessities such as food, health care, and transportation and putting families at risk of homelessness if they have a financial emergency. The negative impact of high housing cost burdens and potential housing instability on family members' mental and physical well-being is well documented, partially due to increased stress and fewer resources for food

1 Joint Center for Housing Studies of Harvard University. (2015). *America's Rental Housing: Expanding Options for Diverse and Growing Demand*. Cambridge, MA: Retrieved from: http://www.jchs.harvard.edu/sites/jchs.harvard.edu/files/ctools/css/americas_rental_housing_2015_web.pdf

2 *Ibid.*

3 *Ibid.*

4 National Employment Law Project. (2015). *Occupational Wage Declines Since the Great Recession*. Washington, DC: Retrieved from: http://www.nelp.org/content/uploads/Occupational-Wage-Declines-Since-the-Great-Recession.pdf

5 *NLIHC (2015). Out of Reach 2015. Washington, DC: Retrieved from:* http://nlihc.org/sites/default/files/oor/OOR_2015_FULL.pdf

6 Unless otherwise cited, all data are based on NLIHC analysis of 2014 ACS data.

7 Technical Assistance Collaborative. (2015). *Priced Out in 2014*. Boston, MA: Retrieved from: http://www.tacinc.org/media/52012/Priced%20Out%20in%202014.pdf

and health care.[8] A study by the Joint Center for Housing Studies at Harvard found that severely cost-burdened households in the lowest income group spent on average 38% less money on food and 55% less on healthcare than similar households with affordable housing.[9] And new research shows cost burdens can lead to maternal stress and depressive symptoms and negatively impact children's cognitive development.[10,11] The need to meet our nation's housing shortage for ELI households is apparent. ■

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8 Maqbool, Nabihah, Janet Viveiros, and Mindy Ault. (2015). The Impacts of Affordable Housing on Health: A Research Summary. Washington, DC: Center for Housing Policy. Retrieved from http://media.wix.com/ugd/19cfbe_d31c27e13a99486e984e2b6fa3002067.pdf

9 Joint Center for Housing Studies of Harvard University. (2015). *America's Rental Housing: Expanding Options for Diverse and Growing Demand*. Cambridge, MA: Retrieved from: http://www.jchs.harvard.edu/sites/jchs.harvard.edu/files/ctools/css/americas_rental_housing_2015_web.pdf

10 Warren, Emily. (2015). Housing Affordability and Parental Well-Being: Do Different Measures of Affordability Matter? Paper Presented at the Society for Social Work and Research, January 15, 2016,

11 Newman, Sandra and C. Scott Holupka. (2015). Housing Affordability and Child Well-Being. *Housing Policy Debate* 25(1): 116-151. Retrieved from http://nlihc.org/sites/default/files/Housing_Affordability_Child_Wellbeing.pdf

Income Targeting and Expenditures for Major Housing Programs

Housing Program	Income Targeting Requirements	National Annual Funding
Public Housing	At least 40% of units are for households with incomes less than 30% of AMI, with the remainder for households earning up to 80% of AMI.	$6.4 billion (FY16 HUD appropriation)
Housing Choice Vouchers	At least 75% of vouchers are for households with incomes less than 30% of AMI, with the remainder for households earning up to 80% of AMI.	$19.6 billion (FY16 HUD appropriation)
Project-Based Rental Assistance	At least 40% of units are for households with incomes less than 30% of AMI, with the remainder for households earning up to 80% of AMI.	$10.6 billion (FY16 HUD appropriation)
Section 202 and Section 811	All units are for households with incomes less than 50% of AMI.	$584 million (FY16 HUD appropriation)
HOME Investment Partnerships	If used for rental, at least 90% of units assisted in the jurisdiction must be for households under 60% AMI, with the remainder for households up to 80% AMI. If there are more than 5 Home Investment Partnership (HOME)-assisted units in a building, then 20% of the HOME-assisted units must be for households under 50% AMI. All assisted homeowners must have incomes below 80% AMI.	$950 million (FY16 HUD appropriation)
Community Development Block Grant	At least 70% of households served must have low or moderate incomes, less than 80% AMI. Remaining funds can serve households of any income group.	$3 billion (FY16 HUD appropriation)
McKinney-Vento Homeless Assistance Grants	All assistance is for participants who meet HUD's definition of homeless (those who lack a fixed, regular, and adequate nighttime residence).	$2.2 billion (FY16 HUD appropriation)
Housing Opportunities for People with AIDS	All housing is for households with incomes less than 80% of AMI.	$335 million (FY16 HUD appropriation)
Low Income Housing Tax Credit	All units are for households with incomes less than 50% or 60% of AMI (depending on how the development was financed).	$7.8 billion (FY16 estimated tax expenditure)
Federal Home Loan Banks' Affordable Housing Program	All units are for households with incomes less than 80% of AMI. For rental projects, 20% of units are for households earning less than 50% of AMI.	$328 million (2014 FHLB assessment)
Section 515 Rural Rental Housing	All units are for households with incomes less than what the U.S. Department of Agriculture (USDA) defines as moderate income—80% of AMI plus $5,500. Households in substandard housing are prioritized before households earning less than 50% of AMI.	$28 million (FY16 USDA appropriation)
Section 521 Rural Rental Assistance	In new projects, 95% of units are for households with incomes less than 50% of AMI. In existing projects, 75% of units are for households earning less than 50% of AMI.	$1.4 billion (FY16 USDA appropriation)
National Housing Trust Fund	At least 90% of funds must be for rental housing, and at least 75% of rental housing funds must benefit households with incomes below 30% AMI or poverty level, whichever is greater. Remaining funds can assist households with incomes below 50% AMI. Up to 10% may be for homeowner activities benefitting households with income below 50% AMI.	NLIHC estimate, $186.6 million

NOTES:

AMI: Area Median Income
Very low income: Income less than 50% of are AMI
Extremely low income: Income less than 30% of AMI
Low income: Income less than 80% of AMI

National Low Income Housing Coalition, February 2016

Housing as a Human Right

By Eric Tars, Senior 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. The federal government is responding to this pressure. Beginning in 2012, the U.S. Interagency Council on Homelessness (USICH) adopted a human rights approach to addressing homelessness, and is actively promoting human rights standards as part of the federal housing policy conversation. In 2015, the Department of Justice (DOJ) and HUD both took strong action against the criminalization of homelessness as a result of human rights advocacy. At the state level, there is a trend of homeless bills of rights, and locally, a number of municipalities have passed resolutions declaring their belief in housing as a human right.

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. Numerous United Nations (UN) human rights experts have recently visited the United States or made comments directly bearing on domestic housing issues including affordable and public housing, homelessness, and the foreclosure crisis, often providing detailed recommendations for federal- and local-level policy reforms. In 2016, advocates will work to consolidate these gains and push for action to accompany the rhetoric.

HISTORY

In his 1944 State of the Union address, President Franklin D. Roosevelt declared that the United States had accepted a "Second Bill of Rights," including the right to a decent home. In 1948, the United States signed the Universal Declaration of Human Rights (UDHR), recognizing housing as a human right.

The Universal Declaration is a non-binding declaration, so the right to housing was codified in binding treaty law in the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1966. The United States signed, but has not ratified, the ICESCR, and, thus, is only required to uphold the "object and purpose" of the treaty, but is not strictly legally bound. 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 recognize the right to be free from discrimination, including in housing, on the basis of race, gender, disability, and other status. The U.S. also ratified the Convention Against Torture (CAT) in 1994, protecting individuals from torture and other cruel, inhuman and degrading treatment, including the criminalization of homelessness.

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 provides useful standards for ensuring participation of poor and minority groups in zoning and development decisions affecting them.

In recent years, advocates organized several high-profile visits by human rights monitors to examine U.S. housing issues. The UN-HABITAT Advisory Group on Forced Evictions and UN Special Rapporteur on the Right to Adequate Housing visited in 2009. The Special Rapporteur on the Right to Water and Sanitation visited in 2011. In all these visits, monitors met directly with local and national advocates, government officials, and media. The visits resulted in extraordinarily detailed assessments of U.S. housing policies, which contain specific conclusions and recommendations based in large part on recommendations from U.S. advocates, ranging from one-for-one replacement of subsidized housing units to condemning criminalization of homelessness as potentially cruel, inhumane, and degrading treatment.

In 2012, USICH and the Department of Justice (DOJ) issued *Searching Out Solutions: Constructive Alternatives to the Criminalization of Homelessness*, a report which recognizes that, in addition to possible violations under the U.S. Constitution, the criminalization of homelessness may implicate our human rights treaty obligations under the ICCPR and CAT, a first for a domestic agency report. USICH, DOJ, and HUD all now address criminalization of homelessness as a human rights issue on their websites. In 2014, the U.S. underwent review by the three treaty bodies charged with monitoring the ICCPR, ICERD, and CAT, and in 2015 the U.S. was reviewed by the Human Rights Council. Each review specifically inquired about the criminalization of homelessness in the U.S.—addressing it from angles of cruel, inhumane, and degrading treatment and racial discrimination—and made recommendations for federal funding incentives and enforcement action to discourage the practice. As noted above, in response to those recommendations, the DOJ filed a statement of interest brief arguing criminalization of homelessness violates the 8th Amendment and HUD gave up to two points on their funding applications to Continuums of Care that could demonstrate the steps they were taking to end and prevent criminalization. Homeless people on the streets of America are sleeping safer today because of this international human rights advocacy.

ISSUE SUMMARY

According to the UN Committee on Economic, Social and Cultural Rights, which oversees the ICESCR, the human right to adequate housing consists of seven elements: (1) security of tenure; (2) availability of services, materials, and infrastructure; (3) affordability; (4) accessibility; (5) habitability; (6) location; and (7) 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 to progressively realize the right to adequate housing, 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 all those elements are not satisfied.

Other countries have made significant headway in making the right to housing real and legally enforceable. Other countries—including France, Scotland, and South Africa—have adopted a right to housing in their constitutions or legislation, leading to improved housing conditions. In Scotland, for example, the Homeless 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. 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 stock. 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. Although implementation challenges remain, in general, homelessness in Scotland is a brief, rare, and non-recurring phenomenon.

FORECAST

Our country's current struggle with budget deficits is not a reason to defer actions to improve Americans' access to adequate housing. Rather, it is precisely in this time of ongoing economic hardship that the need to do so is most acute, and a rights-based approach to budgeting decisions would help generate the will to protect people's basic human dignity first, rather than relegating it to the status of an optional policy. In 2016, housing advocates will be building on the gains from international recognition of housing and homeless as a human rights violation to promote housing policy goals from the federal to local levels.

Following its second Universal Periodic Review by the UN Human Rights Council in May 2015, the U.S. government accepted, in part, a recommendation to "ensure the right to housing for all," and is convening an ongoing series of interagency consultations (including officials from HUD, DOJ, and Health & Human Services, among others) to discuss its domestic human rights analysis and implementation of recommendations from international reviews. The National Law Center on Homelessness & Poverty (NLCHP) is helping to coordinate non-governmental strategy for all these opportunities.

At the state level, Rhode Island, Illinois, and Connecticut have all passed Homeless Bills of Rights, and California, Colorado, Delaware, Oregon, Hawaii, and other states are considering similar legislation.

Locally, advocates in many cities are working to pass right to housing resolutions or directly implement the right to housing. Advocates in Eugene, OR have successfully used human rights framing to create political will for a safe camping area for homeless persons. Groups such as the Chicago Anti-Eviction Campaign are organizing eviction and foreclosure defenses and using a state law allowing non-profits to take over and rehabilitate vacant properties to draw attention to and directly implement the human right to housing.

Both the American Bar Association and the International Association of Official Human Rights Agencies (the association of state and local human rights commissions) have passed resolutions endorsing domestic implementation of the human right to housing and opposing criminalization of homelessness, which local groups are using as tools in their advocacy. The U.S. Conference of Catholic Bishops has consistently spoken in favor of the human right to housing. And, during his first visit to the United States, Pope Francis highlighted the fact that Jesus was born homeless, and called for the human right to housing to be implemented.

NLCHP, together with many other housing and homelessness organizations (including NLIHC), will be launching a campaign for Housing, Not Handcuffs in mid-2016, linking local and national advocacy against criminalization of homelessness and for the human right to housing.

TIPS FOR LOCAL SUCCESS

Local groups wishing to build the movement to recognize the human right to housing in the United States 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, such as that passed by the Madison, Wisconsin, city council in November 2011, which later served as a basis for an $8 million investment in affordable housing. Advocates can also use international standards to measure local violations of housing rights, as advocates in Sacramento, Calif, have done around access to water and sanitation. Using international mechanisms, and the domestic process around them, such as the Universal Periodic Review of the United States by the Human Rights Council, can also help cast an international spotlight on local issues.

WHAT TO SAY TO LEGISLATORS

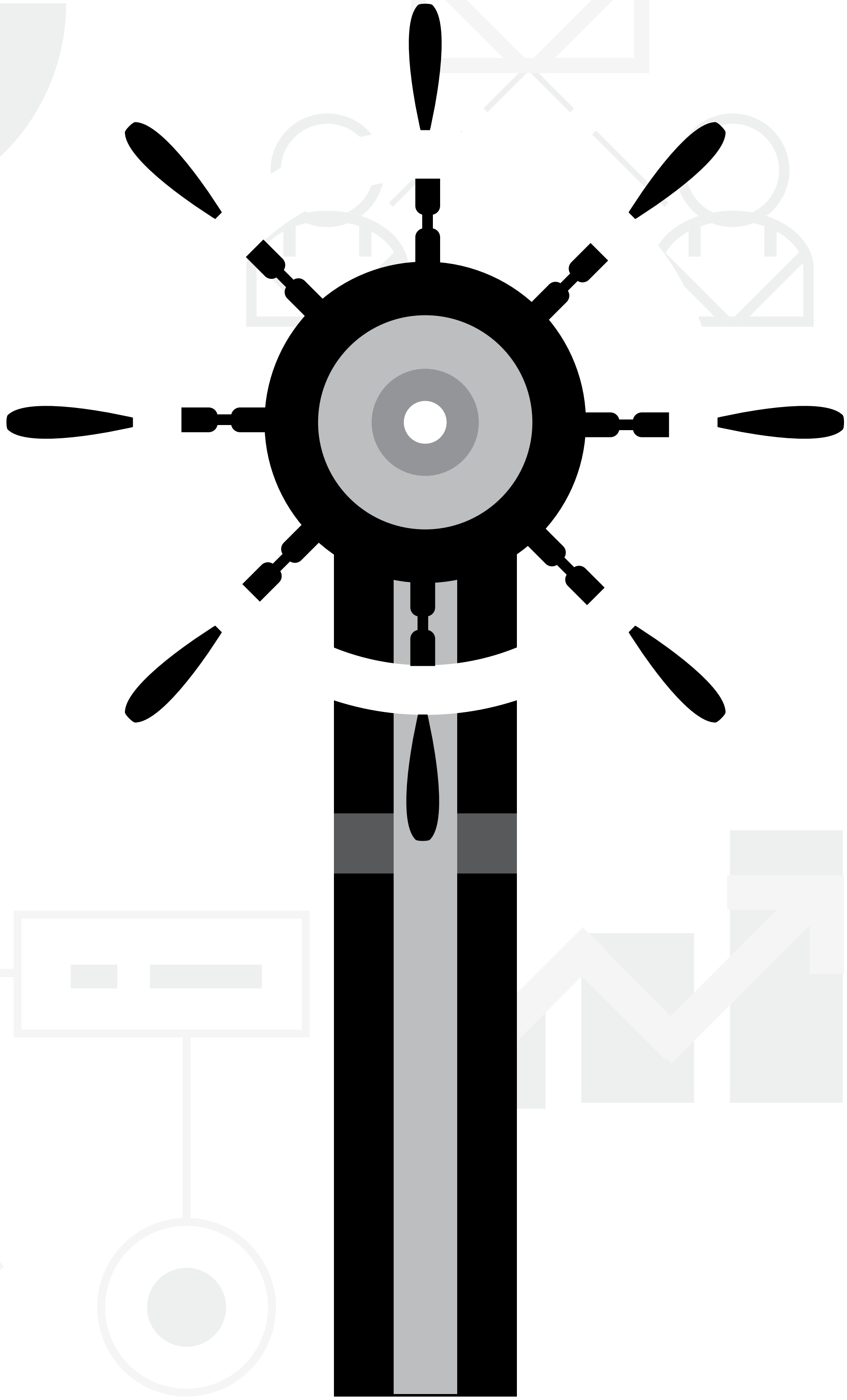
It is important for legislators and their staff to hear their constituents say, "Housing is a human right," and demand policies to support it as such, to reframe the conversation around housing. In talking about human rights, it is often helpful to start with the United States' origins and acceptance of these rights in President Roosevelt's "Second Bill of Rights" and the polling data above, and showing the affirmations of this language by USICH, HUD, and the DOJ. Using the recommendations made by human rights monitors reinforces advocates' messages by lending international legitimacy.

FOR MORE INFORMATION

National Law Center on Homelessness & Poverty, 202-638-2535, nlchp@nlchp.org, www.nlchp.org. ■

Chapter 2:

Advocacy Resources



How Laws Are Made

The House and Senate lawmaking processes are replete with rules and procedures to ensure that the bills Congress passes are vetted thoroughly and represent the dominant opinion of Members of Congress. Each chamber has its own set of rules and procedures that a skilled lawmaker can use to hasten or thwart legislative proposals. Both a Member's facility with these rules and his or her political power can prove critical to the successful passage of a bill.

Although, Members of Congress conceive of legislation, introduce bills, and maneuver legislation through the lawmaking process, Congressional staff also play an essential role in the process. Members of Congress have staff in their personal offices, and the Members who serve as Congressional committee and subcommittee leadership—in both the majority and the minority—have separate committee staff as well. Both personal and committee staff have significant input in the legislative process.

The lawmaking process can be initiated in either chamber of the Congress—the House of Representatives or the Senate. The exception is for bills related to revenue, which must originate in the House of Representatives. Legislators can initiate the lawmaking process by crafting a bill or a joint resolution. The following, from the Government Printing Office (GPO), describes the process of enacting a bill into law that is introduced in the House of Representatives. Enacting a joint resolution into law requires the same steps as a bill.

ENACTING A BILL INTO LAW

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. 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, which is a list of bills awaiting action. Here the House Rules Committee may call for the bill to be voted on quickly, may limit the debate, or may 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 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 a Law, from the U.S. Senate: http://1.usa.gov/151DcBm

The Legislative Process, from the U.S. House of Representatives: http://1.usa.gov/151Dfx7 ■

The Federal Budget and Appropriations Process

By Linda Couch, Senior Vice President for Policy, NLIHC

Funding the federal government is a two part process that occurs annually. First, a federal budget resolution is passed, and funds are appropriated among federal agencies and programs.

Both the administration and Congress participate in the process of developing a federal budget resolution that establishes the overall framework and maximum dollar amount for government spending in a fiscal year (FY). The appropriations process is also handled entirely by Congress, and establishes the amount of funding for individual activities of the federal government. Although the budget resolution should be completed and funds appropriated during the prior FY, in recent years, Congress has not completed the appropriations processes in advance of the start of the FY due to disagreements between the House and Senate over top line budget amounts.

TYPES OF FEDERAL SPENDING AND REVENUE

There are three categories of spending for which the budget and appropriations process establishes limits and defines uses: discretionary, mandatory, and tax.

Discretionary Spending. As the name suggests, government expenditures in the discretionary portion of the budget are subject to annual evaluation by the president and Congress. Though the discretionary portion of the budget represents less than half of total annual expenditures, it is the area of spending that the president and Congress focus on most. Each year, the administration and Congress re-evaluate the need to allocate funds for federal departments, programs, and activities. Discretionary spending amounts vary annually, depending upon administration and Congressional policy priorities.

Mandatory Spending. Mandatory spending is almost entirely made up of spending on entitlements, such as Social Security and Medicaid. Expenditures for entitlements are based on a formula that is applied to the number of households eligible for a benefit. The amount of funding in a given year is determined by that formula. Typically, the administration and Congress do not focus much on this spending in the budget and appropriations processes. But, 2016 could be an exception if Congress uses the budget resolution to direct authorizing committees to participate in a budget cutting processes called budget reconciliation, whereby authorizing committees are required to suggest savings from mandatory programs.

Tax Revenue. Taxes provide revenue to the government to fund spending priorities. Tax policy includes not just revenues, but also expenditures in the form of deductions, credits, and other tax breaks. These expenditures reduce the total potential tax that could be collected to provide revenue for the federal government. Each year, the administration and Congress decide what tax revenues to collect and what tax expenditures to make by forgoing revenue collection in pursuit of certain policy priorities.

BUDGET PROCESS

The federal FY runs from October 1 through September 30. Planning for the upcoming FY begins as early as a year-and-a-half prior to the beginning of the FY.

President's Budget Request. The budget process officially commences on the first Monday of February, when the president is required by law to provide a budget request to Congress for all administration activities in the coming FY. In 2015, the president's budget request for FY16 was delivered on time for the first time in five years. In 2016, the president's request was submitted to Congress on February 9.

The president's budget request to Congress includes funding requests for discretionary programs, mandatory programs, and taxes. The majority of housing programs are funded through the discretionary portion of the budget. The president's funding request for discretionary programs varies from year to year to reflect the administration's evolving policy priorities.

Congressional Budget Resolution. Once the president submits a budget to Congress, the House and Senate Committees on the Budget prepare to craft a budget resolution. The budget resolution sets the overall framework for spending for a one year fiscal term. The resolution includes a top-line spending figure for discretionary activities. The House and Senate Committees on appropriations use this figure as the maximum amount of funding that can be appropriated in the next FY. This new discretionary cap either increases or decreases the overall amount of funding that the Committees on Appropriations have available to allocate to HUD and USDA's affordable housing activities. Even though the budget resolution establishes the overall spending level for the FY, it does not go into detail as to how this funding will be allocated. The details are the job of the Committees on Appropriations, which begin their work after Congress agrees to a budget resolution.

To craft the budget resolution, the House and Senate Committees on the Budget first hold hearings at which administration officials testify regarding the president's budget request. The Committees on the Budget each craft their own budget resolutions. The House and Senate then attempt to agree on a final budget resolution. Because this is a resolution, not a bill, it does not have to be signed into law by the president.

Once Congress passes a budget resolution, the appropriations work begins. If Congress does not pass a budget resolution by the statutory deadline of April 15, the Committees on Appropriations are free to begin their appropriations work.

In 2013, Congress passed the Bipartisan Budget Act (BBA), which set spending caps for both FY14 and FY15, eliminating the need for Congress to renegotiate an FY15 spending level. In 2015, Congress passed another Bipartisan Budget Act (of 2015), lifting the spending caps just enough to allow FY16 bills to be enacted. The BBA of 2015 also increased resources for FY17, presumably making it easier for Congress to enact spending bills in an election year. However, the process for FY17 is anything but straightforward. For FY17, funding limits for nondefense discretionary programs are level with those of FY16, making paying for programs like housing difficult.

APPROPRIATIONS PROCESS

Unlike the budget process, which is initiated by the administration, the appropriations process rests entirely in the hands of Congress.

After Congress passes a budget resolution, the House and Senate Committees on Appropriations divide the top-line figure for discretionary spending among their 12 respective appropriations subcommittees. The two appropriations subcommittees that provide the majority of funding for affordable housing and community development programs are the Transportation, Housing and Urban Development, and Related Agencies (T-HUD) Subcommittee and the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Subcommittee in each chamber of Congress.

Each subcommittee must divide the amount of funding allocated by the Committee on Appropriations between the various priorities funded in its bill.

Each subcommittee must also determine the priority programs within each of their bills and provide sufficient funding for those priorities. In order to determine its priorities, the T-HUD subcommittees hold hearings, during which HUD or USDA officials testify regarding specific programs and initiatives included in the president's request. Witnesses in these hearings provide a far greater level of detail on programmatic activity than witnesses testifying at budget committee hearings, which focus on overall proposed spending rather than particular activities.

After appropriations hearings are completed, the subcommittees craft their bills. The subcommittees then hold a markup of their draft bills, and report out the bill they pass to their respective appropriations committees. The appropriations committees hold a markup of each bill and report out those bills to Congress. The House and Senate must then negotiate final T-HUD and Agriculture bills. Once these bills are passed by Congress, they are signed into law by the president.

If Congress does not pass its appropriations bills by the October 1 start of the FY, it must provide funding for the period after the FY ends and before an appropriations bill is passed. This funding is provided by a continuing resolution (CR).

A CR continues funding for programs funded in the prior FY, usually at the funding level from the year prior. If Congress does not pass a CR and appropriations bills have not been enacted, the government shuts down, as it did for 17 days in October 2013.

FORECAST

The nondefense spending caps Congress agreed to for FY17 would fund programs at their lowest level, as a percentage of gross domestic product, ever recorded. And, there are many in Congress who believe the spending caps are too generous. The FY17 appropriations cycle will be challenging, at best.

Two key principles must remain important to advocates working on strong housing funding. First: the principle of parity. If Congress decides to increase funding for defense spending, the same funding increase must also be made for nondefense programs. Without rigid adherence to parity, nondefense programs could quickly be further deflated. Second: the principle of fairness. Funding for housing programs must not come at the expense of other programs that serve people with low incomes.

WHAT TO SAY TO LEGISLATORS

Advocates should weigh in with the administration and Congress on the importance of ending sequestration altogether and the importance of strong FY17 housing funding.

- Advocates should write to and, if possible, meet with their Members of Congress to tell them to provide sufficient funding for HUD and USDA affordable housing programs and about the issues mentioned below. If Members of Congress do not hear from advocates, they will not know how important these programs are in their districts and states.
- Advocates should let their Members of Congress know that sequestration-mandated cuts have already resulted in the loss of affordable housing opportunities in their states and districts. In order to prevent further loss of HUD and USDA rural housing units, Congress needs to end sequestration for FY17 and beyond.
- Advocates should stress the importance of appropriating funds for affordable housing and community development. It is particularly important that Members understand how much funding for affordable housing programs is needed to restore cuts to HUD programs in recent years, both from sequestration and from years of cuts or flat funding for many programs starting in FY10.
- In order to provide sufficient funds to HUD in FY17, appropriators must increase the T-HUD 302(b) subcommittee allocation. This allocation is the top line spending number for the T-HUD appropriations bill. Congress needs to provide a substantial allocation in order to prevent loss of housing units in future FYs.

FOR MORE INFORMATION

NLIHC, 202-662-1530, www.nlihc.org/issues/budget

Coalition on Human Needs, 202-223-2532, www.chn.org/issues/budget

Center on Budget and Policy Priorities, 202-408-1080, http://bit.ly/151BQ9K ■

FY17 BUDGET CHART

FOR SELECTED DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) AND USDA HOUSING AND COMMUNITY DEVELOPMENT PROGRAMS (UPDATED FEBRUARY 9, 2016)

HUD PROGRAM *(set asides italicized)(In millions)*	**FY09 ENACTED**	**FY10 ENACTED**	**FY11 ENACTED**	**FY12 ENACTED**	**FY13 ENACTED, ENACTED, W/ SEQUESTER**	**FY14 ENACTED**	**FY15 ENACTED**	**FY16 ENACTED**	**FY17 REQUEST**
Tenant Based Rental Assistance	**16,817**	**18,184**	**18,371**	**18,914**	**17,964**	**19,177**	**19,304**	**19,629**	**20,854**
Contract Renewals	15,034	16,339	16,669	17,242	16,349	17,366	17,486	17,681	18,447
Tenant Protection Vouchers	150	120	110	75	71	130	130	130	110
Administrative Fees	1,450	1,575	1,447	1,350	1,306	1,500	1,530	1,650	2,077
New/Restored (Veterans, FUP, DV, etc.)	20	15	–	–	–	–	0	0	88
Section 811 Mainstream Vouchers		–	35	112	106	107	83	107	110
Veterans Affairs Supportive Housing	75	75	50	75	75	75	75	60	7
Voucher Mobility Demonstration									**15**
Family Self Sufficiency	**50**	**60**	**60**	**60**	**57**	**75**	**75**	**75**	**75**
Project-Based Rental Assistance	**7,500**	**8,552**	**9,257**	**9,340**	**8,851**	**9,917**	**9,730**	**10,620**	**10,816**
Public Housing Capital Fund	**2,450**	**2,500**	**2,040**	**1,875**	**1,777**	**1,875**	**1,875**	**1,900**	**1,865**
Emergency/Disaster Grants	20	20	20	–	19	20	23	22	20
Resident Opportunities/Self-Sufficiency	40	50	50	50	47	45	45	35	0
Jobs-Plus Pilot	40	–	–	–	–	–	15	15	35
Public Housing Operating Fund	**4,455**	**4,775**	**4,617**	**3,962**	**4,054**	**4,400**	**4,440**	**4,500**	**4,569**
HOPE VI	**120**	**135**	**100**	**◊**	**–**	**–**	**0**	**0**	**0**
Choice Neighborhoods Initiative		**65**	**65**	**120**	**114**	**90**	**80**	**125**	**200**
Native American Housing Block Grants	**645**	**700**	**649**	**650**	**616**	**650**	**650**	**650**	**700**
Native Hawaiian Housing Block Grants	**10**	**13**	**13**	**13**	**12**	**10**	**9**	**0**	**0**
Hsg. Opportunities for Persons with AIDS	**310**	**335**	**334**	**332**	**315**	**330**	**330**	**335**	**335**
Community Development Fund	**3,900**	**4,450**	**3,501**	**3,308**	**3,135**	**3,100**	**3,066**	**3,060**	**2,880**
CDBG Formula Grants	3,642	3,990	3,336	2,948	3,078	3,030	3,000	3,000	2,800
HOME Investment Partnerships Program	**1,825**	**1,825**	**1,607**	**1,000**	**948**	**1,000**	**900**	**950**	**950**
Self-Help Homeownership Opportunity Program	**26.5**	**27**	**27**	**14**	**13**	**10**	**10**	**10**	**0**
Homeless Assistance Grants	**1,677**	**1,865**	**1,901**	**1,901**	**1,933**	**2,105**	**2,135**	**2,250**	**2,664**
Housing Counseling Assistance	**65**	**87.5**	**0**	**45**	**43**	**45**	**47**	**47**	**47**
Housing for the Elderly (202)	**765**	**825**	**399**	**375**	**355**	**384**	**420**	**433**	**505**
Housing for Persons with Disabilities (811)	**250**	**300**	**150**	**165**	**156**	**126**	**135**	**151**	**154**
Fair Housing and Equal Opportunity	**54**	**72**	**72**	**71**	**67**	**66**	**65**	**65**	**70**
Fair Housing Assistance Program	26	29	28	28	27	26	23	24	22
Fair Housing Initiatives Program	28	43	42	43	40	40	40	40	46
Healthy Homes & Lead Hazard Control	**140**	**140**	**120**	**120**	**114**	**110**	**110**	**110**	**110**
Policy Development & Research	**32**	**48**	**48**	**46**	**43**	**46**	**37**	**50**	**65**

USDA PROGRAM	**FY09 ENACTED**	**FY10 ENACTED**	**FY11 ENACTED**	**FY12 ENACTED**	**FY13 ENACTED**	**FY14 ENACTED**	**FY15 ENACTED**	**FY16 OMNIBUS ENACTED**	**FY17 REQUEST**
Section 514 Farm Labor Housing Loans	**20**	**27**	**26**	**21**	**–**	**24**	**24**	**24**	**24**
Section 515 Rental Housing Direct	**70**	**70**	**70**	**65**	**28**	**28**	**28**	**28**	**33**
Section 516 Farm Labor Housing Grants	**9**	**10**	**10**	**7**	**-**	**8**	**8**	**8**	**8**
Section 521 Rental Assistance	**903**	**980**	**956**	**905**	**837**	**1,110**	**1,089**	**1,390**	**1,405**

Introduction to the Federal Regulatory Process

By Ed Gramlich, Senior Advisor, NLIHC

When Congress changes an existing law or creates a new one, federal agencies such as HUD must usually implement the changes or the new law by modifying an existing regulation or by creating a new one. In addition, federal agencies can review existing regulations and amend them even when there are no changes to the underlying law. Both the creation of a new regulation and the modification of an existing regulation provide advocates with an opportunity to shape policy.

Congress passes legislation and the president, by signing that legislation, turns it into a law. Usually, these laws spell out the general intent of Congress but do not include all of the technical details essential to putting Congress' wishes into practice. Regulations add those details.

Two publications are key to the federal regulatory process. The *Federal Register* is a daily publication that contains proposed regulations, final rules, and other official notices and documents issued by the executive branch. All final regulations published in the *Federal Register* are eventually gathered together ("codified") in the *Code of Federal Regulations* (CFR). The federal government uses the words regulation and rule interchangeably.

SUMMARY OF THE FEDERAL REGULATORY PROCESS

Proposed Regulations. In order to carry out laws, Congress gives federal agencies, such as HUD, the power to write rules to interpret laws and enforce them. When housing law is created or modified, HUD will draft suggested regulations.

Before publishing proposed regulations, HUD must send them to the Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA), which has up to 90 days to review their consistency with Executive Order 12866. If OIRA judges the proposed regulations to be inconsistent, they are sent back to HUD "for further consideration." However, technically, HUD has authority from Congress to issue the rules.

Once cleared by OIRA, HUD must publish a "notice of proposed rulemaking" in the **Federal Register** that contains the proposed language of the regulations. The public must have an opportunity to submit written comments, and is generally given a 60-day period to comment.

Final Regulations. Once the comment period on a proposed rule is closed, HUD must consider all comments and may make changes based on them. Once those changes are complete, and after another review by OIRA, HUD publishes a final rule in the *Federal Register*.

In the introduction, or preamble, to the final rule, 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.

Other Regulatory Options. In addition to proposed and final rules, the regulatory process can occasionally include:

- Advanced Notice of Proposed Rulemaking—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 uncontroversial, but must withdraw them if negative comments are submitted.
- Negotiated Rulemaking—This is a seldom-used approach that engages knowledgeable people to discuss an issue and negotiate the language of a proposed regulation, which is then submitted to the *Federal Register*.
- Petition for Rulemaking—This is a process by which anyone can 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, the denial must be in writing and include the basis for denial.

- Informal Meetings—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.

HOW TO FIND PROPOSED AND FINAL REGULATIONS IN THE FEDERAL REGISTER

The Government Printing Office (GPO) publishes the *Federal Register* and the CFR.

The current day's *Federal Register* and links to browse back issues are at http://1.usa.gov/YlVw4v. A preview of the next day's *Federal Register* is at http://1.usa.gov/YlVzgw. *Federal Register* notices for both proposed and final rules can be tracked by subscribing to a daily email of the table of contents of the *Federal Register* at http://1.usa.gov/YlVFox.

The public can read and copy comments made by others at HUD headquarters, or at www.regulations.gov. That site also provides all rules open for comment and enables electronic submission of comments.

All final rules published in the *Federal Register* are eventually collected and placed in the CFR. There are 50 titles in the CFR, each representing a broad topic. HUD-related regulations are in Title 24. Each title is divided into parts that cover specific program areas. All titles updated through 2015 are available at https://www.gpo.gov/fdsys/browse/collectionCfr.action;jsessionid=xgU2ToOIFc2XRduhIYthlEKmy6l-hBl8PfvevD0bWPDb-KGWwtq4!1977358174!-358309626?selectedYearFrom=2015&go=Go. Titles are updated periodically throughout the year.

In addition, the GPO provides the Electronic Code of Federal Regulations (e-CFR). Although it is not an official legal edition of the CFR, it is an editorial compilation of CFR material and *Federal Register* amendments that is updated daily. Access the e-CFR at http://bit.ly/YlVWrv.

FOR MORE INFORMATION

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

Lobbying: Individual and 501(c)(3) Organizations

By Joseph Lindstrom, NLIHC Housing Advocacy Organizer

Lobbying is the most direct form of advocacy. Many think there is a mystique to lobbying, but it is simply the act of meeting with a government official or their staff to talk about an issue that concerns you and that you would like addressed. The most common type of lobbying is contact with Members of Congress or their staff, but housing advocacy should not be limited only to legislators. It is often important to lobby the White House or officials at HUD and other agencies. Lobbying the White House can be especially important leading up to the President's budget proposal each year, setting the tone for budget work to come in the House and Senate.

Whether meeting with Members of Congress or officials of the Administration, remember that constituent feedback is a valued and necessary part of the democratic process. You do not have to be an expert on housing policy to lobby. The perspective you can provide on the housing situation in your local area is extremely valuable. Indeed, you are the expert on what is happening in your district or state and are a resource to officials in DC.

It is helpful to remember that advocacy requires positive relationships, usually with staff members in congressional and administrative offices. Sometimes officials may seem to be staunch opponents, but simply must be educated on housing issues before they can become allies. It can be a gradual process. Expose officials and their staff to the issues of homelessness and affordable housing by inviting them to your events, or to tour your agency or a housing development. Keep in mind that even those offices who support affordable housing issues and legislation still need to hear from you; offer your thanks and find ways to keep them engaged.

There are several important initial factors to consider when you lobby. Determine the proper target of your advocacy efforts. On federal issues, you will want to decide whether it is best to bring your message to a Member of Congress for legislative action or to Administration officials. Also think about whether you are lobbying on behalf of yourself or on behalf of an organization. This can determine not only the type of message you present, but also whether there is necessary record keeping for your lobbying activity.

EFFECTIVE MEETINGS

If you have never lobbied before, it may help to think of the visit as a twenty minute conversation in which you will share insight on your positions on affordable housing. Also consider your meeting an opportunity to build working relationships with decision makers and to educate them on the importance of your local work.

A face-to-face meeting is often the most effective way to get your voice heard. Given the busy schedule of most officials, they may ask you to meet with a staff person who handles housing issues. Very often, staffers can spend more time delving into your concerns than an elected official would be able to devote, so getting to know influential staff people and building relationships with them is crucial.

Scheduling a meeting. Call the office you hope to meet with to request an appointment well in advance of your visit. Usually you will want to call about four to six weeks ahead of your intended meeting date. It may take a while for the office to schedule the meeting once you have made the request.

If you are setting up a local meeting, locate the contact information for your Member of Congress' district office or for the local field office of the administrative agency. If you are planning to visit Washington, DC, contact the member's Capitol Hill office or the appropriate federal agency. (For contact information for key Members of Congress and offices of the Administration, see *Congressional Advocacy and Key Housing Committees* and *Federal Administrative Advocacy*.)

When you call, identify yourself as a constituent to the person who answers the phone. Many offices give priority to arranging meetings for constituents, as time of members and staff is limited. Ask first to schedule a meeting with the official. If the scheduler indicates that he or she will not be available, ask to meet with the relevant staff person.

When scheduling the appointment, be sure to tell the office where you are from in the district or state, the organization you represent, the purpose of the meeting, and the number of people who will be attending the meeting so the staffer can reserve an appropriately sized meeting room.

The scheduler may ask for a list of names of attendees; this is information that can often be sent closer to the date of the meeting. Some offices may ask you to email or fill out a web form to request the meeting rather than give the information over the phone.

Call the office the week prior to the meeting to confirm. If you are meeting with a specific staff person, email them the week prior to confirm the meeting date and time, to reiterate the purpose of the meeting, and to send relevant information for them to review in advance.

Crafting your agenda. Developing a well-planned agenda for your meeting will help you maximize your time. Set an agenda based on how much time you have, usually no more than 20 or 30 minutes. If you will be lobbying in a group, decide who will lead the meeting and what roles everyone will play.

Before you set the agenda, it is useful to research the office's past positions and statements on housing issues. You can review roll call votes on key affordable housing bills at http://thomas.loc.gov to find out how a Member of Congress has voted on housing legislation. If you need help, don't hesitate to contact the NLIHC Housing Advocacy Organizer for your state, which you can find at http://nlihc.org/takeaction/field.

Logistics of the meeting. Make sure you know the building address and room number where your meeting is being held. Arrive early, as security can be tight at federal offices, especially those on Capitol Hill. If there are congressional hearings at the same time as your meeting, the lines to enter the buildings can be very long and you can end up waiting 15 minutes or more to enter. Do not bring items that may trigger a security concern and delay your entry into a building. The House and Senate office buildings are large and it takes time to navigate to the building where your meeting will be held. Have the name of the person with whom you are meeting readily available.

Conducting your meeting. At your meeting, take the time to introduce each attendee and their unique expertise or role in local work. Start the meeting by offering thanks to the official for an action they have taken to support affordable housing, or by highlighting a specific area of interest that you might share. If you are meeting with a regular ally of affordable housing efforts, acknowledge past support at the beginning of the meeting. If meeting with an office that has an unfavorable record on your issues, indicate that you hope to find common ground to work together on issues critical to your local community. Keep in mind that as you educate congressional or administrative offices over time, they may eventually shift their positions favorably.

Next, provide a brief overview of the affordable housing challenges in your community and the nation. Unless you already have a relationship with the person you are meeting with, do not assume that they have a deep understanding of the problem. Make sure, however, not to spend too much time on these first portions of the meeting so that you have time to substantively discuss your particular issue of concern. Including personal stories and experiences within your message will also get your point across in a more compelling fashion.

Move into the main portion of the meeting by giving a brief description of the top two or three specific housing issues you want to discuss. Try to present the issues positively, as solvable problems. In deciding how to frame your message, research the background of the official you are meeting with to gain insight regarding their professional interests and personal concerns, memberships, affiliations, and Congressional committee assignments. These roles and interests are often listed on their website. This information may help you gauge interest in your concerns related to their priorities.

When discussing these issues, do not feel like you must know everything about the topic. If you are asked a question to which you do not know the answer, indicate that you will follow up with an answer. Offering to provide additional information is an excellent way to continue being in touch with the office after the meeting. If the conversation turns to a topic that is not on your agenda, listen and respond appropriately but steer the meeting back to your agenda since you will have limited time to discuss your main points. Be sure to make the meeting conversational; you want to learn the perspective of the official in addition to making your points.

Have a specific "ask" on the housing issues you raise; for example, suggest that a Member of Congress sponsor, co-sponsor, or oppose a bill. Decide on a concrete action you would like to see taken as a step in resolving the local affordable housing challenges you have presented. Explain how your ask fits within the official's priorities. The office will agree to this ask, decline, or say they need time to consider. If they decline, ask how else they might be willing to address the issues you have raised. Suggest ways that you or your organization can be helpful in achieving the end goal of solving the housing challenge.

Before closing the meeting it is important to try to get an answer on your ask regarding specific legislation or policy changes, even if the answer is "maybe" or "no." Make a follow-up plan based on this response; you will often want to present further information or recruit additional voices. If at the end of your meeting the official or staff person seems to be leaning against your position, keep the door open for future discussion. Agree to check in with staff after an appropriate amount of time to find out if there is a final decision or to support other next steps. In closing the meeting, be sure to express thanks for their time and interest in the topics they raised.

Leave behind written materials. It is useful to have information to leave with the official or staffer for further review and reference it as needed. To emphasize the extent of the housing crisis in your community, provide information such as: your state's section of *Out of Reach*, which shows the hourly housing wage in each county; the appropriate NLIHC Congressional District Profile or State Housing Profile, which show rental housing affordability data by congressional district and state; and other NLIHC research reports which can be found at http://nlihc.org/library. Be sure to bring information on the United for Homes campaign and the National Housing Trust Fund, including the NHTF Frequently Asked Questions and the allocation of NHTF funds by state, which are available at www.nhtf.org.

Follow up after your meeting. Following your visit, send a letter or email thanking the official or staff member for their time, reaffirming your views, and referencing any agreements made during the meeting. Include any information that you agreed to provide. Monitor action on your issue over the coming months and contact the official or staff member to encourage them to act during key moments, or to thank them for taking action. If the issue that you lobbied on is being tracked by your statewide affordable housing coalition or NLIHC, it is helpful to report the results of the meeting to them. If aware of your meeting, statewide coalitions and NLIHC can build on your lobbying efforts and keep you informed as issues move forward.

CONGRESSIONAL RECESS

Throughout the year, Congress goes on recess, and Senators and Representatives leave Washington for their home districts. Members spend this time meeting with constituents and conducting other in-district work. Recess provides advocates with a great opportunity to interact with Members of Congress face-to-face, without having to travel to Washington, DC. Take advantage of recesses by scheduling meetings with your Senators and Representative.

Many Members of Congress also hold town hall meetings during recesses; these events provide the opportunity to come together as a community to express concerns and ask questions about an official's positions on important policy issues. If your Members of Congress are not planning to convene any town hall meetings during a recess, you may be able to work with others in the district to organize one and invite your Members to participate.

It is important to note that Members of Congress cannot officially introduce or co-sponsor legislation during recess, and because Congress is not in session, there are no votes on legislation during this time. It is therefore especially important to follow up on any meetings held during recess once Congress resumes session, especially if commitments were made regarding legislation.

To find out when the House is scheduled to go on recess, visit http://house.gov/legislative. To find out when the Senate is scheduled to go on recess, visit http://1.usa.gov/1onYkim.

WRITING LETTERS

Letters are another effective tool for letting Members of Congress and other decision makers

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 district or state. Make sure to present your affordable housing concern concisely and specifically, and to reference specific bills when possible. For Members of Congress, address the letter to the housing staffer to ensure it ends up in the right hands. Congressional mail can be very slow so it is a good idea to also email or fax a copy of the letter to the staffer.
Use the following standard address blocks when sending letters to Congress:

Senate

The Honorable [full name]
ATTN: Housing Staffer
United State Senate
Washington, DC 20510

House of Representatives

The Honorable [full name]
ATTN: Housing Staffer
United State House of Representatives
Washington, DC 20515

MAKING PHONE CALLS

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 or state to call at the same time you do. When you call, ask to speak to the staff person who deals with housing issues. If calling a Member of Congress, be sure to identify yourself as a constituent, say where you are from, and if applicable, have the names and numbers of relevant bills. The days before a key vote or hearing are critical decision times and an especially effective time to call.

To find out the phone number for your Member of Congress, visit NLIHC's congressional directory at http://cqrcengage.com/nlihc/lookup, or call the U.S. Capitol Switchboard at 202-224-3121.

SENDING EMAILS

Unless you use an email service such as the one provided on NLIHC's website, it is generally not a good idea to attempt to correspond with Members of Congress or other officials using email, as they can receive upwards of 50,000 emails a month. Instead, make contact with a specific housing staffer, get their direct email address, and correspond with them. Email is an easy and effective way for Congressional staffers to maintain contact with constituents.

ADDITIONAL WAYS TO ENGAGE ELECTED OFFICIALS

Visits, letters, and calls are not the only effective ways to communicate your priorities to officials. Other ways to engage them include:

- Inviting an official to speak at your annual meeting or conference;
- Organizing a tour of agencies or housing developments and featuring real people telling their success stories;
- Holding a public event and inviting an official to speak;
- Getting media coverage on your issues. Organize a tour for a local reporter or set up a press conference on your issue. Call in to radio talk shows or write letters to the editor of your local paper. 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 succeed in generating press, be sure to forward the coverage to the housing staffer;
- Eliciting the support of potential allies who are influential with officials, like your city council, mayor, local businesses, unions, or religious leaders.

FOR MORE INFORMATION

- National Low Income Housing Coalition, 202-662-1530, www.nlihc.org
- Contact NLIHC's Field Team at outreach@nlihc.org

For contact information for key Members of Congress and offices of the Administration, see *Congressional Advocacy and Key Housing Committees* and *Federal Administrative Advocacy*.

Lobbying as an Individual

The undeniable benefit of lobbying in an official capacity on behalf of an organization or coalition is that the broad reach of the group's membership, clients, and staff deepens the impact of your message. By contrast, a benefit of lobbying as an individual is that it can free you to discuss issues you care about in a more personal manner without concern for the limitations placed by a board of directors or organizational policy. Remember that even when you do not speak on behalf of your organization or employer, it is always appropriate to mention what affiliations or work have informed your perspective.

Much like organizational lobbying, the key to lobbying as an individual is to ensure that your voice is heard and that congressional and administration officials are responding to your particular concerns. This is most effectively achieved by doing in-person meetings, but phone calls and emails can be influential as well.

Lobbying as a 501(c)(3) Organization

Contrary to what many nonprofits believe, 501(c)(3) organizations are legally allowed to lobby in support of their organization's charitable mission. The Internal Revenue Service (IRS) defines lobbying as activities to influence legislation. Electoral activities that support specific candidates or political parties are forbidden, and nonprofits can never endorse or assist any candidate for public office. The amount of lobbying an 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) groups—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 IRS 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, these activities would be counted under the insubstantial part test. 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;" generally this 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 $5,000,000 + 15% of the next $500,000 + 5% of the remaining.

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.

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, but it can only use one-fourth of the overall limit to engage in grassroots lobbying.

Direct lobbying is communicating with a legislator or legislative staff member (federal, state, or local) about a position on specific legislation. Remember that legislators also include the President or governor when you are asking them to sign a bill into law or veto a bill, as well as administration officials who have the ability to influence legislation.

Grassroots lobbying is communicating with the general public in a way that refers to specific legislation and that takes a position on the legislation and calls for action. A call to action contains one to four different 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 such as a tear-off postcard or email link that can be used to send a message directly to legislators; or (4) listing those voting undecided or opposed to specific legislation. Identifying legislators as sponsors of legislation is not considered a call to action.

The regulations clarify how the following communications should be classified:

- Ballot Measures. Communications with the general public that refer to and state a position on ballot measures (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;
- Organizational Members. 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;
- Mass Media. Any print, radio, or television ad about legislation widely known to the public must be counted as grassroots lobbying if the communication is paid for by the nonprofit and meets other, rather nuanced provisions: refers to and includes the organization's position on the legislation; asks the public to contact legislators about the legislation; and appears on the media source within two weeks of a vote by either legislative chamber, not including subcommittee votes.

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. This non-partisan distribution can be achieved through an organization's website and to all members of the legislature;
- Respond to a written request for testimony or assistance at the request of the head of a government body such as a legislative committee chair);
- 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;
- Examine and discuss broad social, economic, and similar problems. For example, materials and statements that do not refer to specific legislation are not lobbying even if they are used to communicate with a legislator. Additionally, materials and statements communicating with the general public and express a view on specific legislation but do not have a call to action are also not considered lobbying;
- Litigate and attempt to influence administrative (regulatory) decisions and enforce existing laws and executive orders.

Record Keeping. 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 costs that 501(h)-electing organizations must count toward their lobbying limits:

- Staff Time. For example, paid staff time spent meeting legislators, preparing testimony, or encouraging others to testify;
- Direct Costs. For example, printing, copying, or mailing expenses to get the organization's message to legislators;
- Overhead. For example, the pro-rated share of rented space used in support of lobbying (a good way to handle this is to pro-rate the cost based on the percentage of staff time spent lobbying).

Although the 501(h) election is less ambiguous than the insubstantial part test, it is important to carefully consider which option is best for your organization.

FOR MORE INFORMATION

- Alliance for Justice (AFJ) 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. Another AFJ publication, The Rules of The Game: A Guide to Election-Related Activities for 501(c)(3) Organizations (Second Edition), reviews federal tax and election laws which govern nonprofit organizations in an election year, and explains the right and wrong ways to organize specific voter education activities. AFJ also publishes guides on related topics, such as on influencing public policy through social media, and offers workshops and technical assistance for nonprofit organizations.
- Alliance for Justice, 202-822-6070, www.afj.org ■

Congressional Advocacy and Key Housing Committees

By Elayne Weiss, Policy Analyst, NLIHC

Lobbying Congress is a direct way advocate for the issues and programs that are important to you. Members of Congress are accountable to constituents of a certain region, and each individual or organization should be able to connect with their senators and representatives through a fairly simple process. As a constituent, you have the right to lobby the members who represent you; as a housing advocate, you should exercise this right.

CONTACT YOUR MEMBER OF CONGRESS

To find out the contact information for your Member of Congress, visit NLIHC's congressional directory at http://capwiz.com/nlihc/dbq/officials, or call the U.S. Capitol Switchboard at 202-224-3121.

MEETING WITH YOUR MEMBER OF CONGRESS

Scheduling a meeting, crafting your agenda, developing the appropriate materials to take with you, determining your "ask" or "asks" ahead of time, making sure your meeting does not veer away from the subject at hand, and following up afterward, are all crucial elements to holding effective meetings with Members of Congress.

For more tips on how to lobby effectively, see *Lobbying*.

KEY CONGRESSIONAL COMMITTEES

The following are key housing authorizing and appropriating committees in Congress:

- House of Representatives Committee on Financial Services
- House of Representatives Committee on Appropriations
- House of Representatives Committee on Ways and Means
- Senate Committee on Banking, Housing and Urban Affairs
- Senate Committee on Appropriations
- Senate Committee on Finance

See below for details on these key committees as of March 1, 2014. For all committees, members are listed in order of seniority. Those who sit on key housing subcommittees are marked with an asterisk (*).

HOUSE OF REPRESENTATIVES COMMITTEE ON FINANCIAL SERVICES

http://financialservices.house.gov

The House 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 laws and programs relating to HUD, the Federal Reserve Bank, the Federal Deposit Insurance Corporation, the government sponsored enterprises including the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (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 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.

The Subcommittee on Housing and Insurance oversees HUD and the Government National Mortgage Association (Ginnie Mac). The subcommittee also handles matters related to housing affordability, rural housing, and government sponsored insurance programs such as the Federal Housing Administration (FHA) and the National Flood Insurance Program, and community development, including Empowerment Zones.

Majority Members (Republicans)

Jeb Hensarling (TX), Chair
Peter T. King (NY)
Edward R. Royce* (CA)
Frank D. Lucas (OK)

Scott Garrett* (NJ)
Randy Neugebauer (TX)
Patrick T. McHenry (NC)
Stevan Pearce* (NM)
Bill Posey* (FL)
Michael G. Fitzpatrick (PA)
Lynn A. Westmoreland* (GA), *Housing and Insurance Subcommittee Vice-Chair*
Blaine Luetkemeyer* (MO), *Housing and Insurance Subcommittee Chair*
Bill Huizenga (MI)
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HOUSE OF REPRESENTATIVES COMMITTEE ON APPROPRIATIONS

http://appropriations.house.gov

The House Committee on Appropriations is 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 (THUD) determines the amount of government revenues dedicated to HUD, among other agencies.

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HOUSE OF REPRESENTATIVES COMMITTEE ON WAYS AND MEANS

http://waysandmeans.house.gov

The Committee on Ways and Means is the chief tax writing committee in the House of Representatives.

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Ron Kind (WI)
Bill Pascrell Jr. (NJ)
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SENATE COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

http://banking.senate.gov/public

The Senate Committee on Banking, Housing and Urban Affairs oversees legislation, petitions, and other matters relating to financial institutions, economic policy, housing, transportation, urban development, international trade and finance, and securities and investments.

The Subcommittee on Housing, Transportation, and Community Development oversees urban mass transit systems and general urban affairs and development issues, and is the primary oversight committee for HUD. The subcommittee oversees HUD community development programs, the FHA, the Rural Housing Service, Fannie Mae and Freddie Mac, and all issues related to public and private housing, senior housing, nursing home construction, and Indian housing issues.

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Elizabeth Warren (MA)
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SENATE COMMITTEE ON APPROPRIATIONS

http://appropriations.senate.gov

The Senate Committee on Appropriations is responsible for determining the amount of funding made available to all authorized programs each year.

THUD has jurisdiction over funding for the Department of Transportation and HUD.

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Brian Schatz* (HI)
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Christopher Murphy* (CT)

SENATE COMMITTEE ON FINANCE

www.finance.senate.gov

The Senate Committee on Finance oversees matters relating to taxation and other revenue measures generally, such as health programs under the Social Security Act, including Medicare, Medicaid, and the Children's Health Insurance Program (CHIP), Temporary Assistance to Needy Families (TANF), and other health and human services programs financed by a specific tax or trust fund.

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Federal Administration Advocacy

Not all efforts to shape federal housing policy involve congressional advocacy. Once legislation is enacted by Congress, it must be implemented and enforced by the executive branch.

Numerous federal agencies contribute to the development and implementation of our nation's housing policy. There are seven key divisions of the federal government that administer affordable housing programs and carry out a variety of functions, such as providing funding to incentivize affordable housing development, managing government sponsored enterprises (GSEs) that have an affordable housing directive, coordinating housing resources of multiple departments, or influencing the direction of affordable housing policy. It is important for advocates to weigh in with these agencies as they shape federal affordable housing priorities, determine the level of resources that are available to reach affordability objectives, and implement housing laws passed by Congress.

Opportunities for administrative advocacy generally fall into five categories:

- Providing commentary during the regulatory process.
- Calling for enforcement of existing laws.
- Influencing policy and program implementation.
- Advocating for or against executive orders.
- Litigating against federal agencies and officials.

Those activities are not considered lobbying by the IRS; therefore, 501(c)(3) organizations are free to engage in them without limit so long as the intent is not to influence legislation. For nonprofits interested in housing advocacy, engaging HUD through the regulatory process falls entirely outside definitions of lobbying. This, along with HUD's prominent role in implementing housing policy, makes the agency an obvious choice for advocacy efforts.

Many other parts of the executive branch are also involved in housing and related issues. Important targets for federal administrative advocacy include, but are not limited to:

- The White House.
- The Interagency Council on Homelessness.
- The Federal Housing Finance Agency.
- The Department of Agriculture's Rural Development Housing and Community Facilities Program.
- The Department of Treasury.
- The Department of Veterans Affairs.

THE WHITE HOUSE

The White House develops and implements housing policy through a variety of means, and has multiple councils and offices that touch upon the issue of affordable housing. President Barack Obama's Administration has focused on housing and urban policy to a greater extent than recent previous administrations.

The Domestic Policy Council (DPC) coordinates the domestic policymaking process of the White House, offers advice to the president, supervises the execution of domestic policy, and represents the president's priorities to Congress. The Office of Faith-Based and Neighborhood Partnerships (OFBNP) is part of the DPC and works to build bridges between the federal government and nonprofit organizations, both secular and faith-based, in order to better serve Americans in need. The Office of National AIDS Policy is also part of the DPC; it is tasked with coordinating the continuing efforts to reduce the number of HIV infections across the U.S., through a wide range of education initiatives, and by coordinating the care and treatment of people with HIV/AIDS. The Office of Social Innovation and Civic Participation, another part of the DPC, is focused on promoting service as a solution and a way to develop community leadership, increasing investment in innovative community solutions that demonstrate results, and developing new models of partnership.

The National Economic Council coordinates policy making for domestic and international economic issues, provides 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.

The Office of Public Engagement (OPE) and Intergovernmental Affairs creates and coordinates opportunities for direct dialogue between the administration and the public. This includes acting as a point of coordination for public speaking engagements for the administration and the departments of the Executive Office of the President. Federal agencies, including HUD and USDA, have liaisons that work with the White House OPE. The Office of Urban Affairs is part of the OPE; it provides leadership for and coordinates the development of the policy agenda for urban areas across executive departments and agencies.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HUD is the federal government's primary affordable housing agency. The agency administers programs that provide rental and homeownership units that are affordable to low income, very low income, and extremely low income (ELI) households. HUD also manages grants for community development activities and plays a vital role in the administration's efforts to strengthen the housing market. HUD administers a variety of housing programs through the Offices of Public and Indian Housing (PIH), Community Planning and Development (CPD), Housing, Fair Housing and Equal Opportunity (FHEO), Healthy Homes and Lead Hazard Control, and through the Federal Housing Administration (FHA) and the Government National Mortgage Association (Ginnie Mae).

PIH, CPD, and the Office of Housing administer HUD's main rental assistance programs for ELI households. PIH administers funds to local public housing agencies (PHAs) to operate public housing units, administer

Housing Choice Vouchers, and offer programs that support residents. CPD is the office that will administer funding for the National Housing Trust Fund (NHTF). CPD currently administers funds for the McKinney-Vento Continuum of Care Homeless Assistance Grants, the Housing Opportunities for Persons with AIDS (HOPWA) program, the HOME Investment Partnerships program, and the Community Development Block Grant program. The Office of Housing oversees a range of programs including Project-Based Section 8, special needs housing programs such as Section 202 Housing for the Elderly and Section 811 Housing for People with Disabilities, and the FHA. FHA provides insurance for mortgage loans to increase private lending interest by reducing an institutions risk. FHA's Mutual Mortgage Insurance Fund provides profits, or receipts, that have been used to offset a portion of HUD's annual costs to operate its other programs.

DEPARTMENT OF AGRICULTURE

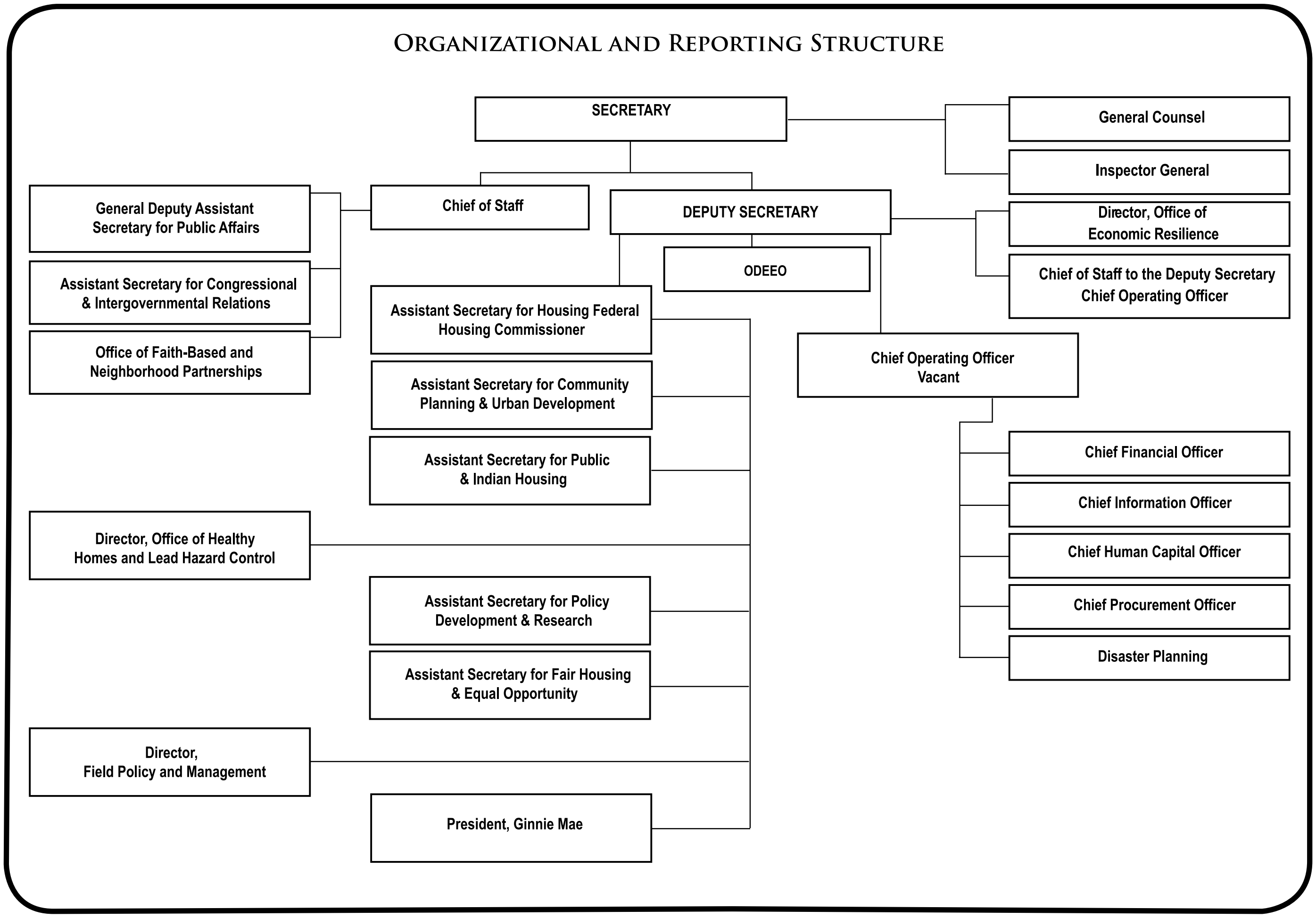
The Rural Development Housing and Community Facilities Program (RD) of the Department of Agriculture (USDA) administers programs that provide affordable rental and homeownership opportunities in rural areas of the country. Although HUD funding is used in rural areas, USDA's RD programs uniquely target the needs of rural communities and supplement HUD funding.

RD affordable housing programs provide grants, loans, and direct funding for rental housing operations and development. Programs target low income families, seniors, and farm workers, providing a range of housing options. RD also provides programs to support energy efficiency, economic development, and infrastructure for rural areas.

FEDERAL HOUSING FINANCE AGENCY

The Federal Housing Finance Agency (FHFA) was created in 2008 by the Housing and Economic Recovery Act (HERA) as the successor to the Federal Housing Finance Board. FHFA regulates the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac), which are both government sponsored enterprises (GSEs). It also regulates the Federal Home Loan Banks to ensure there is sufficient funding for housing finance and community investments.

The GSEs were taken into conservatorship by FHFA because of financial problems that stemmed from the country's housing crisis. Prior to being taken into conservatorship, the GSEs were to provide a percentage of their book of business to the NHTF; these contributions were suspended in 2008. The GSEs were also to provide funding for the Capital Magnet Fund (CMF). On December 11, 2014, U.S. Department of Housing and Urban Development



HUD organizational chart available at
http://www.hud.gov/offices/adm/about/admguide/orgcharts/hud.pdf.

FHFA Director Mel Watt lifted the suspension so that the GSEs must now set aside funds for the NHTF and CMF.

DEPARTMENT OF THE TREASURY

The Department of the Treasury administers several housing and community development programs including the Low Income Housing Tax Credit (LIHTC) program, the Making Home Affordable program, the Hardest Hit Fund, and Community Development Financial Institutions (CDFI). The CDFI administers the CMF and the New Market Tax Credit. Treasury has overseen funding for several recent disaster recovery efforts, including special allocations of LIHTCs and other incentives to spur redevelopment. Treasury also oversees Housing Bonds, which finance the development of rental and homeownership units. Treasury offers backing to HUD's FHA Mutual Mortgage Insurance Fund (MMIF); in 2013, HUD announced that it anticipated needing to draw on Treasury for funds to maintain the MMIF's statutorily required reserve level. Treasury also played a key role in the nation's housing crisis recovery efforts by purchasing mortgage-backed and debt securities issued by Fannie Mae and Freddie Mac.

DEPARTMENT OF VETERANS AFFAIRS

The Department of Veterans Affairs (VA) sets policy and administers a range of programs for veterans, including homeownership loans and a supportive housing initiative. The VA partners with HUD to provide the Veterans Affairs Supportive Housing (HUD-VASH) voucher program. HUD provides an allocation of Housing Choice Vouchers to certain public housing agencies to make units affordable; the local VA offices select voucher recipients and provide supportive services to the individual or family prior to and during their housing tenure. In 2010, the VA spearheaded a five-year Plan to End Veteran Homelessness, which relies on the VA to provide intensive services and HUD to provide housing resources. The VA also works cooperatively with the Interagency Council on Homelessness, which helped coordinate resources for veterans through *Opening Doors*, its plan to end homelessness.

INTERAGENCY COUNCIL ON HOMELESSNESS

The Interagency Council on Homelessness (USICH) coordinates the homeless policies of 19 federal departments that administer programs or provide resources critical to solving the nation's homelessness crisis. The USICH comprises the secretaries and directors of these 19 federal agencies. The agencies that have the largest roles in providing these resources include HUD, the Department of Health and Human Services, the Department of Labor, and the VA. These agencies rotate responsibility for chairing the USICH. The USICH's main task is implementing *Opening Doors*, the federal 10-year plan to end homelessness, which was released in the spring of 2010. USICH also coordinates with state and local governments on developing and implementing their strategies to end homelessness.

CONTACT FEDERAL AGENCIES

Contact information for the agencies mentioned above, as well as additional key federal agencies and offices, can be found below and online.

White House, 202-456-1414, www.whitehouse.gov

Office of Management and Budget, 202-395-3080, www.whitehouse.gov/OMB

HUD, 202-708-1112, www.hud.gov

HUD USER, 202-708-1112, www.huduser.org

(HUD USER contains valuable statistics for those interested in financing, developing, or managing affordable housing, including HUD-mandated rent and income levels for assisted housing programs and Fair Market Rents.)

Department of Agriculture, Rural Development Housing and Community Facilities Programs, 202-699-1533, www.rurdev.usda.gov

Federal Housing Finance Agency, 202-414-3800, www.fhfa.gov

Department of Health and Human Services, Office of Community Services, 202-690-7000,

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, 202-622-6355, www.tres.gov/cdfi

Department of Veterans Affairs, http://www.va.gov/

FEMA, 202-646-2500, www.fema.gov

Environmental Protection Agency, 202-272-0167, www.epa.gov

Small Business Administration, 202-205-8885, www.sba.gov ■

Key HUD Contacts for Advocates

AS OF FEBRUARY 8, 2016

- Secretary: Julián Castro
- Chief of Staff: Nealin Parker
- Deputy Secretary: Nani A. Coloretti
- Assistant Secretary for Congressional and Intergovernmental Relations: Erika L. Moritsugu
- Assistant Secretary for Fair Housing and Equal Opportunity: Gustavo F. Velasquez
- Assistant Secretary for Policy Development and Research: Katherine M. O'Regan
- Assistant Secretary for Public Affairs: Jaime Castillo
- Principal Deputy Assistant Secretary for the Office of Public and Indian Housing: Lourdes M. Castro Ramirez
- Principal Deputy Assistant Secretary for the Office of Community Planning and Development: Harriet Tregoning
- Principal Deputy Assistant Secretary, Office of Housing: Edward L. Golding
- Director for Office of Healthy Homes and Lead Hazard Control: Matt Ammon
- President, Ginnie Mae: Theodore W. Tozer
- General Counsel: Helen R. Kanovsky
- Inspector General, Office of Inspector General: David A. Montoya

Using Federal Data Sources for Housing Advocacy

By Andrew Aurand, Vice President for Research, NLIHC

The federal government is the largest producer and disseminator of data in the U.S. These data allow policymakers to make informed decisions about how to efficiently and effectively allocate public resources. Federal data are also critical to understanding the quantity and quality of our nation's housing stock and how well it meets our citizens' housing needs. Housing advocates have long used federal data, and their visual presentation, to influence policy to meet the nation's housing needs at the national, state, and local levels. Data from the American Community Survey (ACS) and American Housing Survey (AHS), for example, allow us to quantify the critical housing shortage for extremely low income renters; although HUD's *A Picture of Subsidized Housing* gives us a look at the quantity and geographic distribution of subsidized housing for these households.

The following section provides a brief overview of federal data sources for housing advocacy. Members of Congress often threaten to reduce the financial resources for data collection and dissemination, making it imperative that advocates stay abreast of political developments that impact public investments in these data. The *Census Project,* for example, is a network of organizations that see the importance of Census data, and fights against significant budget cuts to the planning of the 2020 U.S. Decennial Census and the implementation of the ACS.

U.S. DECENNIAL CENSUS

http://www.census.gov/programs-surveys/decennial-census/about.html

The Decennial Census asks U.S. citizens a limited number of questions, but serves an important Constitutional and governmental function. Article 1, Section 2 of the U.S. Constitution mandates a full count of American residents every 10 years, which is used to apportion seats in the U.S. House of Representatives among the states. The Census Bureau distributes a questionnaire to every U.S. household and group quarters, requesting basic demographic information, such as age, sex, and race. The count is also used to help determine the distribution of billions of dollars in federal money for infrastructure and other services.

President Obama's proposed FY16 budget included $662.5 million for the Census Bureau's preparation work for the 2020 Decennial Census. The U.S. House of Representatives' Appropriations Committee however proposed $400 million. Ultimately, $598.9 million was enacted in the final budget agreement. The Census Bureau will use some of those funds to conduct tests in Los Angeles, California, and Harris County, Texas, to refine outreach and question response options for respondents with limited English proficiency. The Bureau also plans to study outreach strategies for other hard-to-reach populations, which have historically included minorities and low income households. The Census is also expecting to roll out an on-line option for completing the 2020 Census. The Census Bureau argues that adequate pre-planning will result in a more user-friendly Census conducted at lower (inflation-adjusted) cost than previous Decennial Censuses.

AMERICAN COMMUNITY SURVEY

https://www.census.gov/programs-surveys/acs/

http://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml

The ACS is a nationwide annual mandatory survey of approximately 3.5 million housing units, conducted by the U.S. Census Bureau. The survey is distributed on a rolling basis, with approximately 295,000 housing units surveyed each month. The annual data provide timely information on the demographic, social, economic, and housing characteristics of the nation, each state, the District of Columbia, and other jurisdictions with at least 65,000 residents.

The sample size from one year of ACS data is not large enough to draw annual estimates for smaller populations. Therefore, multiple years of ACS data are combined to obtain accurate estimates for smaller areas. The Census Bureau releases ACS data that provides a 5-year moving average for all communities, down to census tracts. The annual data is more timely than the 5-year data and available for large populations, although the 5-year data is more reliable (because it is a larger sample) and available for communities across the country.

The ACS asks respondents more questions than the Decennial Census, providing housing advocates with important information. For example, the ACS captures data on housing costs and household income, allowing us to calculate the prevalence of housing cost burdens across communities. The data also allow us to measure the shortage (or surplus) of housing for various income groups. Other important variables in the ACS data include race, household type, and employment.

The U.S. House of Representatives has voted twice in the past two years to make participation in the ACS voluntary rather than mandatory of U.S. citizens by prohibiting enforcement. Research from the Census Bureau shows that a voluntary ACS would lower response rates by as much as 20 percentage points[1], forcing the Bureau to send surveys to a larger number of households and spend more time following up with them in-person and by telephone to encourage participation. The Bureau estimates that these additional efforts would cost an additional $90 million annually. If the ACS became voluntary and the Bureau did not take these additional steps, the survey's sample size would decline and the estimates would not be as accurate, especially for small communities and hard-to-reach populations.

Funding for the ACS in recent years has been continually under threat. The president's proposed FY16 budget included $256.8 million for the ACS, but the House Appropriations Committee proposed 20% less, an amount that could have resulted in a 15% decrease in the ACS sample size. The final enacted FY16 budget included $230.9 million for the ACS.

COMPREHENSIVE HOUSING AFFORDABILITY STRATEGY DATA

www.huduser.gov/portal/datasets/cp/htm

The U.S. Census Bureau provides HUD with custom tabulations of ACS data, which allow users to gain a better understanding of the housing problems among households of different income levels. The Comprehensive Housing Affordability Strategy (CHAS) data are primarily used by CDBG-entitled communities in their HUD-required Consolidated Plan, but can be a useful tool for housing advocates in measuring the housing need in their community. The CHAS data use HUD-defined income limits to categorize households as extremely low, very low, low, and moderate income. It also counts the number of housing units affordable to each of these income groups. Therefore, the data provide a count of households at different income levels and the number of housing units affordable to them at the national, state, and local levels. The data also provide important information on cost burdens, overcrowding, and inadequate kitchen and plumbing by income level. The data can also be broken down by race, elderly/non-elderly status, household size, and disability status.

The most recent CHAS data are from the 5-yr 2008-2012 ACS. HUD provides a web-based table generator that makes commonly used CHAS data readily available, particularly housing burdens. More advanced users can download the raw CHAS data for more detailed information.

HUD POINT-IN-TIME COUNT AND HOUSING INVENTORY COUNT

www.hudexchange.info/resource/3031/pit-and-hic-data-since-2007

HUD's Point-in-Time (PIT) count is the primary tool for measuring the extent of homelessness in the nation. Continuums of Care (CoC) that provide housing and services to the homeless population conduct a count each January of sheltered homeless persons in emergency shelter, transitional housing, and Safe Havens. Every other January (every two years), CoCs count unsheltered homeless persons whose primary nighttime residence is not ordinarily used as a regular place to sleep, such as a car, park, abandoned building, or bus or train station. The PIT count is a labor-intensive task coordinated at the local level. The end result is a PIT estimate of the number of homeless in the U.S. and among specific sub-populations, such as individuals, families with children, veterans, and the chronically homeless.

1 Williams, Jennifer D. (2013.) *The American Community Survey: Development, Implementation, and Issues for Congress.* Washington, DC: Congressional Research Service.

These estimates are published in HUD's Annual Homeless Assessment Report to Congress.

The Housing Inventory Count (HIC) is an inventory of the number of beds available for the homeless population by program, including emergency shelter, supportive housing, and rapid rehousing.

AMERICAN HOUSING SURVEY

www.huduser.gov/portal/datasets/ahs.html

www.census.gov/programs-surveys/ahs.html

The American Housing Survey (AHS) is a longitudinal national survey specifically focused on housing units. It is funded and directed by HUD and conducted by the U.S Census Bureau every odd numbered year. The national survey includes questions about the physical characteristics and quality of housing units, as well as their occupants, and tracks the same housing units over time. The same sample of housing units were followed from 1985 to 2013, with changes to the sample to account for new construction, demolitions, and conversions. The sample size of the national AHS survey in 2013 was 68,850 housing units. A new sample of housing units was drawn for the 2015 survey.

In 2011, the national AHS included a supplemental sample for a small number of large metropolitan areas from which to determine metropolitan level estimates of housing and household characteristics. In 2013, supplemental samples provided data for 25 metropolitan areas. The 2013 AHS also included supplemental questions on public transportation, emergency and disaster preparedness, community involvement, neighborhood characteristics, and doubled-up households.

The AHS is the data source for HUD's *Worst Case Housing Needs Report* provided to Congress every two years. This report identifies the number of very low income households in the U.S. that either spend more than half of their income on housing or live in physically inadequate housing. HUD provides data from these reports, dating back to 2001 as part of its Housing Affordability Data System. The AHS sample however is not large enough to calculate estimates for specific states or smaller areas other than the metropolitan areas for which HUD includes a supplemental sample.

A PICTURE OF SUBSIDIZED HOUSEHOLDS

www.huduser.org/portal/datasets/picture/about/html

HUD's *A Picture of Subsidized Households* provides data on the location and occupant characteristics of HUD's federally subsidized housing stock. The programs represented in the dataset are Public Housing, Housing Choice Vouchers, Project Based Section 8, Section 236, Section 202, and Section 811. This dataset allows users to examine the income, age, household type, and racial distribution of occupants in subsidized housing at the national, state, metropolitan area, city, and project level. The data also include the poverty rate and percentage of minorities in census tracts of subsidized developments to examine the extent to which subsidized housing is concentrated in high poverty or high minority neighborhoods.

RENTAL HOUSING FINANCE SURVEY

www.huduser.org/portal/datasets/rhfs/home.html

The Rental Housing Finance Survey (RHFS) is a biennial survey that focuses on the financial and property characteristics of multifamily rental properties. It is sponsored by HUD and conducted by the U.S. Census Bureau. The first national RHFS was conducted in 2012. The second survey was conducted in the summer of 2015. The survey focusses on the financing of rental properties, particularly the loan terms associated with new originations for purchase and refinancing. The data can be used to identify financing options available to multifamily properties, as well as for benchmark information on capital and operating expenses and rental income. HUD and the Census Bureau expect the data to help the Federal Housing Finance Agency develop underwriting standards for multifamily mortgages.

AFFIRMATIVELY FURTHERING FAIR HOUSING DATA AND MAPPING TOOL

http://egis.hud.gov/affht/

HUD's Affirmatively Furthering Fair Housing (AFFH) rule requires CDBG-entitled communities to conduct an Assessment of Fair Housing (AFH) as part of their 5-Year Consolidated Plan. The rule's intention is to encourage communities to plan for providing residents greater residential choice and access to high opportunity areas, such as those in close proximity to good schools and employment. On December 31, 2015, HUD issued an assessment tool that provides guidelines to communities for their AFH. HUD also released an AFFH Data and Mapping Tool (AFFH-T) that provides some of the data HUD requires communities to use in their AFH. The AFFH-T is made up of 17 maps and 15 tables that show census tract-level demographics, combined with job proximity, school proficiency, environmental health, poverty, transit, and housing burdens. The map data also include the location of publicly supported housing and Housing Choice Vouchers (HCVs). A User Guide with instructions for using the AFFH-T is also available.

FAIR MARKET RENTS

https://www.huduser.gov/portal/datasets/fmr.html

Fair Market Rents (FMRs) are published by HUD each year for every metropolitan area and rural county in the U.S. They are used to determine payment standards for HCVs and initial renewal rents for some project-based Section 8 contracts. FMRs also serve as rent ceilings for the HOME Investments Partnership program.

FMRs are set at the 40th percentile of gross rent in most metropolitan areas and rural counties, which is the top end of the price range that new renters could expect to pay for the lowest priced 40% of apartments. Therefore, FMR is the estimated cost of a modest apartment. In select metropolitan areas, FMRs are set at the 50th percentile for a three-year period. FMRs are the maximum rent that a HCV will provide for, so the 50th percentile FMRs are intended to expand the range of housing opportunities available to voucher households, enabling them to deconcentrate out of low opportunity areas. In FY16, there are 14 metro areas classified as 50th percentile FMR areas: Albuquerque, N.M,; Baltimore, Md.; Chicago, Ill.; Denver, Colo.; Hartford, Conn.; Honolulu, Hawaii; Kansas City, Mo.; Milwaukee, Wis.; Philadelphia, Pa.; Riverside, Calif.; Tacoma, Wash.; Virginia Beach, Va.; West Palm Beach, Fla.; and the District of Columbia.

HUD is evaluating the use of 50th percentile FMRs, as some research indicates they may not be the most effective approach to deconcentrate voucher holders. HUD is exploring the use of Small Area FMRs (SAFMRs) to provide more housing opportunities to voucher holders. SAFMRs reflect rents in U.S. ZIP code-based areas. The goal of SAFMRs is to provide voucher holders with subsidies that better reflect rents at the neighborhood level, providing them with more rental housing options. For FY16, all public housing authorities in the Dallas, Texas, region and five other public housing authorities in a SAFMR demonstration program (Cook County, Ill.; Long Beach, Calif.; Chattanooga, Tenn.; Mamaroneck, N.Y.; and Laredo, Texas) are using SAFMRs to manage their voucher programs. HUD released hypothetical FY16 SAFMRs for other metropolitan areas across the country, which can be used by housing authorities to set payment standards as long as they are within 90% to 110% of the regular FMR standard.

NATIONAL HOUSING PRESERVATION DATABASE

http://www.preservationdatabase.org/

The National Housing Preservation Database (NHPD) was created in 2012 by NLIHC and the Public and Affordable Housing Research Corporation (PAHRC) to provide communities and housing advocates with the information they need to effectively identify and preserve subsidized housing at risk of being lost from the affordable housing stock. The NHPD is an on-line database of properties subsidized by federal housing programs, including HUD Project-Based Rental Assistance, Section 202, Low Income Housing Tax Credit (LIHTC), HOME, Public Housing, and USDA's Rural Housing Service programs. This unique dataset includes the earliest date at which a property's subsidies might expire, and property characteristics significant in influencing whether the subsidized property might be at risk of leaving the subsidized housing stock—such as location and ownership information.

The NHPD can also be a useful resource in light of HUD's AFFH rule. The new AFFH rule requires CDBG-entitled communities to conduct an AFH as part of their 5-Year Consolidated Plan. The AFFH rule requires communities to consider the location of publically-assisted housing relative to high opportunity areas, such as those in close proximity to good schools and employment. Subsidized units in these areas could be at greater risk of being lost from the affordable housing stock. The NHPD can aid housing advocates and communities in identifying where efforts must be made to preserve this housing in light of the AFFH rule.

HOME MORTGAGE DISCLOSURE ACT DATA

http://www.consumerfinance.gov/hmda/

The Home Mortgage Disclosure Act (HMDA) requires many lending institutions to publicly report information about mortgage applications and their outcome. The information that institutions report includes whether the mortgage application was for a home purchase, home improvement, or refinancing; the type of loan (e.g., conventional vs. FHA); mortgage amount; the applicant's race, ethnicity, and gender; whether the application was approved; and census tract of the property's location. Lenders are also required to report the price of "high-priced" loans with high interest rates or fees. The data can be used to help identify possible discriminatory lending practices, as well as examine the extent to which lenders meet the mortgage investment needs of communities.

Each September, the previous year's HMDA data is released to the public. Small lenders and those with offices only in non-metropolitan areas are not required to report data.

COMMUNITY PLANNING AND DEVELOPMENT MAPS

http://egis.hud.gov/cpdmaps/

https://www.hudexchange.info/resource/2405/cpd-maps-desk-guide/

HUD's Office of Community Planning and Development (CPD) provides a mapping and data tool for users to identify housing needs in their communities. Some of the tool's data include the location of CDBG and HOME activities, public housing, private HUD-assisted housing, and LIHTC; economic and demographic characteristics of the community; and the number and types of households experiencing a housing problem, such as cost burden, overcrowding, or substandard housing.

HUD EGIS OPEN DATA

https://www.huduser.gov/portal/egis/index.html

HUD eGIS is a mapping and data tool that provides users with access to multiple HUD datasets, including HOME activities, HUD-insured multifamily properties, LIHTC properties, and many others.

ADDITIONAL SURVEYS

Other surveys of importance include:

- **Current Population Survey (CPS)** (www.census.gov/cps) is a joint venture between the Department of Labor and the Census Bureau and is the primary source of labor statistics for the U.S. population. The CPS' Annual Social and Economic Supplement provides official estimates of income, the poverty rate, and health insurance coverage of the non-institutionalized population.
- **Housing Vacancy Survey** (www.census.gov/housing/hvs) is a supplement of the CPS that quantifies rental and homeowner vacancy rates, characteristics of vacant units, and the overall homeownership rate for states and the 75 largest metropolitan areas.
- **Survey of Construction** (www.census.gov/construction/nrc) is a national survey of new homes selected from building permits. Data are collected from builders or owners of the homes regarding the start, sale, and completion dates, and more than 40 physical and financial characteristics of the homes. The survey is conducted by the Census Bureau and partially funded by HUD.
- **Survey of Market Absorption** (www.census.gov/housing/soma) is a HUD-sponsored survey of newly constructed multifamily units conducted by the Census Bureau. Each month, a sample of new residential buildings containing five or more units is selected for the survey. The initial 3-month survey collects data on amenities, rent or sales price levels, number of units, type of building, and the number of units taken off the market (absorbed). Follow-up surveys can be conducted at 6, 9, and 12 months. The data provide the absorption rate of new multifamily housing.
- **Survey of Income and Program Participation** (www.census.gov/sipp) is a Census Bureau survey that tracks families for two to four years, investigating household members' sources of income, participation in government transfer programs, and basic demographic characteristics.

WHAT ADVOCATES SHOULD KNOW

High quality data that accurately reflect the population requires participation. Housing advocates should encourage everyone to fully participate in the Decennial Census and other federal surveys for which they are selected. The accuracy and reliability of the Census' products depend on it.

Advocacy organizations, such as NLIHC and its state partners, use a variety of federal data to quantify the scarcity of units affordable to the lowest income families, which makes it easier to set specific and defensible goals for expanding the affordable housing stock. NLIHC for example provides housing profiles for each U.S. State and Congressional District.

WHAT TO SAY TO LEGISLATORS

Housing advocates should remind Members of Congress of the importance of reliable and unbiased data to understanding and addressing our housing needs. Specific issues that should be highlighted to Members of Congress include:

- Adequate funding for the U.S. Census Bureau to prepare for the 2020 Decennial Census. Appropriate planning and testing new technology, including an on-line option, now will allow the Census Bureau to save money in the long run.
- Participation in the ACS needs to remain mandatory. Changing the ACS to a voluntary survey would lower response rates. The reliability of the survey's findings would decline unless the Census Bureau spent an additional $90 million per year to send the survey to a larger number of households and to follow-up with them in-person or by phone to encourage participation.
- HUD and the USDA's Rural Housing Service should provide timely and accurate data regarding the subsidized affordable housing stock. Information regarding properties' location and expected expiration of affordability requirements is important for raising awareness of the properties at risk of leaving the subsidized housing stock and planning for how to preserve the affordability of this housing. This information however is sometimes difficult to obtain.

FOR MORE INFORMATION

NLIHC, 202-662-1530, http://nlihc.org/library

Association of Public Data Users, http://apdu.org/

HUD Office of Policy Development and Research, https://www.huduser.gov/portal/home.html

The Census Project, http://censusprojectblog.org/ ■

Using the Freedom of Information Act for Housing Advocacy

By Ed Gramlich, Senior Advisor, National Low Income Housing Coalition

Everyone has the right to request federal agency records or information under the Freedom of Information Act (FOIA). Federal agencies, subject to certain exceptions, must provide the information when it is requested in writing. In order to use FOIA, advocates do not need to have legal training or use special forms. All that is necessary is a letter.

SUMMARY

FOIA allows individuals and groups to access the records and documents of federal agencies such as HUD and U.S. Department of Agriculture (USDA) Office of Rural Development (RD). Requests must be made in writing. Each agency has its own practices and regulations. HUD's FOIA regulations are at 24 CFR part 15. USDA's regulations are at 7 CFR part 1 Subpart A.

FOIA does not provide access to the records and documents of parts of the White House, Congress, the courts, state and local governments or agencies, private entities, or individuals.

Records include not only print documents, such as letters, reports, and papers, but also photos, videos, sound recordings, maps, email, and electronic records. Agencies are not required to research or analyze data for a requester, nor are they required to create a record or document in response to a request. They are only obligated to look for and provide existing records. Agencies must, however, make reasonable efforts to search for records in electronic form. The term search is defined as reviewing, including by automated means, agency records (e.g., performing relatively simple computer searches).

A formal FOIA request might not be necessary. By law and presidential order, federal agencies are required to make a substantial amount of information available to the public. Before considering a FOIA request, advocates should explore the HUD or RD websites and be fairly confident that the information sought is not already available online.

If advocates cannot find the information they seek on an agency's website, it might be readily available from agency staff in the field, regional, or headquarters offices. Rather than invoking the formal FOIA process, it is often quicker and easier to start with an informal approach. Simply phone or email the agency office and ask for information. Formal, written requests generally trigger a slower, formal, bureaucratic process.

- HUD contact information can be found under the "Contact Us" tab on the HUD website, www.hud.gov.
- RD state offices can be located at http://www.rd.usda.gov/contact-us/state-offices, and state and local offices can be located at http://www.rd.usda.gov/browse-state.
- USDA Service Centers (which might have an RD area office) can be found at http://offices.sc.egov.usda.gov/locator/app?state=us&agency=rd.

MAKING A FOIA REQUEST

If an informal request does not produce the desired information, a formal request may be necessary. A formal FOIA request can be simple and short, but it must be in writing. In your letter, state that you are making a request under the FOIA. Describe what you are looking for in as much detail as possible, including dates, names, document numbers, titles, types of beneficiaries you are concerned about, etc. Specify the format, paper or electronic, in which you would like to receive the requested information.

Request a waiver of any fees for copying or searching, explaining your organization's mission and its nonprofit status in order to demonstrate that you do not 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 far greater than currently exists.

Provide contact information for the individual or organization requesting the information, including mailing address, phone number, and email address. Ask the agency to provide detailed justifications for any information that it refuses to release. Include a statement that the law requires the agency to respond within 20 days indicating whether the request will be processed.

Formal requests must be in writing, but they can be made through email, by fax, or through postal mail.

HUD FOIA requests:

- To make a FOIA request of HUD headquarters, go to https://hudpal.efoia-host.com/palMain.aspx. If the response is not adequate, contact the FOIA Public Liaison for HUD headquarters at http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/foia/servicecenters.
- To make a FOIA request of documents from a HUD field office, advocates should locate the appropriate person and address from the HUD FOIA Requester Service Centers webpage at http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/foia/servicecenters If the response from the FOIA Requester Service Center is not adequate, contact the FOIA Public Liaison for the appropriate geographic region.

RD FOIA requests:

- To make a FOIA request for RD documents at either the local level or at RD headquarters, advocates can write to the RD FOIA

SAMPLE FOIA LETTER

Date

Agency/Program FOIA Liaison
Name of Agency or Program
Address

RE: Freedom of Information Act Request

Dear [name]:

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, how the information will contribute to public understanding of HUD/RD operations or activities, and how you or your organization, as well as a broader segment of the public, will gain a greater understanding of these agencies by having the requested information. Describe the role and expertise of your organization as it relates to the information and how the information will be disbursed to a broader audience.]

As provided by law, a response is expected within 20 working days. 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.

If you have any questions about this request, please phone me at _____.

Sincerely,

Your name
Address

Coordinator for their state. Contact information for RD FOIA State Coordinators can be found at http://www.rd.usda.gov/files/USDA_RDFOIAStateContacts.pdf

- If you are not sure where the information is located, send the FOIA request to the RD FOIA Officer at RD headquarters in Washington, District of Columbia, http://www.rd.usda.gov/contact-us/freedom-information-act-foia.

The Reporters Committee for Freedom of the Press provides an interactive tool to generate a FOIA request to any agency, https://www.ifoia.org/#!.

Timeline. Once a request is made, HUD and RD will log that request and provide a tracking number. The agencies must grant or deny a FOIA request within 20 working days of receiving it. This response simply shows whether or not the agency intends to provide the information. There is no time limit on actually providing the information; however, USDA's regulations require RD to provide an approximate date the information will be provided.

If HUD or RD deny a request, they must explain why and state that there is a right to appeal. If there are unusual circumstances, such as large numbers of records to review or staffing limitations, the agency can add an extra 10 days, and must give written notice.

Expedited Requests. If there is imminent threat to life or physical safety, or if there is an urgent need to inform the public, advocates can ask for expedited processing. HUD and RD will issue a notification within 10 working days indicating whether a request will get priority and more rapid processing.

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, personal information, and certain internal government communications. The letter denying a FOIA request must give the reasons for denial and inform the requester of the right to appeal to the head of the agency.

The "internal government communications" exemption might be relevant to housing advocates. 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.

Appeals. Decisions to deny a fee waiver, deny a request for expedited disclosure, or failure to release the requested information can be appealed. Appeals to HUD should be made within 30 days. A letter should be sent to the HUD official indicated in the denial letter and generally include a copy of the original request, a copy of the denial, and a statement of the facts and reasons the information should be provided. Specific information for appeals pertaining to fees or expedited processing are listed at http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/foia/foiaappeals.

To appeal an RD denial, advocates can send a letter to the RD official indicated in the denial letter within 45 days. If that appeal fails, advocates can appeal to the RD FOIA Officer. If still not satisfied, advocates should write to the Rural Housing Service Administrator. The agency has 20 working days to make a decision regarding an appeal.

FOR MORE INFORMATION

Public Citizen's Freedom of Information, http://www.citizen.org/Page.aspx?pid=5171

Reporters Committee for Freedom of the Press FOIA, https://www.ifoia.org/#!

HUD FOIA webpage, http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/foia

USDA RD FOIA webpage, http://www.rd.usda.gov/contact-us/freedom-information-act-foia

USDA RD State FOIA contacts are at http://www.rd.usda.gov/files/USDA_RDFOIAStateContacts.pdf

General Services Administration, Your Right to Federal Records, http://www.gsa.gov/graphics/staffoffices/Your_Right_to_Federal_Records.pdf

Department of Justice FOIA websites, http://www.justice.gov/oip, and http://www.foia.gov ■

Generating Support for Affordable Rental Housing

By Jaimie Ross, President and CEO, Florida Housing Coalition

In the housing world, the Not in My Back Yard (NIMBY) syndrome connotes objections made to stop the development of affordable housing for reasons such as fear and prejudice. That effort is in contrast to the grassroots NIMBY movement to thwart the real threat of an incompatible neighboring use, such as the siting of a hazardous waste facility near a residential area. The NIMBY movement around environmental racism is a positive movement; the NIMBY movement around housing for low income families and people with special needs is harmful for everyone.

NIMBYism presents a particularly pernicious obstacle to meeting local housing needs. The outcry of constituents with concerns over the siting and permitting of affordable housing can lead to lengthy and hostile public proceedings, frustrated Consolidated Plan implementation, increased costs of development, and property rights disputes. The consequence is the development or preservation of less rental housing at a time when the country is in desperate need of more rental housing. Advocates need to generate support for affordable rental housing and fight NIMBYism. The following tools can be used to develop support and overcome NIMBYism.

TOOLS FOR LOCAL SUCCESS

1. **Education Campaign.** Increased understanding about affordable rental housing and the positive impact it has on individuals, families, and the community at large is instrumental to gaining wide support. The more informed the public, local government staff, and elected officials are about the need for affordable rental housing and the benefits of avoiding housing insecurity and homelessness, the more leverage advocates will have to advance the development of affordable rental homes. Advocates should make use of credible research, local data, and other examinations of housing need to support their message. Anecdotal information about particular residents and the success of previous developments goes a long way in a public education effort. There are many resources available to help in an education campaign. One resource is the *Home Matters Report*, a national project of NeighborWorks, which draws the connections between housing, health, and education. Another resource is the recently released *ALICE Report* (Asset Limited, Low Income, Constrained Employed) by United Way, which busts the myths about who needs rental housing; it is based upon research that full-time low income employed workers do not make enough money to pay for market rate apartments. Reports such as these from credible entities that are not in the business of affordable housing attract the attention of news outlets and provide allies for the cause.
2. **Garner Support from a Broad Range of Interests.** Too often, affordable housing advocates do not look beyond traditional allies to help advance their efforts. Advocates should ask members of the business community, clergy, social service agencies, and others who would be well received, to stand with them in advancing affordable housing goals. These supporters can be helpful in making the connection between housing development and other community concerns. For instance, members of the local school board or parent advisory committees can attest to the imperative of stable rental housing for children to succeed in school. Potential beneficiaries of the development, such as future residents, may also be effective advocates. The media can be a crucial ally; whenever advocates foresee a potential NIMBY problem, it is best to contact the media right away so that they understand the development plans, the public purpose, and the population to be served before they hear the neighborhood opposition.
3. **Educate Elected Officials.** Once a NIMBY battle ensues, it is often too late to educate. Advocates should anticipate the value of and the need to build relationships with elected officials and their staff members before a NIMBY

issue arises. Education should include the importance of affordable housing in general, including the consequences of not having enough rental housing – homelessness that is completely preventable. Elected officials need to make the connection between adequate rental housing and the economic health of the entire community. Advocates should include allies in the education process. Learning about the elected officials' interests will help to inform the advocate about which of its allies are best to bring to the meeting. For example, a particular elected official may be more inclined to hear from a local business about the need for employee housing, while another may be moved by hearing from local clergy about the needs of homeless veterans or the elderly and disabled. Whenever possible, advocates should invite elected officials to visit completed developments, and should share credit with them at ribbon cuttings and when speaking with the media. Regarding a pending development, whether advocates can meet with elected officials depends upon the *ex parte* rules in each jurisdiction. If advocates discover that community opposition is meeting with elected officials about a development, advocates should try to do the same.

4. **Address All Legitimate Opposition**. Key to overcoming community opposition is addressing the opposition's legitimate concerns. Legitimate, non-discriminatory concern around issues like traffic or project design may lead the affordable housing developer to make adjustments to a proposed development. For example, modifying the location of the entrance driveway or modifying the design of the building to ensure the affordable rental development fits within the aesthetics of the existing community may be changes worth making, even if they come with an increase in cost. It is always wise for the affordable housing developer to work with the neighbors and be able to report to the local elected body that they have done their best to address those concerns. Property values are often the root of neighborhood opposition. Yet, virtually without exception, research about property values and affordable housing finds no negative effect on neighboring market rate property values. And, in some instances, affordable housing has increased the value of neighboring property.

   The key point is this: Once all legitimate concerns are addressed, if opposition persists, it can be stated with certainty that the opposition is illegitimate and is therefore opposition that would be inappropriate, arbitrary, capricious, or unlawful for the local government to consider in making its land use decision.

5. **Know the Law and Expand Legal Protections**. Advocates should work 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 (Section 760.26, Florida Statutes). In 2009, North Carolina adopted a similar statute to add affordable housing as a protected class in its fair housing law.

   Decision makers and their staffs must be aware of the law if it is to be helpful to the cause. The expansion of the state fair housing act to include affordable housing in Florida has been successful because housing advocates have been conscientious about ensuring that local government lawyers know 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.

FOR MORE INFO:

1. **Managing Local Opposition through Education and Communication**
   http://nonprofithousing.org/resources/the-original-nph-toolkit
   http://www.hcd.ca.gov/housing-policy-development/mythsnfacts.pdf
2. **Property Value Studies**
   http://www.hcd.ca.gov/housing-policy-development/prop_value.pdf
   http://www.realtor.org/field-guides/field-guide-to-effects-of-low-income-housing-on-property-values

Contact the author at ross@flhousing.org ■

Resident and Tenant Organizing

By James Saucedo, Housing Advocacy Organizer

Why organize? Organizing rebalances power. When ordinary people come together to take collective action on their own behalf, they have a greater ability to influence people in decision-making positions. This undermines existing social structures and creates a more just distribution of power.

Why do tenants organize? Tenants organize to address immediate problems and create ongoing solutions. If a tenant has mold in his or her apartment and the landlord keeps saying it will be addressed but it never is, chances are other tenants in the building are facing the same problem. It is easy for the landlord to avoid each person individually, but when tenants come together and put pressure on the landlord as a group, they become much harder to ignore.

Organizing doesn't stop when an immediate problem is fixed. As a group, tenants can identify systematic problems in their building. They can see patterns of neglect or harassment, and demand long-term solutions that prevent problems, instead of just dealing with them once they occur. It doesn't have to stop at the building level. An organized group of tenants may identify issues, such as crime, that need to be addressed on their block or in their neighborhood as a whole. As a united tenant organization with experience dealing with their landlord and building management, they know how to work together as a group to demand accountability from people in positions of power, like the police department.

Ultimately, tenants organize to get power. In an apartment building, a small minority of people hold almost all of the power. Landlords and management companies have the power to withhold repairs, to raise rents in many cases, and to refuse to renew leases and even evict people. In federally assisted buildings, tenants have rights and protections provided by the government. Some cities and states also provide additional protections, but even these are more effective if tenants are organized. Organizing gives tenants more power to draw attention to problems and get them resolved.

Typically, there are several types of issues that prompt tenants to organize:

- Substandard living conditions.
- Systematic harassment or intimidation.
- The threat of an end to assistance programs that keep units affordable to existing tenants.

TENANT ORGANIZING TIPS

Be open. To function well, a tenant association must be open to all residents in a building. If it is not, competing tenant organizations can develop and landlords or management companies can exploit this lack of unity among residents.

Be democratic. For long term success, it is crucial for a group to function democratically. When the special interests of only a few members begin to dictate group decisions and interactions with landlords or management companies, the cohesion of a group is weakened, and therefore so is its strength.

Keep an eye on process. There is no one-size-fits-all decision-making process or leadership structure for tenant associations, but it is important for residents to figure out what works well for them, build consensus, and formalize their processes in some way. A group may re-evaluate and change its structure at some point, but it is critical to have a defined and agreed upon method, so that when decisions need to be made, they can be made without chaos or dispute.

Be informed. Tenants need to know what is going on in their building and in their community. Tenants should determine if their landlord owns other buildings in the neighborhood or city, and if residents in those buildings have the same issues. Tenants should also learn about federal, state, or local laws, whether regarding the right to organize, affordability restrictions, or conditions standards. They should figure out if and who in the community can help them get the resources they need to be successful.

Know your elected officials. Tenants should learn who their elected officials are at every level of government and engage them on the issues facing the building.

Find a location to hold meetings. A local church, community center, or library may be willing to provide space. Does the group need to photo copy meeting notices? A community based organization in your neighborhood may be able to help.

Set your goal as a group. Most importantly, tenants must determine their goal as a group, identify and engage allies that can help achieve the goal, make sure everyone who wants to be involved has a role to play, and develop solidarity among the group. Strength of numbers and unity of purpose are instrumental forces in organizing.

Ultimately, an organized tenant group becomes a critical resource for advocates. No one knows the direct implications and effects of housing policies better than the residents who live them. A tenant organization can solve immediate problems in a building, but can also play an important role in advocating for better, more just policies.

Timeline of a Tenant Association. The timeline for development of a tenant association will vary from building to building, depending on the given issues facing the building, the dynamics of the resident base, and other factors. Here is a sample timeline that contains some useful tips.

WEEK 1: RESEARCH

To start, ask yourself the following questions:

- What issues do you think the building is facing?
- What are the relevant affordability programs affecting the building? Does it have a subsidized mortgage? Is there a federal rental assistance program in place? Are there state or local assistance programs at play? Who governs and regulates these programs? Are there protections in place for the tenants as a result of these programs?
- Who are the elected officials representing the area where the building is located?
- What other issues are facing the community at large?

WEEK 2: DOORKNOCK

- **Prepare**. Make sure you have everything you need to doorknock effectively—a clipboard, a sign-up sheet where people can provide contact information, and a place to make notes about the conversations you have with people. Bring a copy of any regulations, federal or local, ensuring your right to organize in case you are confronted by the landlord, property manager, or building security. Bring business cards or information about your organization.
- **Knock on Doors**. There is no more effective way to find out the issues facing tenants and how likely they are to organize than talking to them face to face. It is usually most effective to doorknock in the evening, since that is when most people will be home from work.
- **Identify Potential Leaders.** Use doorknocking as a way to not only identify problems, but also to identify potential leaders. Note whether there are any tenants people seem to defer to or listen to. Who are the long-time tenants? Who seems enthusiastic about taking action? Don't pre-determine leaders, let leaders emerge.
- Doorknocking is about listening, observing, and beginning to build trust.

WEEKS 3 AND 4: PLANNING MEETINGS

- **Get the group started.** After doorknocking, engage a small group of tenants who seemed most active and enthusiastic about the problems facing the building.
- **Organize one or two smaller meetings**, likely in one of the tenants' apartments. Brainstorm with this small group: What are the underlying common issues facing the building? Who seems to be the decision maker? How should things change? How can things change?
- **Determine a goal for the building that has consensus among the small group**. Pick a date for a building-wide meeting. Develop an agenda for the big meeting. Delegate roles and tasks among the group: Who is going to make, copy, and post flyers? Who is going to lead the meeting? Who is going to take notes? Will you need translation? Who will fill that role?
- **Make sure that everyone who wants a responsibility has one**. Remember that the role of the organizer is not to lead, or even talk much; it is to provide the resources the tenants need to meet their goals, and to facilitate this small group's leadership.

WEEK 5: FIRST BUILDING-WIDE MEETING

- **Once you have picked a date, determine the location**. Many buildings have a community room. Community rooms are a great resource because they don't require people to travel anywhere to get to the meeting. If the building does not have a meeting place, try to find a space in the neighborhood—churches, community centers, or libraries often have adequate space that is open to the community.
- **Create and distribute flyers with the logistics of the meeting.** Make sure that everyone is aware of the meeting. Not every tenant will come, but everyone should have the opportunity to attend if they choose.
- **Finalize the agenda**. Make sure that everyone who will speak knows their role. Keep the agenda very tight. Address why you are meeting, build consensus around a goal, and determine the date for your next meeting and the next steps that need to happen. Make sure every action item has a person assigned to it.

WEEK 6: DEVELOP AN ACTION PLAN

- **Begin the process of creating an action plan** once you have determined your goal as a group and have developed some immediate next steps.
- **Figure out contingency plans**. For example, if you are writing the landlord a letter asking him to meet with your group, what are your next steps if he says yes? What are your next steps if he says no? At what point will you engage your elected officials to put pressure on the landlord? At what point might you go to the media?
- Your action plan will develop and change over the course of your campaign as events unfold, but it is useful to plot out your steps and expectations as a group.

WEEKS 7 THROUGH 10: ELECTIONS AND BY-LAWS

- After you have developed your action plan and taken initial steps in your campaign, it is useful to begin formalizing leadership and decision-making processes.
- **Determine the group's leadership.** There are many different leadership structures. Tenants should consider different options and determine what makes most sense for their group. Do they want a president? Co-chairs? Does a committee structure make the most sense for them? Tenants must determine the basic functions that need to be fulfilled within their group and then craft a leadership structure that meets those needs.
- **Determine the decision-making process.** This should be a process all active members of the group are comfortable with, and one that is committed to paper. Without basic rules and regulations in place, a group can fracture, and a fractured group loses power.

SUSTAINING THE TENANT ASSOCIATION

- Many tenant groups are galvanized in crisis. After the immediate problem that brought a group together is addressed, the group often loses steam, stops meeting, and peters out.
- **Stay engaged, but set realistic expectations.** It is important to keep residents engaged, yet also important to understand that the level of a tenant group's activity can vary, depending on whether they are facing an immediate crisis. During an active campaign a group may meet every week. Once the crisis passes, they may decide to scale back to meeting once a month. Scaling back is okay. Although you want to keep the group going, you don't want to burn people out or make them feel like they are meeting for no reason.
- **Look to the community.** Although it is usually an issue in the building that brings a tenant association together, there may be broader issues in the community around which a tenant group can organize, such as crime or issues with the public transportation system. Give members of the tenant association space to raise issues of greater concern. If common issues arise, brainstorm ways the tenant association can influence the community as a whole.
- **Look beyond the community.** Does the tenant group have issues with the way a federal or local program is regulated or run? How can they weigh in and advocate for themselves and their neighbors?
- Finding ways to maintain a strong tenant association is important. Although the group

may win one fight, another crisis could arise any day, and having a strong and unified body in place means you will hit the ground running.

Adapted from New York State Tenants & Neighbors' 2008 Organizers' Manual, *by Michele Bonan. For more information, contact Katie Goldstein at kgoldstein@tandn.org, or visit Tenants & Neighbors' website at http://tandn.org/* ■

Resident Participation in Federally Subsidized Housing

By Ed Gramlich, Senior Advisor, NLIHC

Subsidized housing residents have important personal perspectives about the impact of established and emerging subsidized housing policies on their homes and communities. Consequently, they have good ideas about how their housing developments should be managed. Resident participation in all aspects of housing management is critical to the long-term success of federal housing programs.

HUD has three major programs that provide rent subsidies to approximately 4.4 million households nationwide. These programs are the public housing program, private multifamily HUD-assisted rent programs, and the Section 8 Housing Choice Voucher program. Each of those programs has its own set of challenges and opportunities related to resident participation.

PUBLIC HOUSING

Administering agency: HUD's Office of Public and Indian Housing

Year started: 1986 for public housing tenant participation, 1998 for Resident Advisory Boards

Population targeted: Residents of public housing

See also: *Public Housing, Public Housing Agency Plan*

There are a number of HUD policies that help support the participation of all public housing residents in public housing agency (PHA) decision-making.

PHA Plan Process. Opportunities for resident participation exist in the annual and five-year planning processes, collectively called the PHA Plan, required by the Quality Housing and Work Responsibility Act (QHWRA). 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. The regulations for the PHA Plan process are at Part 903 of Title 24 of the Code of Federal Regulations (24 CFR Part 903).

Resident Advisory Boards. QHWRA created Resident Advisory Boards (RABs) to ensure that public housing and voucher-assisted households can meaningfully participate in the PHA Plan process. RABs consist of residents who are elected to represent the population served by the housing agency. By law, PHAs must provide RABs with reasonable resources to enable them to function effectively and independently of the housing agency. Regulations regarding RABs are in the PHA Plan regulations, Part 903.

Part 964 Resident Participation Regulations. A federal rule provides public housing residents with the right to organize and elect a resident council to represent their interests. This regulation, 24 CFR Part 964, spells out residents' rights to participate in all aspects of public housing development operations. Residents must be allowed to be actively involved in a PHA's decision-making process and to give advice on matters such as maintenance, modernization, resident screening and selection, and recreation. The rule defines the obligation of HUD and PHAs to support resident participation activities through training and other activities.

A resident council is a group of residents representing the interests of the residents and the properties they live in. Some resident councils are made up of members from just one property, so a PHA could have a number of resident councils. Other resident councils, known as jurisdiction-wide councils, are made up of members from many properties. A resident council is different from a RAB because the official role of a RAB is limited to helping shape the PHA Plan. Resident councils can select members to represent them on the RAB.

Most PHAs are required to provide $25 per occupied unit per year from their annual operating budget to pay for resident participation activities. A minimum of $15 per unit per year must be distributed to resident councils to fund activities such as training and organizing. Up to $10 per unit per year may be used by the PHA for resident participation activities. On August 23, 2013, HUD issued Notice PIH 2013-21 providing new guidance on the use of tenant participation funds.

Resident Commissioners. The law also mandates that every PHA, with a few exceptions, have at least one person on its governing board who is either a public housing resident or voucher holder. HUD's rule regarding the appointment of resident commissioners, at Part 964, states that residents on boards should be treated no differently than non-residents.

Resident Opportunities and Self-Sufficiency program. HUD's Resident Opportunities and Self-Sufficiency (ROSS) program is designed to help public housing residents become more self-sufficient by linking them to supportive services and resident empowerment activities. Competitive grants under the ROSS program can be awarded to PHAs, resident councils, resident organizations, and other entities. ROSS funds have been appropriated annually by Congress, followed by a Notice of Funding Availability (NOFA) from HUD inviting eligible applicants to compete for the funds. Twenty-five percent of ROSS grants have been set aside for formally recognized resident councils, but few ever apply for it. For FY16, Congress appropriated $35 million for ROSS—$10 million less than FY15, and $15 million less than FY12 and earlier.

HOUSING CHOICE VOUCHERS (SECTION 8)

Administering agency: HUD's Office of Public and Indian Housing

Year started: 1998 for RABs

Population targeted: Residents with Section 8 Housing Choice Vouchers

See also: *Vouchers: Housing Choice Voucher Program; Public Housing Agency Plan*

Approximately 2 million households receive tenant-based assistance through the Housing Choice Voucher Program. Housing Choice Voucher holders, often referred to as Section 8 voucher holders, are among the most difficult residents to organize because they can choose a private place to rent anywhere in the PHA's market, so are less likely to live close to or have contact with each other. However, the PHA Plan process, and the requirement that voucher holders be included on the RAB, offer platforms for organizing voucher holders so that they can amplify their influence in the decision-making affecting their homes.

Participating in PHA Plan Processes. At the local level, voucher holders can play a key role in shaping PHA policies by participating in the annual and five-year PHA Plan processes. PHAs make many policy decisions affecting voucher holders, such as setting minimum rents, developing admissions criteria, determining the amount of time a voucher holder may search for a unit, giving preferences for people living in the PHA's jurisdiction, as well as creating priorities for allocating newly available vouchers to categories of applicants (for example, homeless individuals, families fleeing domestic violence, working families, or those with limited English-speaking capability).

Participation on Resident Advisory Boards. Voucher holders can play an integral role in setting the agenda for local PHAs because the RAB regulations require reasonable representation of voucher holders on the RAB when there are a significant number of voucher holders assisted by the PHA.

PRIVATELY OWNED, HUD-ASSISTED MULTIFAMILY HOUSING (PROJECT-BASED SECTION 8 RENTAL ASSISTANCE, PBRA)

Administering agency: HUD's Office of Multifamily Housing Programs

Year started: 1978, with significant regulatory changes in 2000

Population targeted: Residents of private multifamily HUD-assisted rental developments

See also: *Project-Based Rental Assistance*

Tenants' right to organize is based in law at 12 USC 1715z-1b and spelled out in regulations at 24 CFR Part 245, which require owners of privately owned, HUD-assisted multifamily housing to recognize tenant organizations. A legitimate tenant organization is one established by tenants that represents all tenants, operates democratically, meets regularly, and is independent of owners and management. The regulations recognize the rights of tenants to distribute leaflets, canvass, post notices, and convene meetings without management present and without prior notice to or permission from management. Residents 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.

On June 18, 2010, HUD sent a letter to all owners and management agents highlighting key features of Part 245, emphasizing the right of tenants to organize and repeating the list of protected tenant organizing activities.

Policy Notices H 2011-29 of October 13, 2011, and Notice H 2012-21of October 17, 2012, repeated and elaborated on the content of the June 2010 letter, adding civil money penalties that HUD could impose on an owner or manager failing to comply with Part 245. The civil money penalties regulation (24 CFR Part 30) allows HUD to assess fines on owners or management agents for major violations of tenants' right to organize. Notice H 2014-12, issued on September 4, 2014, revised Notice H 2011-29 and Notice H 2012-21 by adding a tenant appeals process when a decision by the local HUD office concludes that an owner did not violate the tenant participation regulations or other program obligations.

Other HUD guidance includes HUD's Model Lease, which is applicable to all HUD tenants, and explicitly refers to the regulation's provisions about the right to organize. The Management Agent Handbook requires owners to recognize tenant unions, and specifies management practices that would violate tenants' rights and therefore potentially result in HUD-imposed sanctions.

Resident Rights and Responsibilities is a resident-oriented HUD brochure explaining that tenants have the right to organize free from management harassment or retaliation. This brochure must be distributed annually to all HUD tenants.

In addition, over the years, Congress and HUD have expanded the formal process for tenant participation in decisions affecting HUD-assisted housing. For example, HUD must notify tenants about a pending auction or sale of their building if it is owned by HUD or is under HUD foreclosure, so that tenants can either submit a purchase offer as a nonprofit or limited-equity cooperative, or support purchase by others. In addition, when owners choose to go into HUD's Mark-to-Market program, HUD is required to notify tenants prior to a first and second tenant meeting so that tenants can comment on the owner's plans to rehabilitate the building and change the financing.

Tenant Resource Network. For a few years, Congress provided funds to help tenants organize, primarily so they could understand and influence the future of their homes when a development's Section 8 contract was expiring. The Outreach and Training Assistance Grant (OTAG) program was established by Section 514(f) of the Multifamily Assisted Housing and Reform Affordability Act, enacted in 1998. Section 514 requires HUD to set aside $10 million annually to enable tenants to participate in the mortgage restructuring process during any proposed transfer of a property. However, between FY01 and FY10 OTAG grants were not awarded due to HUD concerns about administrative problems, which are not believed to have been widespread.

HUD issued a NOFA for FY11 making $10 million available for a renamed and revised program called the Tenant Resource Network (TRN). The purpose of TRN was to inform and engage tenants about their rights and options if their privately owned, HUD-assisted apartments were at risk of leaving the affordable housing stock. Eligible properties included those with an FHA insured or direct mortgage that will mature within 24 months, an owner who decides to opt out of or prepay a project-based Section 8 contract within 12 months, or a REAC (physical inspection) score below 60 for two consecutive months within the last year. Nonprofit organizations with a minimum of five years of tenant outreach and organizing experience were eligible to apply.

Only $5 million was awarded to 15 organizations in June 2012. HUD requested $3 million for FY16; however, Congress did not appropriate any new money. Between 2002 and 2015 only $8.5 million was spent for Section 514 activities.

The TRN program has expired, but HUD committed to using the balance of the FY11 Section 514 funds for an AmeriCorps VISTA Volunteer program. Unless HUD and Congress act, the VISTA program will have no resources for tenant assistance after FY17. The program replacing TRN is called the AmeriCorps VISTA Affordable Housing Preservation Project (VAHPP). The National Alliance of HUD Tenants worked diligently to convince HUD to partner with VISTA and Equal Justice Works to create and operate VAHPP. Thirty-three VISTA organizers and 20 supervisors are implementing the project, providing both community organizing and legal support to tenants and tenant organizations with the goal of working with owners and project administrators to preserve, maintain, and improve project-based Section 8 homes.

Developments eligible for VAHPP are subject to a project-based Section 8 Housing Assistance Contract (HAP) when:

- A HAP contract will expire within five years.
- A property has two consecutive REAC physical inspection scores less than 60.
- A property is otherwise at risk of HUD abating the HAP contract due to health and safety issues.
- The owner has submitted a request to HUD to prepay the mortgage, such that the prepayment would trigger the issuance of preservation vouchers to tenants of non-assisted units.

The Obama Administration's FY16 budget request sought to set aside $3 million from the project-based Section 8 Rental Assistance program appropriations for preservation-related tenant advocacy and capacity building technical assistance, building upon the VAHPP work. However, the Administration proposed that such technical assistance be available through a competitive process announced via a Notice of Funding Availability through Community Compass (formerly OneCPD). Funds were not appropriated for FY16.

WHAT TO SAY TO LEGISLATORS

Advocates should speak to their Members of Congress and ask them to:

- Fund the public housing ROSS program at $50 million in FY17.
- Reverse HUD's administrative weakening of the PHA Plan and Congress' streamlining of the Plan's requirements for 75% of the nation's PHAs.
- Adhere to Section 514 by ensuring $10 million is available and utilized each year to support qualified and independent organizations to provide outreach and training to HUD-assisted housing tenants threatened with the loss of their housing.

FOR MORE INFORMATION

National Alliance of HUD Tenants, 617-267-9564, www.saveourhomes.org

National Housing Law Project, 415-546-7000, www.nhlp.org

NLIHC, 202-662-1530, www.nlihc.org

24 CFR Part 964, Tenant Participation and Tenant Organizing in Public Housing Regulations, https://www.gpo.gov/fdsys/pkg/CFR-2014-title24-vol4/pdf/CFR-2014-title24-vol4-part964.pdf

24 CFR Part 903, Public Housing Agency Plans Regulations, https://www.gpo.gov/fdsys/pkg/CFR-2014-title24-vol4/pdf/CFR-2014-title24-vol4-part903.pdf

24 CFR Part 245, Tenant Participation in Multifamily Housing Projects, https://www.gpo.gov/fdsys/pkg/CFR-2014-title24-vol2/pdf/CFR-2014-title24-vol2-part245.pdf

HUD Resident Rights and Responsibilities brochure, http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_12162.pdf

Notice PIH 2013-21, Guidance on the use of Tenant Participation Funds, http://1.usa.gov/1oeNmvJ

Notice H 2014-12, Implementation of Tenant Participation Requirements in Accordance with 24 CFR Part

245, http://portal.hud.gov/hudportal/documents/huddoc?id=14-12hsgn.pdf ■

Voterization: 2016 Voterization Narrative Guide and Plan

By Joseph Lindstrom, NLIHC Senior Housing Advocacy Organizer, and Alexandra Williams, MSW Practicum Student, NLIHC Field Team

This guide accompanies the National Low Income Housing Coalition's *Voterization Plan*, and is designed to help you through the steps of planning your agency's Voterization work. NLIHC's Voterization materials offer resources for organizations seeking to engage traditionally underrepresented people in the civic process.

Our *Voterization Plan* takes you through all of the steps you need to implement a campaign to integrate registration, education, mobilization, and voter protection without overtaxing your staff or resources, while staying within legal guidelines for nonprofits. Start by printing out the plan template, and then use other resources described in the plan to determine your next steps.

Our plan presents a menu of activities for your group to consider. Your organization may or may not be able to undertake all of the suggested activities; plan according to available resources. If this is your first voter engagement project, remember to think long-term. It is usually best to start small and build your project over several election cycles.

Please let us know that you are conducting a Voterization effort. Call NLIHC's Field Team at 202-662-1530, or email us at outreach@nlihc.org.

WHY BECOME VOTERIZED?

Raising housing on the national agenda will happen only when candidates for elected office understand that the issue of affordable housing is important to voters. At the same time, it is vital that low income voters: understand how the decisions made by federal elected officials directly affect their lives; know how to register to vote; and, know how to get to the polls on Election Day.

Census data confirm that low income voters are registered and vote at lower rates than higher income citizens. While 75% of people with incomes over $100,000 were registered to vote in 2014 and 53% voted, just 48% of people with incomes below $20,000 were registered, and only 26% actually voted. (U.S. Census Bureau. *Voting and Registration in the Election of November 2014*. July 2015.)

Low income people face several challenges to voting such less-flexible work schedules that may not allow time off to vote; more difficulty obtaining legal identification; transportation impediments that may make getting to the polls more difficult; and, a greater likelihood of misinformation about their rights as voters that may make people shy away from voting. People experiencing homelessness, ex-offenders, and survivors of a natural disaster may face especially tough barriers to voting.

Nonprofit organizations, which benefit from close ties with their clients, are a natural fit in helping people overcome these challenges. Nonprofits that have implemented Voterization projects have identified several benefits of doing so:

- Residents engage in civic life and learn how decisions of elected officials affect their lives.
- Elected officials become educated on low income housing issues and on how their decisions affect residents.
- Influence is built with elected officials.
- Residents develop leadership skills.
- Assists residents in meeting community service requirements, if applicable.
- Positive press is earned for the program or project.

LEGALLY SPEAKING

Nonprofit organizations can, and should, engage in nonpartisan election-related activity, including voter registration, education, and mobilization. The basic rule is that 501(c)(3) organizations cannot in any way support or oppose particular candidates. For detailed legal guidance, you may want to consult:

Nonprofit VOTE, www.nonprofitvote.org

Specifically, read their comprehensive legal guide on what nonprofits can and cannot do: *Nonprofits, Voting & Elections*.

Alliance for Justice, www.afj.org

Through their Bolder Advocacy campaign, AFJ works to ensure nonprofit groups are up to date on rules governing campaign involvement. Review their materials and sign up for upcoming webinars at www.bolderadvocacy.org

League of Women Voters, www.vote411.org

The League offers Vote411.org, an online resource providing nonpartisan information to the public, with both general and state specific information on all aspects of the election process. An important component of Vote411.org is the polling place locator, which enables users to type in their address and retrieve the polling location for the voting precinct in which that address is located.

Internal Revenue Service, www.irs.gov

The IRS offers guidance on what activities are not permissible for various types of foundations, organizations, and private charities. Find more information at http://www.irs.gov/Charities-&-Non-Profits/Charitable-Organizations/The-Restriction-of-Political-Campaign-Intervention-by-Section-501%28c%29%283%29-Tax-Exempt-Organizations

HUD, www.hud.gov

Public housing agencies are often under the impression that they are not able to register residents to vote. That is not the case; in fact, HUD issued a Notice (FR-3968-N-01) in 1996 that encouraged housing agencies, Indian housing authorities, and resident management companies to become involved in voter registration activities.

Organizations with specific legal questions related to their Voterization projects after consulting the above resources are encouraged to contact an attorney who specializes in election law. It is important to remember that 501(c)(3) organizations cannot consult with campaign staff or political parties, even on simple technical questions.

REGISTERING VOTERS: BEFORE YOU START

Before your organization begins to register voters, you will want to prepare in several ways:

Set Goals

Setting goals for both registration and mobilization can be an important part of your plan. The staff and volunteers involved in the project will have something to work towards, and you will have a way to evaluate your project after the election. The plan provides a framework for setting these goals.

Get to Know Your Local Board of Elections

Your local Board of Elections can be a wealth of information as you plan to register clients to vote. You will want to check in with them to learn the registration deadline for the general election in your state. Ask whether anyone can register voters in your state, or whether a person must first become deputized or meet other requirements. Request the voter rolls for your community, so you will know who in your target audience is already registered. Learn about identification requirements for registration and voting. Request enough voter registration forms to meet your registration goals. In many places, the role of the Board of Elections will be conducted out of the office of the County or City Clerk. Please contact NLIHC if you need help determining who the best local authority is for your organization.

Offer Registration Trainings

Residents and staff who plan to register voters will often benefit from receiving training on the process. You may want to bring in someone from the local Board of Elections who can explain the state's registration requirements and how voter registration forms must be filled out. It can also help to spend a bit of time role playing so that people who are registering voters are not discouraged when confronted with apathy. It is also helpful to practice voter registration updates for renters who have recently moved.

Consider Resources

Whether simple or more involved, all voter engagement projects will involve some investment of resources. Once you know what you would like to accomplish, you should consider potential funding sources for your project, and how you might work with other organizations to maximize resources.

Other organizations may have resources that your organization can access. Student groups may be interested in registering voters as part of a community service project, or a civic group may already be providing rides to the polls and could include your clients in its plans. Remember to partner only with nonpartisan organizations.

REGISTERING VOTERS

Once you know the voting guidelines for your state and have set registration goals for your agency, you are ready to begin registering voters. As described in the sample plan, there are four ways to approach voter registration.

Fit Voter Registration into Your Agency's Regular Contact with Residents

The first option is to incorporate registration into day-to-day activities that already take place at your agency. Registration can usually be incorporated with few resources and little hassle into the intake process, training sessions, resident association meetings, and any other meetings of clients.

Plan Specific Voter Registration Activities

A second way to think about registration at your agency is to plan special registration activities or campaigns. Many organizations have had success holding social or other events at which residents are encouraged to register to vote. Consider hosting an event for National Voter Registration Day on September 27, 2016.

Organize a Door-To-Door Campaign

The third, and most effective, way for larger organizations to systematically register clients is through a door-to-door campaign. If yours is a residential agency, such a campaign can be especially effective. In particular, resident leaders can volunteer to receive training and serve as 'building captains' or 'floor captains.' Captains can take on responsibility for registering, keeping registration records, and then turning out, all of the people in their building or on their floor, etc. Such a system can be a great way to get residents or clients involved while ensuring that staff does not become overwhelmed with additional responsibilities. The key is to have personal and organized contact with potential voters by people they know or trust. Especially in this type of campaign, you will want to use the voter list from your county to see who in your buildings is already registered or whose registration needs updating. Voter lists may cost a small fee, but they are essential for tracking who is already registered.

Go Into the Community

Finally, especially if you have a smaller client base, you may also want to think about having your volunteers reach out into the community to register other low income, homeless or underrepresented people. Consider staffing voter registration and information tables at community events. Also, make sure to promote your voter registration efforts through your website and other social media platforms. And do not forget to make sure everyone on the staff and board is registered!

KEEPING RECORDS

It is crucial to have a plan for how you will keep a record of who you have registered to vote—as well as who is already registered—so that you will be able to contact these people as part of your mobilization activities. You will be able to compile a list of which of your residents are already registered from the voter rolls you acquire from your local Board of Elections.

Collect Information

For new registrants, there are two ways to collect this information. One easy way, if allowed by the laws in your state, is to collect voter registration forms from new registrants, then photocopy the forms before mailing them in. (Note: Some states have a specific number of days after the form was filled out by which it must be turned in to the elections office.) This also allows you to review and catch mistakes before a form is submitted. You may also ask registrants to fill out two-part pledge cards. They will keep the half of the card that reminds them of their pledge to vote; you will keep the half with their contact information.

Enter the Information into a Database

Once you have collected voters' information, it is important to enter it into a database so the data can be easily accessed for mobilization purposes.

EDUCATING CLIENTS AND ELECTED OFFICIALS

There can be as many as three components to the education piece of your plan.

Educate Low Income Renters on Voting and Their Rights as Voters

Clients should be informed of where their polling place is, what documentation they will need to have with them in order to vote, and their rights if election officials attempt to restrict them from voting. Arranging for local election officials to demonstrate how voting machines work can be helpful in easing fears about voting for the first time.

The National Coalition for the Homeless "You Don't Need A Home to Vote" Voting Rights Campaign seeks to protect and promote the right of homeless people to vote. It offers materials on all aspects of a voter engagement campaign, including specific, state-by-state information on the legal issues affecting the rights of people experiencing homelessness to vote. Find the campaign at www.nationalhomeless.org/campaigns/voting

Many states have new requirements for showing identification during the registration process or at the voting booth. The League of Women Voters has updated information about the rules in each state at www.Vote411.org

Educate Your Network and Clients on the Issues

Nonprofits can best assist low income voters in becoming familiar with the issues by providing opportunities for people to hear the direct views of candidates. Distribution of candidate questionnaires, hosting debate watch parties, or holding candidate forums are examples of such opportunities. It can often be very powerful when candidates are asked about housing issues or homelessness in public forums or town hall meetings. Please contact NLIHC if you would like help putting together a candidate questionnaire that includes federal policy.

This is an area in which you must be especially vigilant about ensuring that your agency follows IRS requirements. Please refer to the guide *Nonprofits, Voting & Elections* before you send questionnaires to your candidates or invite candidates to speak to clients.

Educate Candidates

Asking candidates to fill out a questionnaire or inviting them to your agency can be a way to learn more about them while making them aware of your organization and the issues that are important to renters. You may also want to report the number of new voters your organization has been able to register. Candidates also learn what issues are important to voters by reading the letters to the editor page of the newspaper. Consider having clients write letters about issues that are important to them.

MOBILIZING VOTERS

Your voter mobilization, or Get Out The Vote (GOTV), plan can be the most important and rewarding piece of your project. Just registering someone is not enough; it has been consistently shown that voters are much more likely to go to the polls if they are contacted on several occasions and reminded to vote by someone they trust. Further, once someone has voted, he or she is more likely to vote in future elections. Considerable attention should be paid to mobilizing the people you have registered.

Aim for at Least Three Contacts with Each Registered Voter

If possible, contact each potential voter three times between the day she registers and Election Day: once a few weeks before the election, once a few days before the election, and at least once on Election Day. On Election Day, you may want to contact voters until they have affirmed that they have voted. For example, if someone tells you at noon that she has not yet voted, call back at 4pm to see whether she has been able to vote. Make sure to coordinate rides for voters so that they can get to the polls; offering a ride is not offering an illegal incentive to vote. Use your database of registered voters to make your contacts.

Over the course of your contacts, you should make sure that the voter commits to voting, knows when Election Day is, and knows where her polling place is. Ideally these contacts should be in person (a knock at the door), but phone calls, emails, and postcards can also work. Not everyone will be home when you knock, so you may want to provide volunteers with a pre-printed note they can leave on people's doors on Election Day.

The suggested activities on pages 5 - 6 of the *Voterization Plan* provide ideas for making these contacts. Recruit volunteers, whether staff, residents, or community members, to assist in making these contacts. If you have had building or floor captains who have been in regular contact with their voters, they should conduct these mobilization activities to the greatest extent possible.

Again, it is personal contact from someone residents know or trust that will make an impact. Research shows nonprofit agencies can have an impact on voter turnout in their communities by incorporating engagement efforts such as active tabling and voter pledge cards, which have shown to increase the turnout of low propensity voter turnout by 29%. *Engaging New Voters: The Impact of Nonprofit Voter Outreach on Client and Community Turnout*. 2015. Retrieved from http://www.nonprofitvote.org/documents/2015/12/engaging-new-voters.pdf

Consider Early Vote and Absentee Ballots

Early voting, if available in your state, and absentee voting can each facilitate voting by the people your agency serves. Again, your local Board of Elections can provide information on laws in your state. For early voting, consider holding ballot parties where voters gather to go and vote as a group, perhaps after a discussion of affordable housing issues. Where it is allowed, you might also want to send volunteers to gather early voting ballots and submit them to your local clerk's office.

Work the Polls

In addition to recruiting volunteers for your election day GOTV efforts, you may also want to encourage other residents to sign up with the county as poll workers. This provides an additional, and often paid, way for low income renters to participate in the election process.

Host a Polling Location

Some nonprofits have increased their turnout rates by asking the county to use their organization's location as a polling place. It is much easier to vote when you only need to go to the lobby! This arrangement also offers community members an opportunity to visit your agency.

Protecting the Right to Vote

Nonprofits can play an important role in making sure that people's rights are protected when they get to the polls. You may want to designate leaders in your Voterization effort to be poll watchers who spend their day at the polls to record and report instances of voter harassment or unlawful suppression. He or she can help identify potential issues in your community, and can also be on call on Election Day if anyone experiences problems voting.

Capitalizing On Your Project

Once Election Day is over, take a few days to rest. You deserve it! Then, it's time to do a few things: Celebrate your accomplishments and honor your volunteers. Evaluate your project and your results, and plan what you will do differently next year.

Next, set up appointments with elected officials and renters or clients you serve to discuss housing issues important to your organization; be prepared with statistics showing the increased voting rates in your community. Now that renters and staff have been energized by being involved in the election process, talk to them about who might be interested in running for local office themselves.

Most importantly, consider your Voterization project to be an ongoing effort; continue to make registration, education, and mobilization a part of your agency's day-to-day activities.

2016 Voterization Plan

Completing a Voterization plan for your agency will help you assess how best to incorporate voter registration, education, and mobilization into your agency's work. This plan template presents a menu of activities that your organization may want to consider.

Please let us know you are participating! Contact NLIHC's Field Team at 202-662-1530 or outreach@nlihc.org with a description of your project.

WHY BECOME VOTERIZED?

Below are some reasons that organizations have undertaken Voterization projects. Check those that apply to your organization, and add any others that apply.

- ❑ Engage residents in civic participation and help them become familiar with how decisions of elected officials affect their lives.
- ❑ Educate elected officials on low income housing issues and on how their decisions affect residents.
- ❑ Build influence with elected officials.
- ❑ Help develop residents' leadership skills.
- ❑ Assist residents in meeting community service requirements, if applicable.
- ❑ Earn positive press for your program or project.
- ❑ Other ______________________________

LEGALLY SPEAKING

501(c)(3) organizations can, and should, engage in nonpartisan election-related activity, including voter registration, education, and mobilization. 501(c)(3)s cannot in any way support or oppose particular candidates. For detailed information on these issues:

- ❑ Contact the Office of the Secretary of State or Board of Elections in your state to learn your state's rules for third-party voter registration.
- ❑ Take a look at the Permissible Activities Checklist put together by Nonprofit VOTE at: www.nonprofitvote.org/documents/2010/09/501c3-activities-en.pdf
- ❑ Visit the League of Women Voters at www.vote411.org for the latest information on voting in your state.
- ❑ Read and review Nonprofits, Voting & Elections produced by Nonprofit VOTE at: http://www.nonprofitvote.org/documents/2010/11/nonprofits-voting-and-elections.pdf

REGISTERING VOTERS

Setting Goals for Registering Voters

A. How many residents/clients does your agency serve ______________________________

B. What percentage of your clients will you register? What number? ______________________

C. Will your agency also register other low income members of the community, beyond your clients? If so, how many? ____

D. What is your agency's total goal for new registrants (B+C)? ___________________________

E. How many weeks do you have until the deadline to register voters? _____________________

F. How many people must you register on average per week to meet your goal? ______________

Assigning Responsibilities

A. What staff person will ultimately be responsible for meeting registration goals? ______________

B. What resident leaders will have responsibility for meeting registration goals? ______________

Preparing To Register Voters

Your local Board of Elections can be a valuable source of information as you plan to register clients to vote. You will want to check in with them to:

- ❏ Learn the registration deadline for the general election in your state.
- ❏ Ask whether anyone can register voters in your state, or whether a person must first become deputized or meet other requirements.
- ❏ Request the voter rolls for your locality. There may be a small charge for this, but it's important; you will use this list to determine which of your residents and clients are already registered, and which need to change their official voting address.
- ❏ Request enough voter registration forms to meet your registration goals.

Are there special requirements someone must meet before registering voters? ________________

____

Who will obtain the county voter list and pick up the voter registration forms? _______________

____

Are there special requirements someone must meet before registering voters? ________________

____

Who will obtain the county voter list and pick up the voter registration forms? _______________

____

REGISTRATION CHECKLIST

For each section, check those ways in which your agency will register voters. In the space after the activity, list the staff or resident(s) who will carry out the activity, and the timeframe for carrying it out.

Fitting Voter Registration Into Your Agency's Regular Contact With Residents

- ❏ Add voter registration to the client intake process. Specifically, ask people to register and assist them in completing the form; don't just provide the form.
- ❏ Register clients when they come in to receive your services.
- ❏ Train all staff and volunteers who work directly with clients to be able to answer questions and assist with registration forms.
- ❏ Add a voter registration component to all job training, computer, or other classes offered by your agency.
- ❏ Other: ______________________________

Planning Specific Voter Registration Activities

- ❏ Hold a social or other event at which voter registration is an activity.
- ❏ Host an event for National Voter Registration Day (September 27, 2016), http://nationalvoterregistrationday.org/
- ❏ Other: ______________________________

Organizing A Door–To–Door Campaign

- ❏ Train residents, staff, and other volunteers who are already registered to go door-to-door to register low income renters. Use the county voter list to determine who needs to be registered and whose registration needs to be updated.
- ❏ Appoint residents as building captains, floor captains, etc. Ensure they are trained on the rules in your state, and make them responsible for registration (and turnout) where they live.
- ❏ For locked buildings where you have not recruited a resident captain, approach landlords to ask if they will allow door-to-door registration or a registration table in the lobby.
- ❏ Consider offering public recognition to those who register the most new voters or the highest percentage of their area.

Reaching Out To the Community

- ❏ Have your registrars reach out into the community to register other low income, homeless or underrepresented people.
- ❏ Provide a voter registration and information table at neighborhood events.
- ❏ Make sure everyone on the staff and board is registered!

KEEPING RECORDS

Keeping records of the people you register to vote helps both with determining whether you have met your registration goals and with planning Get Out The Vote activities. NLIHC has a sample database that you can use for recordkeeping at the end of this document.

Where allowable by law, one easy way to gather the information for your list is to collect voter registration forms from new registrants, then photocopy the forms or portions of forms before mailing them in. You can also have new registrants fill out a two-part pledge card. They will keep the half of the card that reminds them of their pledge to vote; you will keep the half with their contact information.

Who will be responsible for keeping records of who becomes registered to vote?________________________

____

EDUCATING CLIENTS AND ELECTED OFFICIALS

A. Which staff person will ultimately be responsible for meeting education goals? ______________________

____

B. Which resident leaders will have responsibility for meeting education goals?________________________

____

EDUCATION CHECKLIST

For each following section, check those ways in which your agency will educate voters and candidates.

Educating Renters on Voting and Their Rights As Voters

❏ Educate clients and low income renters on new I.D. requirements for voter registration and voting in your state.

❏ Obtain sample ballots from your county's Board of Elections and distribute to residents.

❏ Arrange for someone from your county's Board of Elections or County Clerk's office to come to your agency to provide a demonstration of your county's voting machines and explain people's rights as voters.

❏ Host a discussion on the importance of voting and what can be gained by increasing the percentage of voters from the agency.

❏ Encourage residents to sign up with the Board of Elections as poll workers.

Educating Voters on the Issues

❏ Obtain materials on current affordable housing issues from NLIHC, http://nlihc.org/issues

❏ Host a discussion to clarify who your community's elected officials are, and the connection between what those officials do and your clients' lives.

❏ Arrange for clients to attend or watch a candidate debate or public forum.

❏ Ask all candidates to complete a candidate questionnaire and distribute their answers. Publish the answers on your website, if possible. For information on putting together a questionnaire or hosting a forum, see: http://bit.ly/1gD2hdR

❏ Other: ____

Educating Candidates

- ❏ Include information on your agency when sending candidates your questionnaire.
- ❏ Encourage clients to write letters to the editor explaining why affordable housing is an important issue for them.
- ❏ Prepare low income voters for asking questions at candidate forums or town hall events.
- ❏ Arrange for each candidate for a particular office to take a tour of your agency and speak with clients.
- ❏ Other: ______________________________

PROTECTING THE RIGHT TO VOTE

Some low income people, including people experiencing homelessness and ex-offenders, are at a greater risk of being turned away from the polls on Election Day, or otherwise being disenfranchised. Find information on protecting people's rights to vote at www.nationalhomeless.org/campaigns/voting

You may also want to contact a local attorney who is experienced in voter protection. He or she can help identify potential issues locally, and can also be available on Election Day in case anyone experiences problems voting.

Who will be responsible for ensuring the rights of the people you work with are protected on Election Day?_

____

MOBILIZING VOTERS

Setting Goals for Getting Out the Vote (GOTV)

A. What is the total number of people your agency plans to register to vote (from page 2)?______________

____

B. How many additional clients are already registered (from the voter list you obtained from your county's Board of Elections)?______________

____

C. What is your total number of potential voters (A+B)? ______________

____

D. What percentage of these people would you like to see vote on Election Day? ______________

____

E. What is the total number of people you would like to see vote on Election Day? ______________

____

Reminding People To Vote

A. Which staff person will ultimately be responsible for meeting mobilization goals? ______________

____

B. Which resident leaders will have responsibility for meeting mobilization goals? ______________

____

PLANNING FOR ABSENTEE BALLOTS AND EARLY VOTING

In all states, absentee ballots can be requested by residents who are unable to get to the polls on Election Day. In some states, all voters have the option to vote by absentee ballot or to vote before Election Day. Providing your clients with absentee ballot request forms or helping them to take advantage of early voting if available is a great way to increase voter turnout.

Voting by absentee ballots generally takes two steps: first, clients fill out forms requesting their ballots. Once they receive their ballots, clients fill them out and return them.

Check with your county's Board of Elections on each of the following questions:

- What is the deadline in your state for requesting absentee ballots?
- When must ballots be returned to the county?
- Does your state allow for no-excuse absentee ballots (residents may vote absentee even if they would be able to go to the polls on Election Day)?
- Does your state allow for early voting?

❏ Who will be responsible for coordinating absentee ballots and early voting? ____________________________

____

MOBILIZATION CHECKLIST

For each following section, check those ways in which your agency will mobilize voters and candidates. In the space after the activity, list the staff or resident(s) who will carry out the activity, and the timeframe for carrying it out.

The Months and Weeks Before Election Day

❏ If time allows, request an updated list of registered voters from your Board of Elections to ensure the voters you registered are included.

❏ Investigate the possibility of adding a polling place at your agency.

❏ Download and print GOTV materials, including posters, from www.nonprofitvote.org.

❏ Host voting-related events on the first Tuesday of the month to get residents accustomed to participating in civic engagement activities on that day.

❏ Make your first contact with each voter in your database. Call them, thank them for registering, and remind them to vote.

❏ Plan for Election Day:

- Recruit residents or other volunteers who will spend Election Day going door-to-door to Get Out The Vote. Prepare captains to turn out all registered people on their floor or in their building, etc.
- Once the deadline for registering new voters has passed, obtain an updated voter registration list from your county. Check against your database and prepare a final list of voters to be mobilized.

One To Two Weeks Before Election Day

- ❑ Make your second contact with each voter in your database. Call them, remind them to vote on Election Day, and provide them with their polling place. Ask whether each will need a ride to the polls.

- ❑ Continue to plan for Election Day:
  - Hold a training session for Election Day volunteers.
  - From your database, print lists of all of your registered clients whose doors will be knocked on when Election Day comes. Print in groups of 20-30 people, based on geography and the number of Election Day volunteers.
  - Arrange to provide rides to the polls for those who need them.
  - Plan to provide lunch for your Election Day volunteers.
  - Plan a party for after the polls close!
- ❑ Other ______________________________

The Day Before Election Day

- ❑ Make your third contact with each voter in your database. Call and ask them to commit to vote the following day. Remind them of the location of their polling place and the times that polls will be open.

- ❑ Other ______________________________

Election Day

- ❑ Have volunteers with lists of registered residents knock on the doors of everyone on their list, crossing off the names of those who have voted. If a voter is not home, leave a preprinted note on his door. Call or knock again until everyone has voted, or until the polls are closed.

- ❑ Provide rides to the polls for residents who need them.

- ❑ Celebrate! Host a party for voters and volunteers. Watch the election results.

- ❑ Other: ______________________________

Post–Election Day

- ❑ Thank voters and volunteers, and tell them about your successes.

- ❑ Evaluate your program and plan your next project. Continue with registration and education activities.

- ❑ Use your new power to meet with newly elected officials.

- ❑ Consider if there are staff or residents who should be encouraged to run for office.

- ❑ Other: ______________________________

CONSIDERING RESOURCES

Now that you have gone through all of the preceding items in this template you will have a better sense of what resources will be required to implement your Voterization project. Whether simple or more involved, all voter engagement projects will involve some level of resources. Now that you know what you would like to accomplish, you should plan what funding sources you might access, and how you might work with other organizations to leverage resources.

Organizations use general funds and funds raised specifically to cover voter engagement work. How much funding do you anticipate needing? (For voter rolls, supplies, transportation, training, events, etc.) ________

____

What sources of funding can you access? ____

____

Other organizations may have resources that your organization can access such as meeting space, printing materials, or access to volunteers. Student groups may be interested in registering voters as part of a community service project. A civic group may already be providing rides to the polls, and could include your clients in their plans. Remember to partner only with nonprofit organizations.

What groups in your area might you partner with, and in what ways? ________________________

____

APPENDIX: SAMPLE RECORD KEEPING DATABASE

It has been shown that just registering voters will not ensure an increase in voter turnout. To have a successful mobilization operation, you must contact your newly registered voters in the weeks and days leading up to the election. To do this effectively, you will need to have a record of who is registered to vote.

The easiest way to keep records is in a database format. Your voter database does not have to be complex or have a lot of fields. Many people find Microsoft Excel and Microsoft Access to be the easiest platforms to use. Your database should include the following fields:

First Name	Last Name	Street Number	Street Name	City	State	Zip Code	Phone	Email	Polling Place

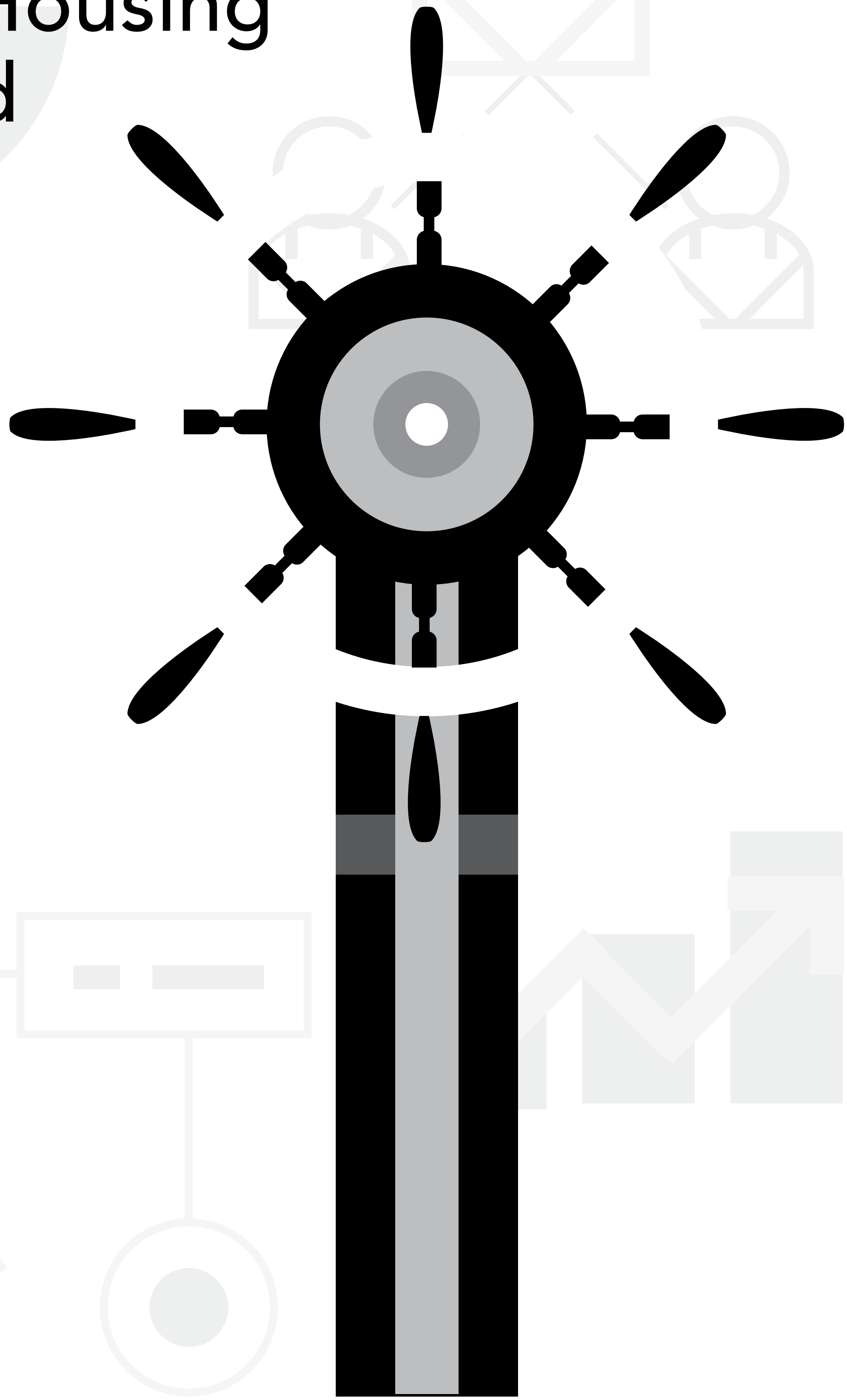
Note that street number and street name are kept as two separate fields. If you plan to knock doors on Election Day, being able to sort by street number will make organizing an Election Day plan easier.

There are a number of ways to compile this data. One way is to enter the data straight from the voter registration card once the new registrant fills it out. Another way is to have the new registrant fill out both sides of a pledge card.

He or she would give you one side and keep the other side. Once you have this information recorded you are well on your way towards a successful Get Out The Vote operation. ■

Chapter 3:

National Housing Trust Fund



The National Housing Trust Fund

*By **Ed Gramlich**, Senior Advisor, National Low Income Housing Coalition*

Administering agency: HUD's Office of Affordable Housing Programs within the Office of Community Planning and Development (CPD)

History: Enacted by the Housing and Economic Recovery Act of 2008 (HERA) on July 30, 2008

Population targeted: Extremely low income renters

FY16 funding: NLIHC estimates that the National Housing Trust Fund will receive $186.6 million in 2016. The initial infusion of dedicated funds will be transferred to HUD after February 2016.

See also: National Housing Trust Fund: Funding, Mortgage Interest Deduction, Fannie Mae, Freddie Mac, and Housing Finance Reform

The National Housing Trust Fund (NHTF) was established as a provision of the Housing and Economic Recovery Act of 2008, which was signed into law by President George W. Bush. Passage of National Housing Trust Fund legislation was a major victory for the lowest income people in our country with the most serious needs, including people who are homeless.

After many years of delay, the NHTF finally will be implemented in 2016. It is essential that the first year of funding be carried out both creatively and efficiently in order to demonstrate need and to justify continued and increased funding. NLIHC is engaged in a multi-pronged strategy to assure a successful first year as possible.

The primary purpose of the NHTF is to close the gap between the number of extremely low income renter households and the number of homes renting at prices they can afford. The statute calls for at least 90% of the funds to be used to build, preserve, rehabilitate, or operate rental housing, and at least 75% of the funds used for rental housing must benefit extremely low income households. One hundred percent of all NHTF dollars must be used for households with very low income or less.

In the years since enactment of the NHTF, the shortage of rental housing that the lowest income people can afford has only gotten worse. The foreclosure crisis, the recession, and persistent low wages have made millions more at risk of homelessness, including families with children, seniors, people with disabilities, and veterans. The NHTF offers the means to end and prevent homelessness in the United States if funded at the level advocated by NLIHC.

HISTORY AND ADMINISTRATION

The National Housing Trust Fund was created on July 30, 2008 when the President signed into law, the Housing and Economic Recovery Act of 2008 (HERA) [Public Law 110-289, 12 U.S.C 4588]. The statute specified an initial dedicated source of revenue to come from an assessment of 4.2 basis points (0.042%) on the new business of Fannie Mae and Freddie Mac. The NHTF was to receive 65% of the assessment, and the Capital Magnet Fund (CMF) was to receive 35%. However due to the financial crisis in September of 2008, Fannie Mae and Freddie Mac were placed into a conservatorship overseen by the Federal Housing Finance Agency (FHFA), which placed a temporary suspension on any assessments for the NHTF and CMF.

On December 11, 2014, the FHFA Director lifted the temporary suspension of Fannie Mae and Freddie Mac set-asides for the NHTF and CMF and directed Fannie Mae and Freddie Mac to begin setting aside the required 4.2 basis points on January 1, 2015. Sixty days after the close of calendar year 2015, the amounts set aside are to be transferred to HUD for the NHTF and to the Department of the Treasury for the CMF.

HUD published proposed regulations to implement the NHTF on October 29, 2010. NLIHC and others provided extensive comments on how the regulations could be improved. On January 30, 2015, a NHTF Interim Rule was published in the *Federal Register*. HUD explains that after states have gained experience implementing the NHTF, it will open the interim rule for public comment and possibly amend the rule.

The NHTF is administered by HUD's Office of Affordable Housing Programs within the Office of Community Planning and Development (CPD). The interim NHTF regulations are at 24 CFR part 93. Where the NHTF statute did not require specific provisions, HUD modeled the NHTF interim rule on the HOME regulations.

PROGRAM SUMMARY

The NHTF is principally for the production, preservation, rehabilitation, and operation of rental housing for extremely low income households (ELI), those with income below 30% of the area median income (AMI). It is to be funded with dedicated sources of revenue on the mandatory side of the federal budget, and thus it does not compete with existing HUD programs funded by appropriations on the discretionary side of the federal budget.

The NHTF is a block grant to states. The funds are to be distributed by formula to states based on factors that measure the housing needs of extremely low and very low income renter households (VLI, generally those with income between 31% and 50% of AMI), as well as the costs of housing construction in the state. A state entity will administer the state's NHTF program and make grants to capable entities to create new affordable housing opportunities. The state designated entity might be the state housing finance agency, a state department of housing or community development, or a tribally designated housing entity.

HUD's list of designated entities is at https://www.hudexchange.info/programs/htf/grantees.

KEY PROGRAM DETAILS

Funding. As a result of the decision by FHFA to lift the suspension on Fannie Mae and Freddie Mac's obligation to fund the NHTF and the CMF, the first funds for the NHTF will be available for distribution to the states in summer 2016. The amount of funding will be determined by the volume of the business conducted by Fannie and Freddie in calendar year 2015.

Based on Fannie and Freddie's 2015 reports to the Securities Exchange Commission, NLIHC estimates that the NHTF will receive $186.6 million in 2016.

The statute calls for 65% to go to the NHTF and 35% to the CMF. However, the statute also requires that 25% go to the Hope Reserve Fund, to cover potential losses from the Hope for Homeowners program, also created in HERA. Although it is expected that the 25% that goes to the Hope Reserve Fund in FY16 will more than cover any risk of losses from Hope for Homeowners, an additional 25% is planned for FY 17.

Targeted to rental housing. The overview section of the interim rule declares that the NHTF program will provide grants to states to increase and preserve the supply of housing, with primary attention to rental housing for extremely low income (ELI) and very low income (VLI) families. VLI is generally defined as income between 31% and 50% AMI; the NHTF statute adds that for rural areas VLI may also be income below the federal poverty line. The statute limits the amount of NHTF used for homeownership activities to 10%, inferring that at least 90% of a state's annual NHTF allocation must be used for rental housing activities. However, the preamble to the interim rule interprets the law differently, asserting that only 80% must be used for rental activities, because states entities can use up to 10% of the funds to administer the program.

Income targeting. The NHTF statute requires that at least 75% of each grant to a state used for rental housing benefit ELI households or households with income below the poverty line, whichever is higher. No more than 25% may be used to benefit VLI renter households. For homeowner activities, the statue requires that all assisted homeowners have income below 50% of AMI. When there is less than $1 billion for the NHTF, the rule requires 100% of a state's allocation benefit ELI households.

NHTF distribution formula. To distribute NHTF dollars, the statute established a formula based on the number of ELI and VLI households with severe cost burden (households paying more than half of their income for rent and utilities), as well as the shortage of rental properties affordable and available to ELI and VLI households, with priority for ELI households. Small states and the District of Columbia are to receive a minimum of $3 million. On December 4, 2009 HUD issued a proposed rule, endorsed by NLIHC, describing the factors to be used in the formula. Responding to the statute's requirement that the formula give priority to ELI households, HUD's interim rule formula assigns 75% of the formula's weight to the two ELI factors. The interim rule adds a provision for instances in which there are not sufficient funds in the NHTF to allocate at least $3 million to each state and the District of Columbia; HUD will propose an alternative distribution and publish it for comment in the *Federal Register*.

NLIHC has estimated how much each state would receive based on the $186.6 million for 2016, http://nlihc.org/sites/default/files/StateAllocations_2016.pdf. NLIHC has also estimated state allocations when the NHTF reaches $5 billion, http://nlihc.org/sites/default/files/NHTF_State_Allocations_5bill.pdf.

State distribution of NHTF money. States are to designate an entity, such as a housing finance agency, housing and community development entity, tribally designated housing entity, or any other instrumentality of the state to receive NHTF dollars and administer a NHTF program. Each state must distribute its NHTF dollars throughout the state according to the state's assessment of priority housing needs as identified in its approved Consolidated Plan (ConPlan). See also *Consolidated Planning Process.*

Allocation Plans. The NHTF statute requires each state to prepare an Allocation Plan every year, showing how it will distribute the funds based on priority housing needs. The interim rule amends the ConPlan regulations by adding NHTF-specific Allocation Plan requirements to the ConPlan's Annual Plan rule.

The interim regulation gives states the option of passing funds to local governments or other state agencies as "subgrantees" to administer a portion or all of the state's NHTF program and to in turn provide funds to "recipients" to carry out projects. If a local subgrantee is to administer NHTF dollars, then it too must have a local ConPlan containing a local NHTF Allocation Plan that is consistent with the state's NHTF requirements.

A recipient is an agency or organization (nonprofit or for-profit) that receives NHTF dollars from a state grantee or local subgrantee to carry out a NHTF-assisted project as an owner or developer. To be eligible, a recipient must meet four tests:

- Have the capacity to own, construct, or rehabilitate, and manage and operate an affordable multifamily rental development; or construct or rehabilitate homeownership housing; or provide down payment, closing cost, or interest rate buy-down assistance for homeowners.
- Have the financial capacity and ability to undertake and manage the project.
- Demonstrate familiarity with requirements of federal, state, or local housing programs that will be used in conjunction with NHTF money.
- Assure the state that it will comply with all program requirements.

A state's or subgrantee's Allocation Plan must describe the application requirements for recipients, and the criteria that will be used to select applications for funding. Allocation Plans must give funding priority to applications based on a number of features listed in the statue, including:

- Geographic diversity. Neither the statute nor interim rule explicitly mention rural areas.
- The extent to which rents are affordable, especially for ELI households.
- The length of time rents will remain affordable.
- The project's merit. The interim rule gives as examples, housing that serves people with special needs, housing accessible to transit or employment centers; and, housing that includes green building and sustainable development elements.

HUD is expected to provide a formal CPD notice providing guidance regarding the NHTF Allocation Plan. NLIHC has drafted a model allocation plan with recommendations for the first year. It can be found at http://nlihc.org/issues/nhtf/implementation.

Public participation. The statute requires public participation in the development of the NHTF Allocation Plan. However, the interim rule does not explicitly declare that in order to receive NHTF money that states and subgrantees must develop their Allocation Plans using the ConPlan public participation rules. It merely requires states to submit a ConPlan following the ConPlan rule, which does have public participation requirements.

Period of affordability. The statute does not prescribe how long NHTF-assisted units must remain affordable. The interim regulation requires both rental and homeowner units to be affordable for at least 30 years, allowing states and any subgrantees to have longer affordability periods. The 30-year affordability period reflects HUD's prediction that the NHTF will be used in conjunction with Low Income Housing Tax Credits

(LIHTCs).

Maximum rent. NLIHC recommended that the regulations adopt the Brooke rule so that ELI households would not pay more than 30% of their income for rent and utilities. However, the interim rule sets a fixed maximum rent, including utilities, at 30% of 30% of the area median income (AMI), or 30% of the poverty level, whichever is greater. Consequently, households earning substantially less than 30% of AMI will almost certainly pay more than 30% of their income for rent, unless additional subsidies are available. HUD acknowledged in the preamble to the proposed rule that some tenants will be rent-burdened, but that a fixed rent is necessary for financial underwriting purposes.

The statute allows the poverty level to substitute for 30% of AMI in places where 30% of AMI is lower than the federal poverty level for the purpose of eligibility for NHTF assisted housing. At the time the bill was drafted, the poverty level was lower than 30% of AMI in all but a few rural localities. The statute does not address rent setting other than to call for rents to be affordable. HUD set the rents at 30% of 30% of AMI or 30% of the poverty level, whichever is greater, by regulation.

In the ensuing years, the federal poverty level has risen incrementally based on predetermined factors, but with stagnating wages, AMI has not gone up as much. Now 30% of AMI is lower than the poverty level in 82.6% of the country, expanding the pool of eligible households considerably. Applying this standard to rent setting would allow developers to set rents at levels that are even more unaffordable than 30% of 30% of AMI for ELI households. NLIHC urges states to seek projects that achieve the deepest possible affordability.

Tenant protections and selection. According to the NHTF statute, activities must comply with laws relating to tenant protections and tenants' rights to participate in the decision making regarding their homes. The interim rule does not address tenants' rights to participate in decision making. However, the interim rule provides for a number of tenant protections, including:

- Owners of NHTF-assisted projects may not reject applicants who have vouchers or are using HOME tenant-based rental assistance.
- There must be a lease, generally for one year.
- Owners may only terminate tenancy or refuse to renew a lease for good cause.
- Owners must have and follow certain tenant selection policies. Tenants must be selected from a written waiting list, in chronological order, if practical.
- Eligibility may be limited to or preference may be given to people with disabilities if:
  - The housing also receives funding from federal programs that limit eligibility; or
  - The disability significantly interferes with the disabled person's ability to obtain and keep housing and the disabled person could not obtain or remain in the housing without appropriate supportive services, and the services cannot be provided in non-segregated settings.

    The Consortium for Citizens with Disabilities has been trying to convince HUD that these preference provisions might cause states to interpret the rule to mean that they can only do single-site permanent supportive housing, not integrated supportive housing.

Homeowner provisions. As provided by the statute, up to 10% of NHTF money may be used to produce, preserve, or rehabilitate homeowner housing. NHTF money may also be used to provide assistance with down payments, closing costs, or interest rate buy-downs. As required by the statute, homes must be bought by first-time homebuyers with income below 50% of AMI who have had HUD-certified counseling, and the home must be their principle residence. The affordability period is 30 years.

Although not in the statute, the interim rule requires the assisted housing to meet the HOME definition of single-family housing, which includes one-to-four unit residences, condominiums and cooperatives, manufactured homes and lots, or just manufactured home lots. Following the statute and echoing the HOME regulations, the value of an assisted home must not exceed 95% of the median purchase price for the area.

As required by the statute, the interim rule's homeowner resale provisions echo the HOME regulations. If a homeowner unit is sold during the affordability period, the state or subgrantee must ensure the housing will remain affordable to a reasonable range (as defined by the state or subgrantee) of income-eligible homebuyers. The sale price must provide the original owner a fair return, defined as the owner's original investment plus capital improvements. The interim rule added a recapture alternative for states and subgrantees to use instead of a resale provision. The purpose of a recapture option is to ensure that a state or subgrantee can recoup some or all of its NHTF investment. It modifies the affordability period based on the amount of the NHTF assistance: 30 years if more than $50,000, 20 years if between $30,000 and $50,000, and 10 years if less than $30,000.

Lease-purchase. Mirroring the HOME regulations, the interim rule allows NHTF money to help a homebuyer through a lease-purchase arrangement, as long as the home is purchased within 36 months. Also, NHTF dollars may be used to buy an existing home with the intent to resell to a homebuyer through lease-purchase; if the unit is not sold within 42 months, the NHTF rent affordability provisions apply.

General eligible activities. The interim regulation echoes the statute by providing a basic list of eligible activities such as the production, preservation, and rehabilitation of affordable rental homes and homes for first-time homebuyers through new construction, reconstruction, rehabilitation, or acquisition. No more than 10% of a state's annual allocation may be used for homeownership. NHTF-assisted units may be in a project that also contains non-NHTF-assisted units. Assistance may be in the form of equity investments, loans (including no-interest loans and deferred payment loans), grants, and other forms. The interim rule limits NHTF assistance to permanent housing.

Manufactured housing. The interim rule allows NHTF money to be used to buy or rehabilitate manufactured homes, or to purchase the land on which a manufactured home sits. The home must, at the time of project completion, be on land that is owned by the homeowner, or on land for which the homeowner has a lease for a period that at least equals the affordability period.

Timeframe for demolition or for acquisition of vacant land. Use of NHTF money for demolition or for acquiring vacant land is limited to projects for which construction of "particular, affordable housing" can reasonably be expected to start within one year.

Eligible project costs. Eligible project costs include property acquisition, relocation payments, development hard costs such as construction, soft costs associated with financing and development, and refinancing existing debt on rental property if NHTF is also used to for rehabilitation. Operating costs are also eligible project costs.

Development hard costs. Development hard costs are the actual costs of construction or rehabilitation, including demolition, laundry and community facilities, utility connections, and site improvements, which include onsite roads, sewers, and water connections.

Related soft costs. Mirroring the HOME regulations, other soft costs "associated with financing and/or development" include architectural and engineering services, origination fees and credit reports, builder's or developer's fees; audits, affirmative marketing and fair housing information to prospective occupants, initial operating deficit reserves to meet any shortfall in project income during the first 18 months of project rent-up, staff and overhead of the state or subgrantee directly related to carrying out the project (work specs, inspections, loan processing), impact fees, and costs to meet environmental and historic preservation requirements.

Loan repayments. NHTF may be used to pay principle and interest on construction loans, bridge financing, a guaranteed loan, and others.

Operating costs and operating cost assistance reserve. According to the statute, NHTF dollars may be used to meet operating costs at NHTF-assisted rental housing. The interim rule allows NHTF resources to be used to provide operating cost assistance and to establish an operating cost assistance reserve for rental housing acquired, rehabilitated, preserved, or newly constructed with NHTF money. Operating costs include insurance, utilities, real property taxes, maintenance, and scheduled payments to a reserve for replacement of major systems (for example, roof, heating and cooling, elevators). The purpose of an operating cost assistance reserve is to cover inadequate rent income to ensure a project's long-term financial feasibility.

The interim rule caps at one-third, the amount of a state's annual grant that may be used for operating cost assistance and for contributing to an operating cost assistance reserve. The preamble explains that HUD established the cap because it views the NHTF as primarily a production program meant to add units to the supply of affordable housing for ELI and VLI households. HUD assumes the NHTF will be used in combination with other sources to produce and preserve units, mostly in mixed-income projects.

The preamble indicates that states have discretion in how to allocate operating cost assistance. For example, states may decide to limit each development to the one-third cap, or to raise the cap for developments that need more operating cost assistance while lowering the cap for those that do not need as much – as long as no more than one-third of a state's annual grant is used for operating cost assistance and reserves.

States and subgrantees may provide operating cost assistance to a project for a multiyear period from the same fiscal year NHTF grant, as long as the funds are spent within five years. An operating cost assistance agreement between a state or subgrantee and a property owner may be renewed throughout the affordability period.

For non-appropriated sources, such as the proceeds from the 4.2 basis point assessments on Fannie Mae and Freddie Mac as called for in the NHTF statute, the interim rule provides that an operating cost assistance reserve may be funded upfront for NHTF-assisted units for the amount estimated to ensure a project's financial feasibility for the entire affordability period. If this amount would exceed the one-third operating cost assistance cap, it could be funded in phases from future non-appropriated NHTF grants. This provision can be very helpful for developers of rental homes at rents that ELI households can afford.

HUD anticipates providing guidance about operating cost assistance and reserves sometime in the future.

Administration and planning costs. The statute limits the amount of NHTF dollars that may be used for general administration and planning to 10% of a state's annual grant. The interim regulation adds that 10% of any program income (for example, proceeds from the repayment of NHTF loans) may also be used for administration and planning. The interim rule also provides that subgrantees may use NHTF for administration and planning, but subgrantee use counts toward the state's 10% cap.

General management, oversight, and coordination costs. NHTF may be used for a state's or subgrantee's costs of overall NHTF program management, coordination, and monitoring. Examples include staff salaries and related costs necessary to ensure compliance with the regulations and to prepare reports to HUD. Other eligible costs include equipment, office rental, and third-party services such as accounting.

Project-specific administration costs. The staff and overhead expenses of a state or subgrantee directly related to carrying out development *projects* may also be eligible administration and planning costs. Examples include loan processing, work specs, inspections, housing counseling, and relocation services. As with HOME, staff and overhead costs directly related to carrying out projects (as distinct from the NHTF program in general) may instead be charged as project-related soft costs or relocation costs, and therefore not subject to the 10% cap. However, housing counseling must be counted as an administration cost, as per the statute.

Other administration and planning costs.

- Providing information to residents and community organizations participating in the planning, implementation, or assessment of NHTF projects.
- Activities to affirmatively further fair housing.
- Preparation of the ConPlan, including hearings and publication costs.
- Costs of complying with other federal requirements regarding non-discrimination, affirmative marketing, lead-based paint, displacement and relocation, conflict of interest, and fund accountability.

Public housing. In general, the interim regulation prohibits the use of NHTF to rehabilitate or construct new public housing. Nor may NHTF-assisted housing get public housing operating assistance during the period of affordability. The interim rule does allow a project to contain both NHTF-assisted units and public housing units.

The interim rule allows NHTF use for two categories of public housing:

1. NHTF resources may be used to rehabilitate existing public housing units that are converted under the Rental Assistance Demonstration (RAD) to project-based rental assistance. Currently up to 185,000 public housing units may be converted under RAD, and HUD continues to seek Congressional approval to allow all public housing units to be converted.
2. NHTF resources may be used to rehabilitate or build new public housing as part of the Choice Neighborhoods Initiative (CNI), and to rehabilitate or build new public housing units that have been allocated and will receive Low Income Housing Tax Credit assistance. Public housing units constructed with NHTF must replace public housing units removed as part of a CNI grant or as part of a mixed-finance development under Section 35 of the Housing Act of 1937. The number of replacement units cannot be more than the number of units removed. Public housing units constructed or rehabilitated with NHTF must receive Public Housing Operating Fund assistance, and may receive Public Housing Capital Fund assistance.

NLIHC is extremely concerned about these new provisions regarding public housing because using NHTF to rehabilitate or build new public housing units to replace demolished units will not increase housing opportunities for ELI households, and would result in an overall loss of resources for housing if Congress chooses to reduce appropriated resources for public housing due to the availability of NHTF resources.

Ineligible activities. Although not in the statute, the interim rule prohibits the use of NHTF money for a project previously assisted with NHTF during the period of affordability, except for the first year after completion.

Fees for administering the NHTF program are not eligible uses (e.g. servicing or origination fees). However, annual fees may be charged to owners of NHTF-assisted rental projects to cover a state's or subgrantee's cost of monitoring compliance with income and rent restrictions during the affordability period.

The statute expressly prohibits use of NHTF dollars for "political activities, lobbying, counseling, traveling, or endorsements of a particular candidate or party."

NHTF must be committed within two years. As required by the statute, the interim regulation requires NHTF dollars to be committed within 24 months, or HUD will reduce or recapture uncommitted NHTF dollars. Committed is defined in the interim rule as the state or subgrantee having a legally binding agreement with a recipient owner or developer for a specific local project that can reasonably be expected to begin rehabilitation or construction within 12 months. If NHTF is used to acquire standard housing for rent or for homeownership, commitment means the property title will be transferred to a recipient or family within six months. The interim rule adds that NHTF money must be spent within five years.

Public accountability. The statute requires each state to submit an annual report to HUD describing activities assisted that year with NHTF dollars and demonstrating that the state complied with its annual Allocation Plan. This report must be available to the public. The interim rule requires jurisdictions receiving NHTF dollars to submit a performance report according to the ConPlan regulations. The NHTF performance report must describe a jurisdiction's NHTF program accomplishments, and the extent to which the jurisdiction complied with its approved NHTF Allocation Plan and all of the requirements of the NHTF rule. NLIHC will monitor how HUD addresses performance reporting through changes to the ConPlan template.

The interim regulation presents a number of data collection obligations, including actions taken to comply with Section 3 hiring and contracting goals, and the extent to which each racial and ethnic group, as well as single-heads of households, have applied for, participated in, or benefitted from the NHTF. In general, records must be kept for five years after project completion. Records regarding individual tenant income verifications, project rents, and project inspections must be kept for the most recent five-year period until five years after the affordability period ends. Similar language applies to homeowner activities. Regarding displacement, records must be kept for five years after all people displaced have received final compensation payments. The public must have access to the records, subject to state and local privacy laws.

GETTING READY FOR STATE AND LOCAL IMPLEMENTATION

Advocates are urged to be actively engaged in NHTF implementation at the state level, and perhaps also at the local level. In December 2014, FHFA lifted the temporary suspension on set-asides by Fannie Mae and Freddie Mac of the assessment on the volume of their new business, Therefore, money should be transferred to the NHTF soon after February 2016. HUD anticipates states will receive their first NHTF allocations in summer 2016.

Designation of state entity. States must choose a state entity, such as a housing finance agency, a housing department, or a tribally designated housing entity to receive NHTF money from HUD and to administer the state's NHTF program. HUD's list of designated entities is at https://www.hudexchange.info/programs/htf/grantees.

The NHTF Allocation Plan. The law requires states to prepare an Allocation Plan every year showing how the state will allot the NHTF dollars it will receive in the upcoming year. Action around the NHTF Allocation Plan begins at the state level, and could then flow to the local level if a state decides to allocate some or all of the NHTF to local subgrantees. The state NHTF Allocation Plan will be tied to a state's ConPlan, and then perhaps a local government's NHTF Allocation Plan will be tied to a locality's ConPlan.

- For advocates only accustomed to ConPlan advocacy at the local level because a locality gets CDBG and HOME directly from HUD, the state NHTF process will be an important new experience.
- To better ensure that NHTF dollars get to a locality in the appropriate amounts and for the appropriate uses, it will be necessary for advocates to learn how to influence their state Allocation Plan and ConPlan first.

Advocates should find out which state agency is responsible for the ConPlan – it might not be the same agency that receives and administers the NHTF. Advocates should inform the ConPlan agency (and the NHTF state agency if it is different) that they are interested in being informed about and participating in the process for planning where and how NHTF money will be used.

Keep in mind that the amount of NHTF your a will receive is based on ELI and VLI households spending more than half of their income for rent and utilities (severely cost-burdened), and on the shortage of rental homes that are affordable and available to ELI and VLI households; with 75% of the formula's weight assigned to ELI factors.

For the initial NHTF year, and for each year going forward, it will be important for advocates to work first at the state level, and then perhaps at the local level to:

- Ensure that the geographic areas with the greatest rental housing needs of extremely low income people are fairly included.
  - At the state level, work to ensure that rural areas are included relative to their need in comparison to urban areas, based on cost-burdened ELI renter households and the shortage of affordable rental homes for ELI households.
  - At the state level, work to ensure that there is a fair distribution among localities throughout the state, based on cost-burdened ELI renter households and the shortage of affordable rental homes for ELI households.
  - At the local level, advocate to ensure the neighborhoods you care about are a part of the geographic mix, keeping in mind the obligation to affirmatively further fair housing.
- Ensure that the agency responsible for drafting the NHTF Allocation Plan writes it to meet the genuine, high-priority housing needs of extremely low income people.
  - Advocate for NHTF-assisted projects that are truly affordable to extremely low income people, that they do not pay more than 30% of their income for rent and utilities. The statute offers advocates a handle because it requires funding priority to be based on the extent to which rents are affordable for ELI households.
  - Advocate for NHTF-assisted projects that will be affordable to extremely low income households for as long as possible – aiming for at least 50 years. The statute offers advocates a handle because it requires funding priority to be based on the extent

of the duration for which rents will remain affordable.
  - Advocate for projects that have features that give them merit.
  - Advocate for the types of projects (new construction, rehabilitation, preservation) that are most needed.
  - Advocate for the bedroom size mix that is most needed.
  - Advocate for the populations to be served that are the ones who most need affordable homes (large families, people with special needs, people who are homeless, senior citizens).
- Make sure that the public participation obligations are truly met, that the state does not just "go through the motions".
- Make sure that NHTF-assisted projects affirmatively further fair housing.

FORECAST

HUD is developing guidance to assist grantees and program partners in designing and implementing their programs.

NLIHC is engaged in a multi-pronged strategy to assure a successful first year as possible. NLIHC is training state and local advocates on what the NHTF allocation plan is and how advocates can influence it. NLIHC is also consulting with developers with expertise producing and operating rental housing that is deeply affordable for ELI households beyond relying on federal housing vouchers to advice prospective applicants for NHTF dollars on best practices.

NLIHC will be monitoring implementation throughout the year.

FOR MORE INFORMATION

NLIHC's National Housing Trust Fund webpage, www.nhtf.org

- A five-part series all about the new rules regarding implementation of the NHTF http://nlihc.org/issues/nhtf/videos
- PowerPoint slides highlighting the key features of the NHTF law and regulations, http://nlihc.org/sites/default/files/NHTF_Powerpoint_0915.pdf
- Key features of the NHTF law and interim regulations presented in 15 short papers broken down by topics, http://nlihc.org/issues/nhtf/resources

The interim regulation, http://www.gpo.gov/fdsys/pkg/FR-2015-01-30/pdf/2015-01642.pdf

HUD NHTF webpage, https://www.hudexchange.info/htf, including FAQs, https://www.hudexchange.info/resource/4420/htf-faqs ■

National Housing Trust Fund: Funding

By Sheila Crowley, President and CEO, National Low Income Housing Coalition

The National Housing Trust Fund (NHTF) was established in July 2008 as part of the Housing and Economic Recovery Act of 2008 (HERA). This law requires Fannie Mae and Freddie Mac to set aside 4.2 basis points of their volume of business each year for the National Housing Trust Fund (NHTF) and Capital Magnet Fund (CMF). The NHTF is to receive 65% and the CMF 35%. While this requirement was temporally suspended when the companies were taken into conservatorship in September 2008, the suspension was lifted in December 2014. The companies have been directed to begin setting aside the funds on January 1, 2015 and make them available for distribution 60 days after December 31, 2015.

Based on Fannie and Freddie's 2015 reports filed with the Securities Exchange Commission, NLIHC estimates that there will be $186.6 million to distribute for NHTF projects in 2016. This is much lower than the amount originally estimated in 2008 for the NHTF.

HERA also permits Congress to designate other "appropriations, transfers, or credits" to the two funds. This provision provides the statutory authority for dedicated sources of funding for the NHTF in addition to the assessment on Fannie Mae and Freddie Mac. At least two Members of Congress have indicated they want to introduce legislation to create more funding for the NHTF, given how small the 2016 funding level is.

Securing permanent, dedicated sources of revenue for the NHTF is NLIHC's top priority. Our goal is to raise sufficient funds to expand the affordable housing options for 3.5 million extremely low income households over ten years. Although ambitious, an investment of this magnitude is possible without increasing the federal deficit simply by better allocating the total subsidies that the federal government currently provides for housing through direct spending and ax expenditures.

NLIHC is pursuing two other avenues of funding, both of which are long term projects.

HOUSING FINANCE REFORM

See also: *Fannie Mae, Freddie Mac, and Housing Finance Reform*

Fannie Mae and Freddie Mac serve as the secondary mortgage provider for many mortgages made in the United States. In the wake of the financial meltdown precipitated by the foreclosure crisis in 2008, the federal government had to take them over. They were taken into conservatorship by their regulator, the FHFA, a status that continues today.

The Obama Administration, many Members of Congress, and numerous analysts and pundits want to end the conservatorships, wind down Fannie Mae and Freddie Mac, and establish a new model for the secondary mortgage market. While some would like to nationalize the housing finance system and others would like to privatize it, most agree that a hybrid system of private capital backed by federal mortgage insurance is the preferred approach.

As Congress and the Administration moved toward housing finance reform in the last Congress, NLIHC and all NHTF supporters worked to ensure that the NHTF was included in any new housing finance system and that the new system provides robust funding for the NHTF. Three bills emerged that provided significant new resources for the NHTF.

- Senate Committee on Banking, Housing, and Urban Affairs Chair Tim Johnson (D-SD) and Ranking Member Mike Crapo (R-ID) worked together to introduce a bipartisan housing finance reform bill that would have wound down Fannie Mae and Freddie Mac, and created a new Federal Mortgage Insurance Corporation (FMIC) to provide government backing to mortgage securities that meet certain criteria. S. 1217 provided for a 10 basis point fee applied to these securities that would be used to fund the NHTF, the CMF, and a new Market Access Fund (MAF). This fee was estimated to eventually generate $5 billion a year. The Johnson-Crapo bill would allocate 75% of the amounts collected through this fee to the NHTF, estimated to be $3.75 billion a year.

- House Committee on Financial Services Ranking Member Maxine Waters (D-CA) released draft housing finance reform legislation entitled "Housing Opportunities Move the Economy (HOME) Forward Act of 2014." Her bill also would wind down Fannie Mae and Freddie Mac, but would replace them with a newly created lender-owned cooperative, the Mortgage Securities Cooperative (MSC). Like the Johnson-Crapo bill, the Waters bill would require a 10 basis point fee assessment on users of the new system and direct 75% of the amounts collected to the NHTF. No bill was introduced.
- Representatives John Delaney (D-MD), John Carney (D-DE), and Jim Himes (D-CT) introduced H.R. 5055, the "Partnership to Strengthen Homeownership Act of 2014," which also would gradually eliminate Fannie and Freddie and replace them with a beefed-up Ginnie Mae that would be a stand-alone agency, no longer part of HUD. Their bill also included the 10 basis point assessment with 75% to the NHTF, but because they added all Federal Housing Administration (FHA) insured mortgages to those covered by the new system, the fee was estimated to generate another $1 billion a year, for a total of $6 billion or $4.5 billion a year for the NHTF.

NLIHC has estimated state allocations if $5 billion becomes available for the NHTF, http://nlihc.org/sites/default/files/NHTF_State_Allocations_5bill.pdf.

The Johnson-Crapo bill was voted out of the Senate Banking Committee on May 15, 2014 by a bipartisan vote of 13-9.The Obama Administration fully endorsed the bill. But the bill was criticized by the right and the left for doing too much or not enough to assure access to mortgages to all credit worthy borrowers and was never taken up by the full Senate.

Also introduced in the 113th Congress was H.R. 2767, the "Protecting American Taxpayers and Homeowners (PATH) Act of 2013." Its author was House Financial Services Committee Chair Jeb Hensarling (R-TX). The PATH Act would do away with and not replace Fannie Mae and Freddie Mac. It would also eliminate the NHTF and the CMF. The bill was voted out of the Financial Services Committee on July 23, 2013 by a partisan vote of 30-27. Two Republicans and all Democrats opposed the bill. The bill was not taken up by the full House. It was opposed by virtually every segment of the housing industry.

In 2015, Representatives Delaney, Carney, and Himes introduced an updated version of their "Partnership to Strengthen Homeownership Act" (H.R. 1491), the only comprehensive housing finance reform legislation introduced to date in the 114th Congress. There has not been a single hearing in the House or Senate.

In the meantime, several hedge funds and some civil rights and consumer advocacy groups have been pushing the Obama administration and FHFA to recapitalize and release the GSEs from conservatorship. They have authored several proposals, some that would provide funding for the NHTF. While the hedge funds stand to reap financial gains through "recap and release," the civil rights and consumer advocacy organizations argue that the indefinite conservatorship has created uncertainty in the mortgage market, leading mortgages lenders to tighten their credit standards in a way that disproportionally impacts racial minority homebuyers. They also contend that without recap and release, Fannie and Freddie's financial health will deteriorate.

However, recap and release will not necessarily increase affordable lending and does not move Congress any closer to passing housing finance reform legislation, which promises to generate billions of new dollars for rental housing affordable to families with extremely low incomes. For this reason, NLIHC opposes recapitalization efforts.

It is almost certain that there will be no changes to the status of Fannie and Freddie before 2017 and a new administration and Congress. But conservatorship is unsustainable and reform legislation will be taken up eventually. Advocates must be vigilant to protect the gains made on the NHTF in the Johnson-Crapo and Delaney-Carney-Himes bills and assure that when new legislation is taken up, robust funding for the NHTF must be included.

MORTGAGE INTEREST DEDUCTION REFORM

See also: *Mortgage Interest Deduction Reform*

While dedicated revenue from the current and future housing finance system is the most immediate route to funding for the NHTF, it is essential to secure significantly more revenue if the NHTF is to fully address the national shortage of housing that extremely low income people can afford. The place to find revenue of that magnitude is in the tax code. If tax expenditures that subsidize higher income homeowners were modified to make them fairer and flatter, it is possible to generate the level of revenue needed to end homelessness and assure housing security for very poor people.

The mortgage interest deduction (MID) has long been considered an untouchable portion of the tax code, but changes to the MID are now part of the debate on comprehensive tax reform and deficit reduction. Polling shows broad public support for modifying, not eliminating, the MID. The challenge for housing advocates is to ensure that a significant share of any revenue raised by changing the MID stays in housing.

The United for Homes campaign led by NLIHC proposes two modest changes to the MID. First, we would reduce the size of a mortgage eligible for a tax break from $1 million to $500,000, i.e. the interest on only the first $500,000 of a mortgage would be eligible for tax relief. Second, we would convert the deduction to a 15% non-refundable tax credit. We would direct all revenue raised from these changes, estimated to be $213 billion over ten years, to the NHTF. Capping the amount of debt eligible for the MID would generate almost $95 billion dollars over a ten-year period.

Not only would these changes produce revenue for the NHTF, they would also make the tax code work better for low and moderate income homeowners. All homeowners with mortgages would be eligible for tax breaks, not just those who have enough income to file itemized tax returns. Under this proposal, the number of homeowners with mortgages who would get tax breaks would increase from 33 million to 48 million, with most ff the increase being households with incomes less than $100,000 a year.

Representative Keith Ellison (D-MN) introduced H.R. 1662, the "Common Sense Housing Investment Act of 2013," in the 114th Congress. His bill mirrored the United for Homes campaign proposal to reform the MID and directs most of the revenue raised to the NHTF. The United for Homes campaign supports his bill, which has six co-sponsors.

Numerous observers think the mortgage interest deduction is ripe for reform, but only as part of comprehensive tax reform. Comprehensive tax reform is inevitable and overdue, but not politically achievable this year. When it does occur, the MID will change. It is imperative that all housing advocates speak with one voice to make sure that savings gained from MID reform be kept in housing and be used to address the long neglected housing needs of extremely low income renters. We cannot wait until reform is about to occur. The groundwork must be laid now.

HOW ADVOCATES CAN TAKE ACTION

- Advocates should be actively engaged in the process of NHTF implementation in their states to ensure that the first round of funding is successful.

On Housing Finance Reform

- Advocates should urge their Senators and Representatives to support housing finance reform legislation that maximizes resources to the NHTF and oppose any housing finance reform legislation that would negatively impact the NHTF.

On Mortgage Interest Deduction Reform

- Advocates should urge their Representatives to co-sponsor H.R. 1662, the "Common- Sense Housing Investment Act of 2015."
- Advocates should support inclusion of the proposed MID changes in any comprehensive tax reform package, and make sure a significant portion of the new revenue goes to the NHTF.

FOR MORE INFORMATION, GO TO:

www.NHTF.org

www.UnitedforHomes.org ■

Fannie Mae, Freddie Mac, and Housing Finance Reform

*By **Sheila Crowley**, President and CEO, and **Elayne Weiss**, Policy Analyst, National Low Income Housing Coalition*

See also: *National Housing Trust Fund: Funding*

Fannie Mae and Freddie Mac, the two federally chartered companies that provide a secondary market for residential mortgages, have been in conservatorship since September 7, 2008 when the foreclosure crisis precipitated a global financial meltdown. Much to the dismay of many observers, the companies remain under the control of the federal government today because Congress cannot agree on what a future housing finance system should be.

The Housing and Economic Recovery Act of 2008 (HERA) established an independent agency, the Federal Housing Finance Agency (FHFA), to serve as Fannie and Freddie's regulator and significantly strengthen federal oversight of Fannie and Freddie. HERA gave the FHFA the power to take the companies into conservatorship if need be. HERA also created the National Housing Trust Fund (NHTF) and the Capital Magnet Fund (CMF).

Today, the Obama Administration and FHFA are determined that the companies stay in conservatorship until Congress acts on housing finance reform. Others, including affordable homeownership advocates and Fannie and Freddie stockholders, want the companies to be recapitalized and removed from conservatorship now. Because Fannie and Freddie provide the current and potentially future dedicated source of funding for the NHTF, their status and viability are of particular interest to low income housing advocates. NLIHC opposes recapitalization and supports reform legislation that would provide significant new funding for the NHTF.

WHAT ARE FANNIE MAE AND FREDDIE MAC

The Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) are government sponsored enterprises, known as GSEs. Congress established the GSEs to provide liquidity and create a secondary market for both single-family (one to four units) and multifamily (five or more units) residential mortgages. While Fannie and Freddie were created at different times and for different purposes, they have had effectively identical charters and responsibilities since 1992. Prior to September 7, 2008, when they were placed in conservatorship, they were privately owned and operated corporations.

Fannie and Freddie do not provide mortgage loans directly to individual borrowers. Rather, they facilitate the secondary mortgage market by buying loans from banks, savings institutions, and other mortgage originators. Lenders then use the sale proceeds to engage in further mortgage lending. For the most part, the GSEs purchase single-family, 30-year fixed rate conventional mortgages that are not insured by the federal government. They also play a major role in financing the multifamily housing market.

The GSEs either hold the mortgages they purchase in their portfolios or package them into mortgage-backed securities (MBSs), which are sold to investors. When the GSEs securitize a mortgage, they are guaranteeing that those investors receive timely payment of principal and interest. The GSEs charge mortgage lenders a guarantee fee (g-fee), generally in the form of monthly payments, to cover projected credit losses if a borrow defaults over the life of the loan.

The GSEs raise money in the capital markets to fund their activities. Their incomes come from the difference between the interest they receive on the mortgages they hold and the interest they pay on their debt, and from g-fees and income earned on non-mortgage investments.

Single-family mortgages. Single-family mortgages must meet certain criteria set by the GSEs to be packaged and sold as securities. As a result, the two GSEs set the lending standards for the conventional, conforming loan single-family mortgage market. This standardization increases the liquidity of mortgages meeting the GSE guidelines, thereby decreasing the interest rates on these mortgages and lowering costs for homebuyers.

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 FY16, the limit is $417,000 generally, with a maximum of $625,500 in areas with high home prices. The limit may also be adjusted to account for the size of a property.

Multifamily mortgages. The GSEs also purchase mortgages on multifamily properties. These mortgages are generally held in portfolio, but they can be securitized and sold to investors. Currently, Freddie and Fannie's combined purchases represent about just over 30% of the multifamily market. In the past, the GSEs have also played a significant role in supporting the Low Income Housing Tax Credit (LIHTC) market, but this support has decreased under conservatorship.

Housing goals. As GSEs, Fannie and Freddie are required to achieve social goals as well assure safety and soundness in the housing finance system. In exchange for an implied, now explicit, federal guarantee, Congress has required that the GSEs meet statutorily-based "housing goals" to help assure affordable homes in the U.S. The GSEs are required to purchase a certain number of mortgages on properties with specific characteristics to ensure that low and moderate income, underserved, and special affordable markets are served.

FHFA updates these goals periodically. In August 2015, FHFA published its final rule establishing the GSEs' housing goals for the 2015-2017 period. As required by HERA, the new goals include a single family purchase dollar goal for low income families, a single-family purchase dollar goal for families residing in low income areas, a single-family purchase dollar goal for very low income families, a single-family goal for the refinancing of mortgages for low income families, and a goal for the purchase of multifamily loans affordable to low income families.

There also is a multifamily subgoal targeting very low income families. The multifamily goals for the 2015-2017 period are higher than those that were set for the 2012-2014 period "to account for the overall size of the multifamily finance market, which has expanded substantially since the proposed rule was issued [in 2014]." In addition, FHFA boosted the subgoal for financing multifamily properties with units affordable to very low income families.

Substantial partisan disagreement remains over the affordable housing goals and the role of the federal government in the housing market. Progressives believe the goals are necessary to ensure that people with low incomes and people of color have access to mortgage markets. Conservatives believe the goals caused the GSEs to participate in overly risky business practices that triggered the foreclosure crisis. It is important to note that the multifamily side of the GSEs' business did not sustain losses during the crisis, but nor did the GSE multifamily goals lead to the expansion of rental housing affordable to families with extremely low incomes.

Duty-to-serve. HERA also established a "duty-to-serve" for the GSEs, which requires them to lead the industry in developing loan products and flexible underwriting guidelines for manufactured housing, affordable housing preservation, and rural markets. While FHFA has not implemented this provision, the agency published a proposed rule in December 2015 that outlines the GSEs' duty-to-serve.

The proposed rule requires the GSEs to submit plans for improving the "distribution and availability of mortgage financing in a safe and sound manner for residential properties that serve very low, low, and moderate income families." Each GSE would be required to submit to FHFA a three-year duty-to-serve plan, detailing the activities and objectives it will use to meet the rule's requirements. The proposed rule would give the GSEs duty-to-serve credit for eligible activities that facilitate a secondary market for residential mortgages that originate in underserved markets. The GSEs also will receive duty-to-serve credit for qualifying activities that promote residential economic diversity in underserved markets. The rule establishes the manner in which the GSEs would be evaluated for their efforts. FHFA is required to report evaluation findings to Congress annually.

FANNIE MAE, FREDDIE MAC, AND THE NHTF

In HERA, Congress established that Fannie and Freddie would serve as the initial sources of funding for the NHTF and the CMF. Fannie and Freddie are required to set aside an amount equal to 4.2 basis points for each dollar of total new business purchases. Note that the assessment is on their volume of business, not their profits. Of these amounts, 65% is to go to the NHTF and 35% is to go to the CMF, after the first year when 25% must come off the top for the HOPE Reserve Fund, also created in HERA.

Lawmakers reasoned that requiring Fannie and Freddie to set aside funds for the NHTF was part of the GSEs' mission responsibilities included in their charters. In addition to their affordable housing goals, which could be met through the regular course of business, funding the NHTF allowed the GSEs to support housing that extremely low income renters could afford, activity that is not possible through any of their business products.

HERA allows FHFA to *temporarily* suspend the requirement the GSEs fund the NHTF and CMF under the circumstances related to threats to their financial health. In November 2008 at the height of the financial crisis, the FHFA director suspended this obligation before the GSEs even began setting aside funds. When the GSEs returned to profitability in 2012, NLIHC and others called on FHFA to lift the suspension. More than two years later in December 2014, FHFA Director Mel Watt did just that and directed both companies to begin setting aside the required amount starting on January 1, 2015. However, Mr. Watt did not lift the suspension retroactively, as advocates wanted. The first funds will be available in 2016. Based on Fannie and Freddie's 2015 reports to the Securities and Exchange Commission, NLIHC estimates that the NHTF will receive $186.6 million and the CMF will receive $100.4 million in 2016.

While lawmakers who support the NHTF praised Mr. Watt's decisions, opponents vehemently condemned his actions. On January 28, 2015, Representative Ed Royce (R-CA) introduced H.R. 574, a bill that would prohibit Fannie Mae and Freddie Mac from contributing to the NHTF and CMF as long as they remained in conservatorship or receivership. The bill has not received a hearing nor garnered support from other Members of Congress. During the FY16 appropriations season, House Republicans tried to raid the NHTF to make up for cuts to HUD appropriations. NHTF advocates pushed back and prevented the raid. However, NHTF advocates must continue to monitor and thwart legislative attempts to defund the NHTF.

FANNIE MAE AND FREDDIE MAC IN CONSERVATORSHIP

Before they were placed in conservatorship, Fannie and Freddie received no federal funds to support their operations. However, both companies incurred huge financial losses because of the foreclosure crisis, leading to them being placed in conservatorship. Today, FHFA has all the authority of each company's directors, officers, and shareholders. Until the conservatorship ends, FHFA operates the companies through appointed management in each company. During conservatorship the GSEs remain critically important to the housing finance system by providing liquidity for new mortgages, helping to resolve the mortgage crisis, and supporting the multifamily market.

Under an agreement between the Department of the Treasury and FHFA, the GSEs together were allowed to draw up to $200 billion to stay afloat, which bolstered the U.S. housing market. In exchange, the U.S. government became the owner of the companies' preferred stock. The total drawdown before 2012 was a combined $188 billion; that debt still exists.

In 2012, Fannie Mae and Freddie Mac returned to profitability, and began to make dividend payments to the Treasury. Under the conditions of the conservatorship agreement between Treasury and FHFA, all of Fannie and Freddie's profits are "swept" into the U.S. Treasury. The GSEs' dividend payments now far exceed the $188 billion or drawdown. Through November 5, 2015, Fannie Mae had paid $144.8 billion in cash dividends to Treasury and Freddie Mac has paid $96.5 billion, for a total of $241.3 billion.

In the last few years, there have been several federal lawsuits in which investors who have speculated on Fannie and Freddie stock are trying to end the government sweep of the GSEs' profits. Hedge funds have taken a gamble on investing in Fannie and Freddie shares with the hope that the courts would strike down the conservatorship agreement. The investors argue that the agreement violates their rights as shareholders, as they have been barred from receiving company dividends. Some lawsuits have already been thrown out of court, while others are pending.

Hedge funds and some civil rights and consumer advocacy groups have been pushing the Obama administration and FHFA to recapitalize and release the GSEs from conservatorship. They have authored several proposals, some that would provide funding for the NHTF. While the hedge funds stand to reap financial gains through "recap and release," the civil rights and consumer advocacy organizations argue that the indefinite conservatorship has created uncertainty in the mortgage market, leading mortgages lenders to tighten their credit standards in a way that disproportionally impacts racial minority homebuyers. They also contend that without recap and release, Fannie and Freddie's financial health will deteriorate, jeopardizing their obligation to contribute to the NHTF.

However, recap and release will not necessarily increase affordable lending and does not move Congress any closer to passing housing finance reform legislation, which promises to generate billions of new dollars for rental housing affordable to families with extremely low incomes. For this reason, NLIHC opposes recapitalization efforts.

HOUSING FINANCE REFORM PROPOSALS

Almost eight years after the financial crisis, policy makers are still grappling with how to reform the housing finance market. While some would like to nationalize the housing finance system and others would like to privatize it, most agree that a hybrid system of private capital backed by federal mortgage insurance is the preferred approach. Because of these philosophical differences, Members of Congress have reached a stalemate in pushing legislative proposals forward. While the Obama administration, many Members of Congress, and numerous analysts and pundits have wanted to end the conservatorships, wind down Fannie and Freddie, and establish a new model for the secondary mortgage market, all efforts to do so to date have been unsuccessful.

In the 113th Congress (2013-2014), considerable legislative activity on housing finance reform occurred, but by the end of 2014 no legislation was considered by either the full House or Senate. The greatest progress was made in the Senate, where the Democrats were in the majority.

Johnson-Crapo. In 2013, Senators Bob Corker (R-TN) and Mark Warner (D-VA) introduced the "Housing Finance Reform and Taxpayer Protection Act" (S. 1217), which laid out a plan to wind down Fannie and Freddie and replace them with a Federal Mortgage Insurance Corporation (FMIC), modeled after the Federal Depository Insurance Corporation (FDIC). The FMIC would have offered an explicit government guarantee, purchase and securitize single and multifamily mortgage portfolios, and provide regulatory oversight of the Federal Home Loan Banks. The bill would have assessed a 5-10 basis point user fee on all guaranteed securities that would be used to fund the NHTF, the CMF, and a new Market Access Fund (MAF). The bill would have abolished the affordable housing goals.

The Corker-Warner bill provided the framework for legislation subsequently offered by Senate Committee on Banking, Housing, and Urban Affairs Chair Tim Johnson (D-SD) and Ranking Member Mike Crapo (R-ID) that was introduced in the spring of 2014. The measure would have replaced the GSEs with a new FMIC. To be eligible for reinsurance under the FMIC, any security must have first secured private capital in a 10% minimum first loss position. The bill also established a new securitization platform to create a standardized security to be used for all securities guaranteed by the new system. The securitization platform would have been regulated by the FMIC.

The bill included a 10 basis point user fee to fund the NHTF, the CMF, and the new MAF. The fee was projected to generate $5 billion a year, and 75% of the funds would go to the NHTF. While the bill also got rid of the affordable housing goals, it included a new "flex fee" or "market incentive" to encourage mortgage guarantors and aggregators to do business in underserved areas.

The Johnson-Crapo bill also provided for a secondary market for multifamily housing. It allowed for the Fannie and Freddie multifamily activities to be spun off from the new system established by the bill. The bill would have required that at least 60% of the multifamily units securitized must be affordable for low income households (80% AMI or less). The bill would have also created a pilot program to promote small (50 or fewer units) multifamily development.

The Johnson-Crapo bill was voted out of the Senate Banking Committee on May 15, 2014 by a bipartisan vote of 13-9.The Obama Administration fully endorsed the bill. But the bill was criticized by the right and the left for doing too much or not enough to assure access to mortgages to all credit worthy borrowers and was never taken up by the full Senate.

Delaney-Carney-Himes. Representatives John Delaney (D-MD), John Carney (D-DE), and Jim Himes (D-CT) introduced the "Partnership to Strengthen Homeownership Act" (H.R. 5055) in 2014, which would have wound down Fannie and Freddie over a five-year period and create a mortgage insurance program run through the Government National Mortgage Association (Ginnie Mae). Ginnie Mae would become a stand-alone agency, no longer part of HUD. Fannie and Freddie would eventually be sold off as private institutions without any government support.

The bill would have provided a full government guarantee on qualifying mortgage securities backed by mortgages that meet certain eligibility criteria. As proposed, private capital would have had a minimum 5% first-loss risk position. The remaining risk would have been split between Ginnie Mae and private reinsurers, with private capital covering at least 10% of losses. Fannie and Freddie's multifamily activities would have been spun off and privatized, and receive a government guarantee through Ginnie Mae.

In return for insuring securities, Ginnie Mae would have charged a fee of 10 basis points on the total principal balance of insured mortgages. The bill would apply 75% of this fee revenue to the NHTF, 15% to the CMF, and 10% to the MAF. This is identical to how the Johnson-Crapo and Waters (below) bills treat the NHTF. However, unlike other the other bills, this measure would have added Federal Housing Administration (FHA) mortgages in the determining the base upon which the 10 basis point fee is assessed, generating an additional $1 billion.

Housing Opportunities Move the Economy (HOME) Forward Act. House Committee on Financial Services Ranking Member Maxine Waters (D-CA) released draft housing finance reform legislation, the "Housing Opportunities Move the Economy (HOME) Forward Act," in 2014. The measure would have wound down Fannie and Freddie over a five-year period and replaced them with a newly created lender-owned cooperative, the Mortgage Securities Cooperative (MSC). The MSC would have been the only entity that could issue government guaranteed securities and would have been lender-capitalized based on mortgage volume. The bill would have also created a new regulator, the National Mortgage Finance Administration (NMFA). Under the bill, private capital would have to have been in a first loss position to reduce taxpayer risk.

The HOME Forward Act would have preserved Fannie and Freddie's multifamily business and transferred it to a new multifamily platform at the MSC. The bill also assessed a 10 basis point user fee to fund the NHTF, the CMF, and the MAF. It does not continue the housing goals. The bill was never introduced.

PATH Act. House Committee on Financial Services Chair Jeb Hensarling (R-TX) introduced the "Protecting American Taxpayers and Homeowners (PATH) Act" (H.R. 2767) in 2013. The bill called for a five-year phase out of Fannie and Freddie. As part of this wind-down, the bill would have repealed the authorization of the current affordable housing goals, as well as the NHTF and CMF. The bill would have established a new non-government, non-profit National Mortgage Market Utility (Utility) that would have been regulated by FHFA and required to think of and develop common best practice standards for the private origination, servicing, pooling, and securitizing of mortgages. The Utility would have also operated a publicly accessible securitization outlet to match loan originators with investors. The Utility would not have been allowed to originate, service, or guarantee any mortgage or MBS.

The bill would have also made changes to FHA, including making it a separate agency, no longer part of HUD. The bill would have limited FHA's activities to first-time homebuyers with any income and low and moderate-income borrowers and would have lowered the FHA conforming loan limit for high-cost areas. The bill was voted out of the Financial Services Committee on July 23, 2013 by a partisan vote of 30-27. Two Republicans and all Democrats opposed the bill. The bill was not taken up by the full House, blocked by then Speaker of the House John Boehner (R-OH). It was opposed by virtually every segment of the housing industry.

HOUSING FINANCE REFORM IN THE 114TH CONGRESS

There appears to be little political will to move reforms forward in the 114th Congress and legislation is highly unlikely in 2016. A few bills have been introduced to that include partial reforms, but only one—reintroduction of the Delaney-Carney-Himes proposal (H.R. 1491)—has offered a comprehensive proposal for reform. There have been no hearings in either chamber.

Senate Banking Chair Richard Shelby (R-AL) introduced a broad regulatory reform bill (S. 1484) that would maintain the GSEs, but would include several reforms, including lowering taxpayer risk while continuing to provide private-market access to a common securitization platform. The bill was voted out of the Committee by a party-line vote and later attached to the Senate FY16 Financial Services and General Government Appropriations spending bill. However, the measure was not included in the final spending bill for FY16.

There have also been several measures introduced that would end the Treasury's sweep of Fannie and Freddie's profits and allow them to recapitalize. Representative Mike Capuano introduced H.R. 1036, the "Let the GSEs Pay Us Back Act" on February 24, 2015. The bill would alter the current arrangement between the GSEs and Treasury to allow the two companies to repay the money they received from the Treasury during the financial crisis.

The bill would require a new agreement modifying the conservator agreement to allow payments that Fannie and Freddie have made to Treasury to count towards paying down their debt. Any GSE senior preferred stock purchased by the Treasury would no longer accrue dividends, as is current practice. The amounts of federal funds the GSEs received prior to the modification would be treated as a loan made by the Treasury to a GSE that would have to be repaid, and current dividend payments would be treated as payments of principal and interest under the loan. Fannie and Freddie would be able to keep profits above the repaid amount, allowing them to recapitalize.

Representative Marsha Blackburn (R-TN) introduced the "Enterprise Secondary Reserve Taxpayer Protection and Government Accountability Act of 2015" (H.R. 1673) that would require profits to be placed in a secondary reserve fund that would cover any losses incurred by Fannie and Freddie due to a housing downturn. Under H.R. 1673, the FHFA Director would decide whether to use funds held in the reserve if Fannie or Freddie's losses exceed their capital reserves. Funds in the secondary reserve would not be considered part of Fannie and Freddie's "capital, capital reserve, or otherwise an asset of the enterprise" other than as part of an approved capital restoration plan.

Representative Mick Mulvaney (R-SC) had planned to introduce legislation by the end of 2015 that would have considered the GSEs' debts repaid and released them from conservatorship after they built up their capital reserves. To win bipartisan support, Mr. Mulvaney included a provision in the draft bill that would require the GSEs to provide $1 billion to the NHTF and CMF but only if the GSEs reached and maintained $5 billion in capital reserves. However, Mr. Mulvaney has yet to introduce his bill.

The Obama Administration has explicitly expressed its opposition to allowing the GSEs to recapitalize. These bills stand little chance of being enacted in 2016.

The FY16 omnibus spending bill contained an amendment, offered by Senators Bob Corker (R-TN) and Mark Warner (D-VA), which further blunts attempts to recapitalize Fannie and Freddie. Based on Senators Corker and Warner's bill, the "Jumpstart GSE Reform Act" (S. 2038), the amendment prohibits Treasury from selling any of the Fannie and Freddie stock without Congressional approval. Senators Warner and Corker, members of the Senate Banking Committee and key proponents of housing finance reform, hope that this will revive comprehensive housing finance reform effort http://nlihc.org/issues/nhtf/implementations.

NLIHC supports the prohibition on the sale of stock and recapitalization of the GSEs and will continue to advocate for comprehensive reform, since it offers the best chance of substantial new funding for NHTF in the coming years. When Congress does finally tackle housing finance reform, it is critical that low income housing advocates remain vigilant and protect the gains made in the Johnson-Crapo, Waters, and Delaney-Carney-Himes bills to robustly fund the NHTF.

WHAT TO SAY TO LEGISLATORS

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

With respect to the potential housing finance reform proposals, advocates should urge their legislators to:

- Oppose any legislation that would eliminate or prohibit funding for the NHTF.
- Support legislation that provides a robust source of funding for the NHTF similar to the Johnson-Crapo, Waters, and Delaney-Carney-Himes bills.
- Support housing finance reform legislation that assures access to the market for all credit worthy borrowers, as well as assuring compliance with federal fair housing laws.
- Oppose efforts to recapitalize Fannie and Freddie before Congress passes comprehensive housing finance reform legislation.

FOR MORE INFORMATION

Federal Housing Finance Agency, www.fhfa.gov

Federal Home Loan Mortgage Corporation, www.fanniemae.com

Federal National Mortgage Association, www.freddiemac.com ■

Mortgage Interest Deduction Reform

By Sheila Crowley, President and CEO, and Elayne Weiss, Policy Analyst, NLIHC

The mortgage interest deduction (MID) is one of the largest federal housing subsidies in the United States. Compared to the HUD budget for discretionary programs ($38 billion requested by the administration for FY17), the MID is projected to cost more than $68 billion in 2017. A disproportionate share of the MID's benefit goes to wealthy homeowners: The top 18% of taxpayers who claimed the MID (those with incomes of $200,000 or more) receive 42% of the total benefit.

Because federal housing supports are skewed in favor of tax-based housing subsidies versus direct spending on low income rental housing programs, NLIHC asserts that the U.S. must realign federal resources to better match housing need. To do this, NLIHC advocates simple and smart modifications to the MID to generate more revenue to support rental housing programs, primarily for the National Housing Trust Fund (NHTF).

Even before establishing NLIHC in 1974, Cushing Dolbeare had been critical of the MID, pointing to the injustice and inefficiency of subsidizing homeownership for people with higher incomes when too few resources were available to help very poor families meet their housing needs. NLIHC continues to call attention to this issue through our research and advocacy efforts.

In 2013, NLIHC launched the United for Homes (UFH) campaign that has since grown to become a nationwide effort with more than 2,300 national, state, and local organizations, located in every congressional district. UFH seeks changes to the MID that will both help more low and moderate income homeowners, and generate new revenue to solve the housing problems of the very poor—including people who are homeless.

ABOUT THE MORTGAGE INTEREST DEDUCTION

The MID is a federal tax expenditure that provides some homeowners with reductions in the amount they owe on their federal income tax. When filing annual federal income tax returns, taxpayers can deduct the interest paid in that tax year on home mortgages of up to $1 million. The deduction is not based on the value of the home but rather on the size of the mortgage. Taxpayers can deduct mortgage interest on first and second homes. In addition, the interest on up to $100,000 in home equity loans can be deducted for a cap of $1,100,000 on the value of mortgages eligible for tax breaks.

The value of the deduction, or the degree to which it reduces one's taxable income, depends on a person's tax bracket. Thus, taxpayers in the 33% tax bracket are able to reduce their taxes by 33% of the amount of interest paid, while those in the 15% tax bracket can reduce their taxes by just 15% of the interest paid.

In order to benefit from the MID, a taxpayer must file an itemized tax return. The Joint Committee on Taxation of the U.S. Congress estimates that almost 169 million tax returns were filed in 2015, but only 27% were itemized. Only 20% of all tax returns claimed the MID. The top 61% of taxpayers who claimed the MID (those with incomes of $100,000 or more) received 81% of the total benefit. The top 18% of taxpayers (incomes of $200,000 or more) received 42% of the benefit.

The idea that the MID was created to spur homeownership is a myth. In reality, the MID was enacted in 1913, shortly after the ratification of the 16th Amendment to the U.S. Constitution, which allowed Congress to establish a federal income tax. When the income tax was implemented, certain business expenses were allowed to be deducted, including interest on all loans. Very few Americans had home mortgages at the time and most personal and business finances were intermingled. Eventually, federally-insured and 30-year mortgages multiplied after World War II and the MID became more important to the emerging middle class. Even so, the earliest estimate of the cost of the MID in 1977 was just $4.7 billion.

However, the cost of the MID exponentially increased in the 1990s and 2000s as the cost of home purchases accelerated, reaching estimates of $100 billion. Since the housing finance crisis of 2008, the value of the MID dropped along with home values, homeownership rates, and interest rates.

The federal government produces two different estimates of the annual cost of the MID. In the president's FY17 budget proposal, the Office of Management and Budget (OMB) projected that the MID will cost $68.61 billion in 2017 and $127.36 billion by 2025.[1] The Joint Committee on Taxation (JCT) estimated in December 2015 that MID will cost $84.3 billion in 2017.[2]

Homeowners also benefit from other tax subsidies in addition to the MID. When filing their federal income taxes, individuals can deduct state and local property taxes (estimated to cost $35.58 billion in 2017 using OMB numbers) and exclude capital gains on home sales ($43.46 billion in 2017 per OMB). OMB also includes a tax expenditure called exclusion of "net imputed rental income." Imputed rent accrues to homeowners because they do not pay taxes on the income they derive from not paying rent, even though they get to take tax breaks for the costs of owning a home (i.e., mortgage interest and property taxes). OMB projects the cost of the imputed rent exclusion to be $104.95 billion in 2017. (JCT does not provide an estimate of the cost of the imputed rent exclusion.)

Thus, OMB projects the total cost of tax expenditures that subsidize homeowners in 2017 to be $252.6 billion, 18% of the cost of all tax expenditures. In contrast, the federal tax code provides no housing-related tax breaks for taxpayers who are renters, unlike several states that have renter tax credits.

THE UNITED FOR HOMES CAMPAIGN

The UFH campaign proposes smart, simple changes to the MID by reducing the size of a mortgage eligible for a tax break to $500,000 and converting the deduction to a 15% non-refundable tax credit.

Under the UFH proposal, the first $500,000 of any mortgage would be eligible for the tax credit, a change from the current limit of $1,000,000. Mortgages for first and second homes and for home equity loans of up to $100,000 will be eligible for the tax break as long the total amount of loans does not exceed $500,000. Capping the amount of debt eligible for the MID would generate almost $95 billion dollars throughout a 10-year period.

Although some have raised the concern that the $500,000 mortgage cap is not large enough, the truth is there are very few mortgages exceeding that amount in the United States, and those that do are concentrated in very few places. In fact, only 5% of all mortgages between 2012 and 2014 exceeded $500,000.[3] In 94% of all counties, fewer than 3% of mortgages were larger than $500,000. The vast majority of people who have mortgages on their homes would not be affected by the proposed limit.

UFH also proposes converting the tax deduction to a 15% non-refundable tax credit. A tax deduction reduces one's taxable income on which a person's total tax bill is based. In contrast, a tax credit is a direct reduction of one's total tax bill. Taxpayers do not have to itemize their tax returns to benefit from a tax credit, which means tax credits are more accessible to lower income households. Moreover, a tax credit as proposed by the UFH campaign would be the same percentage for everyone, unlike a tax deduction whose value increases with income. Generally speaking, tax credits are flatter and fairer.

The Tax Policy Center has projected that these changes to MID, phased in over the course of five years, would generate almost $213 billion in revenue between 2016 and 2025.[4] NLIHC proposes that this revenue be used to capitalize the NHTF. Once funded, the NHTF would expand, preserve, rehabilitate, and maintain the supply of rental housing affordable to extremely low income and very low income individuals and families.

Middle and low income homeowners who pay mortgage interest but who do not now claim the mortgage interest deduction stand to gain from the UFH proposal. Based on calculations done by the Tax Policy Center, under a 15% non-refundable credit, the number of homeowners who will get a tax break will grow from 33 million to 48 million, with most the increase being households with incomes of less than $100,000 a year. Higher income households with mortgages, primarily those with incomes of $200,000 or more, will pay more taxes.

1 https://www.whitehouse.gov/sites/default/files/omb/budget/fy2017/assets/ap_14_expenditures.pdf

2 https://www.jct.gov/publications.html?func=startdown&id=4857

3 http://nlihc.org/sites/default/files/Rare-Occurrence_print.pdf

4 http://www.taxpolicycenter.org/UploadedPDF/2000542-options-to-reform-the-deduction-for-home-mortgage-interest.pdf

The UFH proposal to reform the MID has received considerable public support. According to a 2013 national poll, 60% of Americans favor the campaign's proposal. Seventy-six percent of Americans favor building more affordable housing in their states to help end homelessness.

Members of Congress have also taken note of the campaign and have introduced legislation incorporating the UFH proposal. In March 2015, Representative Keith Ellison (D-MN) introduced the Common Sense Housing Investment Act of 2015 (H.R. 1662), which contains the UFH proposal to modify the MID and directs 60% of the revenue raised to the NHTF, with the remainder going to other low income rental housing programs. UFH had endorsed Mr. Ellison's bill. So far in the 114th Congress, H.R. 1662 has attracted six cosponsors. Mr. Ellison introduced a similar bill in the 113th Congress. In June 2015, Representative Barbara Lee (D-CA) introduced the Pathways Out of Poverty Act of 2015 (H.R. 2721), a sweeping anti-poverty bill that includes major initiatives on housing, education, nutrition, jobs, and tax credits. Mr. Ellison's bill was included in Ms. Lee's bill.

POTENTIAL FOR MID REFORM

As concern has grown regarding the size of the national debt, there has been greater scrutiny on tax expenditures, which amount to more than a trillion dollars in uncollected federal taxes each year. These tax breaks, claimed by corporations and individuals, have been enacted into law throughout the years to subsidize some activity that an interest group or politicians have determined to be worthy of government support. OMB estimates that tax expenditures will cost the federal government $1,372,853 trillion in fiscal year 2017.[5]

Because the MID is one of the largest and most regressive of all tax expenditures, it has received increased attention by law and policy makers, and is thought to be ripe for reform but only as part of comprehensive tax reform. Numerous tax reform and deficit reduction panels and commissions have called for changes to the MID. Economists and tax policy experts across the political spectrum criticize the MID as inefficient and poorly targeted.

MID reform has also been gaining traction in Congress. Members of Congress may no longer see it as the "sacred cow" of housing and tax policy. Former House Ways and Means Committee Chairman Dave Camp (R-MI) included changes to the MID in his sweeping comprehensive tax reform bill introduced late in the 113th Congress. House Speaker Paul Ryan (R-WI), who started the 114th Congress as the chair of the Ways and Means Committee, has stated that he supports lowering the MID cap to $500,000. However, Mr. Ryan's successor to lead the Ways and Means Committee, Representative Kevin Brady (R-TX) has yet to voice his position on the MID.

Moreover, a realtor-backed House resolution to protect the MID has seen waning support. When Representative Gary Miller (R-CA) first introduced the resolution in the 112th Congress, it attracted 198 cosponsors. However, when Mr. Miller introduced the resolution again in the 113th Congress, only 22 representatives agreed to cosponsor it. Mr. Miller retired and so far, none of his former colleagues have introduced a similar resolution in the 114th Congress.

Low income housing advocates must make sure that when Congress does decide to modify MID through comprehensive tax reform, a significant share of the revenue raised from those changes goes to affordable rental housing.

FORECAST

It is highly unlikely that the 114th Congress and the Obama Administration will be able to come to agreement on comprehensive tax reform. The partisan divide between Democrats and Republicans runs deep, especially in an election year, and prospects for compromise appear bleak.

President Obama offered major changes to the tax code in his FY16 and FY17 budget proposals, and the Senate Finance and House Ways and Means Committees had at first set their sights on reform in the 114th Congress. However, those efforts have largely stalled. Even though the Senate Finance Committee established working groups early in 2015 to examine ways of overhauling the tax code, the resulting reports were far below the scope and detail originally expected. The reports were silent on reforming the MID.

After Mr. Ryan rose to become Speaker of the House, Representative Kevin Brady (R-TX) was elected to serve as the new chair of the committee

5 https://www.whitehouse.gov/sites/default/files/omb/budget/fy2017/assets/ap_14_expenditures.pdf

and has since stated he would "relentlessly pursue tax reform," but that "overall tax reform will wait for a Republican president in 2017." Senate Majority Leader Mitch McConnell (R-KY) also commented, "We're certainly not going to be able to be doing big comprehensive tax reform with this president."

However, comprehensive tax reform is something Congress can no longer afford to avoid. Some advocates believe that with Speaker Ryan, a longtime advocate for rewriting the tax code, now setting the House agenda, Congress might meaningfully take up comprehensive reform. When that happens, the MID will change. Housing advocates must work together to make sure that savings gained from MID reform be kept in housing and used to address the long neglected housing needs of extremely low income renters. Although tax reform is unlikely to move in 2016, we must lay the groundwork now to make this goal a reality.

WHAT TO SAY TO LEGISLATORS

- Ask your representative to co-sponsor the Ellison bill and any other legislation that is introduced that would change the MID and generate significant new revenue to fund the National Housing Trust Fund and other housing aid for extremely low income renters.
- Educate the members of your Congressional Delegation on the benefits of MID reform and the NHTF.

HOW TO TAKE ACTION

- Endorse the United for Homes campaign! Secure other endorsers in your community.
- Urge local and state government officials to pass resolutions in support of the United for Homes proposal.
- Promote the UFH Campaign through social media.

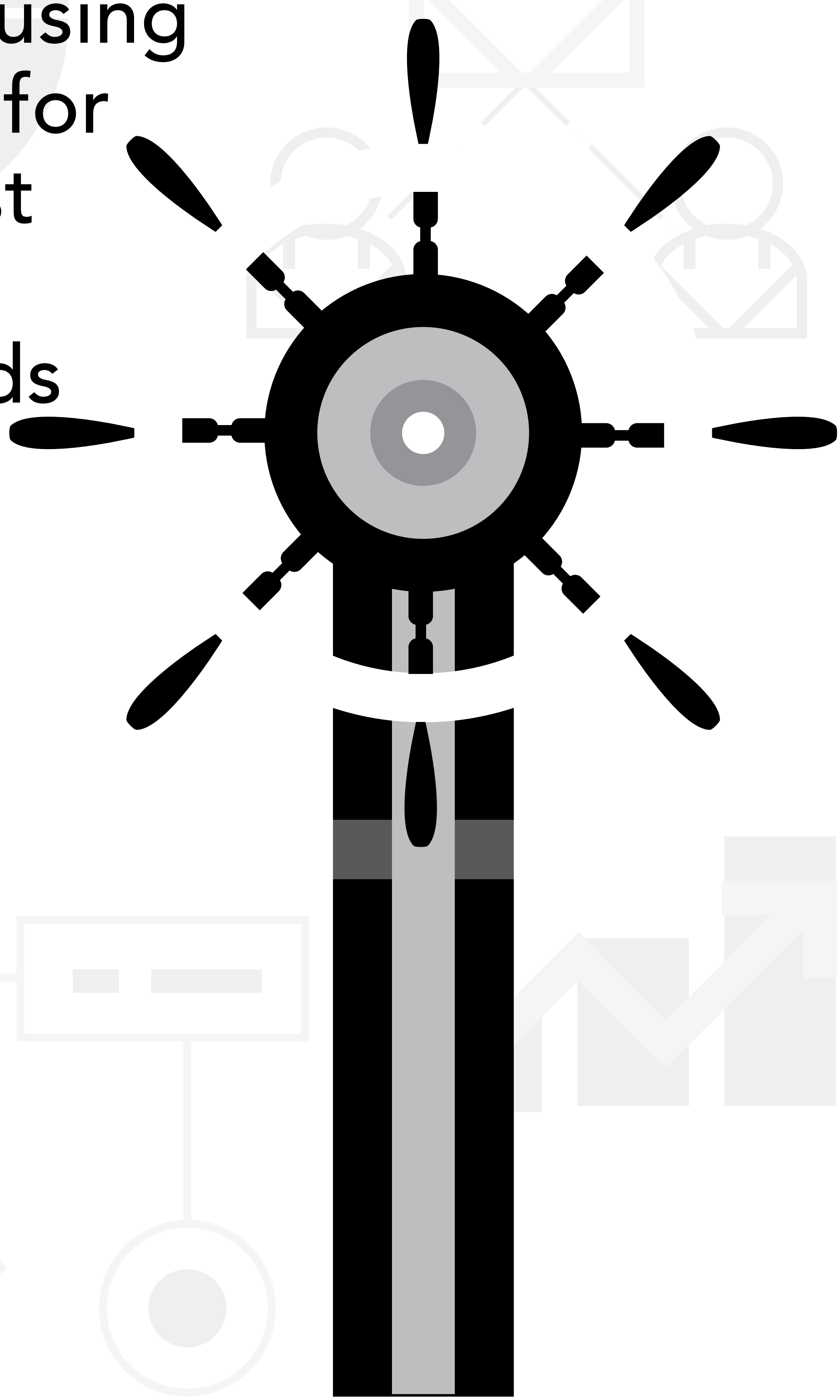
FOR MORE INFORMATION

Learn more and join the UFH campaign at: www.unitedforhomes.org

Learn more about the NHTF at: www.nhtf.org ■

Chapter 4:

Rental Housing Programs for the Lowest Income Households



Homeless Assistance: McKinney-Vento Homeless Assistance Programs

By Steve Berg, Vice President for Programs and Policy, National Alliance to End Homelessness

Administering agency: HUD's Office of Special Needs Assistance Programs within the Office of Community Planning and Development (CPD).

Year program started: 1987

Number of persons/households served: Total year-round capacity to provide beds for 426,000 homeless people, plus 404,000 formerly homeless people now in permanent housing.

Population targeted: Homeless people and people threatened with homelessness.

FY16 funding: $2.25 billion

Also see: *Continuum of Care Planning, Federal Surplus Property to Address Homelessness*

The McKinney-Vento homeless assistance programs refer to a set of federal programs created by the McKinney-Vento Homeless Assistance Act. This article refers to the two programs administered by HUD: the Emergency Solutions Grants (ESG), and the Continuum of Care (CoC). In 2009, Congress passed the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act, which significantly improves HUD's McKinney-Vento homeless assistance programs.

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. For many years these programs received no comprehensive overhaul, despite advancing understanding of homelessness, its causes, and its solutions. Then Congress passed the HEARTH Act in May 2009, intended to consolidate separate homelessness programs at HUD, and to make the system of homeless assistance more performance-based. HUD has issued a series of implementing regulations.

PROGRAM SUMMARY

HUD's McKinney-Vento programs provide outreach, shelter, transitional housing, supportive services, short- and medium-term rent subsidies, and permanent housing for people experiencing homelessness, and in some cases for people at risk of homelessness. Funding is distributed by formula to jurisdictions for the Emergency Solutions Grants (ESG) program, and competitively for the Continuum of Care (CoC) program.

ESG program. Prior to implementation of the HEARTH Act, approximately 10% of all HUD homeless assistance funds were allocated for the ESG program, then called the Emergency Shelter Grant program. It provided 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 is called the Emergency Solutions Grant program. The amount of funding provided for ESG is set at 20% of HUD's homeless assistance grants, although if overall funding levels are insufficient to meet that allocation and fund all existing CoC grants (which has been the case each year since HEARTH was enacted), then HUD is allowed to allocate less to ESG. Emergency shelter and related services continue to be eligible activities. Under HEARTH, new homelessness prevention and re-housing activities are 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 are 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 living in other precarious housing situations.

Continuum of Care program. Prior to the HEARTH act, there were three competitive programs, and grants under these “legacy” programs still exist:

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.
3. The Moderate Rehabilitation/Single Room Occupancy (SRO) program, which funded operating assistance in SRO buildings.

A unique feature of HUD’s competitive homeless assistance programs, which continues 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 the three legacy 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 and implementing regulations to the competitive program 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. Leasing projects will continue to have no match requirement.
- A new rural program is created that would provide rural areas with more flexibility and also increase funding to rural areas. (This program has not yet been funded by appropriations.)
- 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:
- The Education for Homeless Children and Youth (EHCY) program, administered by the U.S. Department of Education, provides grants to schools to aid in the identification of homeless children and provide services to help them succeed in school. EHCY also requires schools to 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, an independent agency within the federal executive branch, 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 $1.901 billion for both FY11 and FY12, $1.933 billion (after sequestration) for FY13, $2.105 billion for FY14, $2.135 billion for FY15, and $2.25 billion for FY 16.

FORECAST

In recent years, HUD’s homeless assistance programs helped communities reduce homelessness. Given continued weakness in the economy and skyrocketing rents in many communities, strong funding for the HUD homelessness programs is necessary to avoid increases in homelessness and instead to get more people off the streets and into housing.

HUD’s implementation of the HEARTH Act will increasingly reward communities that do the best job of using their funding efficiently to re-house as many homeless people as possible. This will in turn help build even further support in Congress.

TIPS FOR LOCAL SUCCESS

The best way to maximize the impact of McKinney-Vento funding in a community is to participate in the local Continuum of Care process, and work to use resources for the most effective programs.

WHAT TO SAY TO LEGISLATORS

Advocates should ask their Members of Congress to support increases in HUD's homelessness programs to allow more progress toward reducing the number of people experiencing homelessness. Specifically, advocates should communicate the following points:

- Many thousands of hard-working American families, veterans, and people with disabilities are being left homeless by the continuing weakness in the job market and increasing rents. The HEARTH act provides exactly what is needed to give homeless or near-homeless people the hand up they need, but only if it is adequately funded.
- HUD's McKinney-Vento programs are targeted to people who are in serious danger due to lack of housing. These programs have been supported in a bipartisan manner since their inception.
- HUD's McKinney-Vento programs work. They helped reduce homelessness by 35% between 2005 and 2013, despite a bad economy during much of that time.

FOR MORE INFORMATION

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

Corporation for Supportive Housing, 212-986-2966, www.csh.org ■

Homeless Assistance: Federal Surplus Property to Address Homelessness

By Tristia Bauman, Senior Attorney, National Law Center on Homelessness & Poverty

Administering agencies: HUD, Health and Human Services (HHS), General Services Administration (GSA)

Year program started: 1987

Number of persons/households served: More than 2 million

Populations targeted: Homeless persons

FY16 funding: The Title V program does not receive an appropriation.

Also see: *McKinney-Vento Homeless Assistance Programs, Continuum of Care Planning, Ten-Year Plans to End Homelessness*

The federal government owns real property that it no longer needs, including both land and buildings. When the government no longer has use for a particular property, it will often be declared surplus. Under Title V of the McKinney-Vento Homeless Assistance Act of 1987, homeless service providers have a right of first refusal to acquire these properties at no cost before they can be offered to state or local governments or be sold to generate revenue for the federal government.

If determined by HUD to be suitable and available, surplus federal properties are published in the *Federal Register*. Homeless service providers, including local governments and nonprofit organizations, apply for properties through the Department of Health and Human Services (HHS). If a property transfer is approved, that transfer is negotiated with the General Services Administration (GSA), the federal agency broadly responsible for government real property.

HISTORY AND PURPOSE

The McKinney-Vento Act was first passed in 1987. Title V was included in the law in recognition of the fact that homeless service providers working to end homelessness have difficulty affording and acquiring property in order to provide housing or supportive services, while the federal government has property that it no longer needs. Title V originally included properties on newly closed military bases. In 1994, the law was amended to provide a separate process for ensuring that a portion of Base Realignment and Closure properties are used to provide affordable housing and prevent homelessness.

PROGRAM SUMMARY

Screening. Landholding agencies report the status of their real estate holdings to HUD on a quarterly basis. HUD screens excess properties to determine whether they are suitable for the needs of homeless services organizations. Then, all suitable properties are published in the *Federal Register*.

Expression of Interest. When a homeless service provider identifies a property of interest in the *Federal Register*, it has 60 days to submit a written expression of interest to HHS. This is simply a brief letter identifying the group, the property of interest, and a brief description of the proposed use. Once HHS receives this letter, it provides the nonprofit or public agency with a full application.

Application. Groups have 90 days to complete the application. Unlike the short expression of interest letter, the application is very detailed, and requires extensive supporting documentation in order to prove that the applicant has the financial and program capacity to best utilize the federal property. Once HHS receives the completed application, the agency has 25 days to make a decision on the application. If an application is approved, then GSA will negotiate a deed or lease to convey the property to the applicant.

FUNDING

The Title V program does not receive an appropriation.

FORECAST

Although the Title V program had been subject to attack on Capitol Hill through proposals to harmfully amend, or even eliminate, the law in recent years, the Forecast looks much more positive. Indeed, legislation currently pending in the House of Representatives would not only provide for increased access to federal properties no longer needed by the federal government, but it would also broaden the available use of the properties to include permanent, affordable housing for homeless people – with or without supportive services.

House of Representatives. Congressman Jeff Denham (R-CA) introduced H.R. 4465, the Federal Assets Sale and Transfer Act. The bill proposes a pilot program to improve transparency into federal real property holdings, potentially allowing more properties to become available for homeless services. The bill also proposes to streamline the Title V application process, give applicants important flexibility in determining whether to take the property by deed or lease, and also clarify that permanent housing – with our without supportive services – is an eligible use of property acquired under the Title V program.

Senate. Senator Ron Johnson (R-WI) introduced S. 1398, which is identical to H.R. 4465 for purposes of the Title V program.

TIPS FOR LOCAL SUCCESS

To successfully apply for Title V property, an applicant must be financially stable and have a firm and workable plan to use the property that is to be acquired. It should be noted that the application timeline is short, so applicants must be prepared to act quickly when a suitable property becomes available.

WHAT TO SAY TO LEGISLATORS

Advocates should meet with their Members of Congress with the message that Title V is a no-cost way to advance the national goal of ending homelessness, and support the positive changes to the program proposed in the legislation listed above.

FOR MORE INFORMATION

For information about how to search and successfully apply for surplus federal properties, you may contact the National Law Center on Homelessness & Poverty, 202-638-2535, www.nlchp.org ■

Housing Opportunities for Persons with AIDS (HOPWA)

Nancy Bernstine,
National AIDS Housing Coalition

Administering agency: Office of HIV/AIDS Housing in HUD's Office of Community Planning and Development

Year program started: 1990

Number of persons/households served: 54,647 households could be served if the president's budget is enacted

Population targeted: Low income people with HIV/AIDS, and their families

FY16 funding: $335 million

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.

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 people living with HIV/AIDS, and their families.

There is a perception in America that the HIV/AIDS epidemic is under control, but in reality AIDS is still an active crisis. According to the Centers for Disease Control (CDC), there are an estimated 50,000 new HIV infections each year. At the same time, there are more than 1.2 million people living with HIV/AIDS in the United States, and more than 156,000 are unaware of their status.

For people living with HIV/AIDS, housing is healthcare. For people struggling with the disabling effects of HIV/AIDS, housing is an essential cornerstone of health and stability. It is estimated that as many as half of all people living with HIV/AIDS will need housing assistance at some point during their illness. As with other chronic conditions that may make it difficult for an individual to find or maintain gainful employment, HIV/AIDS can be an impoverishing disease, requiring reliance upon public subsidies for basic needs, including housing. For many of those individuals and families, short-term assistance with rent, mortgage, or utility costs will provide the support necessary to remaining healthy and in stable housing. But for others, more intensive support services are needed.

The HOPWA program is a homelessness prevention program designed to provide housing assistance and related support services for low income people living with HIV/AIDS and their families. It also facilitates community efforts to develop comprehensive strategies to address HIV/AIDS housing need, and assists communities to create housing strategies to prevent these individuals from becoming homeless or unstably housed.

With improvements in drug therapies and medical care reducing the number of HIV/AIDS-related deaths, people are living longer with the disease; therefore, there is an increasing demand for essential supportive services, including housing.

PROGRAM SUMMARY

As a supportive housing program, HOPWA helps ensure that people living with HIV/AIDS can access and maintain adherence to necessary medical care and other services through assisting them with stable housing and related support services.

Eligibility for HOPWA assistance is limited to low income individuals with HIV/AIDS, and their families. The vast majority of individuals receiving HOPWA housing assistance—78%—are extremely low income, earning 30% of the area median income or less. Of the 4,441 homeless individuals newly receiving HOPWA during FY15, 11% were veterans and 58% were chronically homeless. Ninety-four percent of HOPWA households have a housing plan and 89% have contact with a primary care provider. Ninety-six percent of households served by HOPWA supportive housing programs achieve housing stability.

HOPWA consists of two grant-making programs. Ninety percent of the funds are distributed as formula grants to states and localities to serve the metropolitan area in which they are located. The formula for this distribution is based on population size and the number of people living with HIV/AIDS in the metropolitan area as confirmed by the CDC.

During 2015, $299.9 million dollars were awarded in HOPWA formula funds to grantees within 139 eligible areas. These grantees represent 41 states and Puerto Rico. In addition, one quarter of the formula allocation was awarded to metropolitan areas that have a higher-than-average per capita incidence of AIDS. These formula funds can be used for a wide range of housing, social services, program planning, and development costs including, but 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 FY15, 25 expiring competitive grants were renewed in 16 states. Currently, the HOPWA program includes 92 competitive renewal grants, 29 of which will be up for a three-year renewal during 2016. 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 housing and other community-based residences; and, technical assistance. HOPWA also provides technical assistance to support sound management in local programs and develop strategies to address HIV/AIDS housing need.

FUNDING

HOPWA remains sorely underfunded relative to the immense need. HOPWA would need $1.12 billion to serve all those living with HIV/AIDS and in need of housing assistance.

In FY16, HOPWA is funded pursuant to the Omnibus Consolidated Appropriations Act (P.L. 114-113; 12.15.15) at a level of $335 million, the high watermark for HOPWA.

Although the President's FY17 budget proposes flat funding of $335 million, the National AIDS Housing Coalition (NAHC) recommends $375 million for HOPWA, an increase of $40 million from the FY16 appropriation. This recommended funding level, while meeting only a fraction of the need, would sustain existing programs, permit small program expansions at the local level, and support newly added jurisdictions. Moreover, it would maintain the funding levels for programs in HOPWA formula funding jurisdictions that would lose resources if a long-awaited legislative update to the funding formula is enacted.

The President's FY17 Budget proposes flat funding at $335 million

POLICY CHANGES

In addition, to the funding recommendation above, NAHC recommends two policy implications with fiscal implications. First, NAHC recommends $8 million to fund new Competitive programs. The existing Competitive portion of the appropriation is consumed with renewals. Healthcare reform and Medicaid expansion are among the factors that make new, replicable demonstration projects connecting housing to healthcare an important objective. In addition, NAHC has requested that HOPWA technical assistance be removed from the Community Planning and Development combined account and restored as a separate budget line with a minimum $3.5 million appropriation. Funding for both of those initiatives is included in the $375 million NAHC recommendation

FORECAST

During FY16, action is expected to update the HOPWA formula to allow jurisdictions with increasing populations of people living with HIV/AIDS to receive more funding. The revision, first called for in the 2010 National HIV/AIDS Strategy, would count those living with HIV/AIDS (rather than cumulative AIDS, which would also account for those who died of HIV/AIDS) and include both a poverty and housing cost factor. The update to the HOPWA formula with a five-year phase in to full implementation and caps on gains and losses at 10% and 5% respectively for formula jurisdictions was adopted by the House as a bi-partisan amendment to H.R. 3700, the Housing Opportunities Through Modernization Act. In addition, HUD released draft legislation with the FY17 budget to achieve this change as well as add new medium-term housing options and increase administrative fees. NAHC, with support from the HIV/AIDS community, has endorsed the basic elements of the proposal as included in H.R. 3700 calling for a longer phase in of full implementation of the new formula. The community also would like the administrative fee changes and new short-term and medium-term housing intervention included in the FY17 HUD budget proposal.

FOR MORE INFORMATION

National AIDS Housing Coalition, 202-377-0333, www.nationalaidshousing.org ■

Public Housing

By Linda Couch, Senior Vice President for Policy, NLIHC

Administering agency: HUD's Office of Public and Indian Housing

Year program started: 1937

Number of persons/households served: 1.1 million households, 2.3 million residents

Population targeted: All households must have income less than 80% of the area median income (AMI); at least 40% of new admissions in any year must be extremely low income, income below 30% of AMI or the state poverty level, whichever is greater.

FY16 funding: $6.4 billion [sans the $125 million from the Choice Neighborhoods Initiative (CNI)]

Also see: *Choice Neighborhood Initiative and HOPE VI, Rental Assistance Demonstration, Moving to Work, Public Housing Agency Plan*

The nation's 1.1 million units of public housing, serving 2.6 million residents, are administered by a network of more than 3,100 local public housing agencies (PHAs), with funding from residents' rents and Congressional appropriations to HUD. Additional public housing has not been built in decades. Advocates are focused primarily on preserving the remaining public housing stock.

Public housing encounters many recurring challenges. For instance, PHAs face significant federal funding shortfalls each year, as they have for decades. In addition, policies such as demolition, disposition, and the former HOPE VI program resulted in the loss of public housing units. There are persistent calls for deregulation of public housing through the expansion of the Moving to Work demonstration and other efforts that can reduce affordability, deep income targeting, resident participation, and programmatic accountability, all aspects of public housing that make it an essential housing resource for many of the lowest income Americans.

HUD's two tools to address the aging public housing stock are the Choice Neighborhoods Initiative (CNI) renovation program that addresses both public housing and broader neighborhood improvements, and the Rental Assistance Demonstration (RAD) designed to leverage private dollars to improve public housing properties while converting them to project-based rental assistance.

HISTORY

The Housing Act of 1937 established the public housing program. President Nixon declared a moratorium on public housing in 1974, shifting the nation's housing assistance mechanism to the then-new Section 8 rental assistance voucher program in order to engage the private sector. Federal funds 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 changed various other aspects of public housing, including public housing's two main funding streams, the operating and capital subsidies. Federal law also capped the number of public housing units at the number each PHA operated as of October 1, 1999.

Today, units are being lost through demolition and disposition (sale) of units, 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. HUD officials regularly state that more than 10,000 units of public housing leave the affordable housing inventory each year.

According to HUD testimony, between the mid-1990s and 2010, approximately 200,000 public housing units had been demolished; upwards of 50,000 were 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 were incorporated into these new developments, but serve households with incomes higher than those of the displaced households, and with no rental assistance like that provided by the public housing program.

PROGRAM SUMMARY

There are than 1.1 million public housing units in the United States. According to HUD, of the families served by public housing, 34% of household heads are elderly, 31% are non-elderly disabled, and 40% are families with children. The average annual income of a public housing household is $14,312. Of all public housing households, 66% are extremely low income, 20% are very low income, and 9% are low income. Fully 79% of public housing households have incomes less than $20,000 a year.

The demand for public housing far exceeds the supply. In many large cities, households may remain on waiting lists for decades. Like all HUD rental assistance programs, public housing is not an entitlement program; rather, its size is determined by annual appropriations and is not based on the number of households that qualify for assistance.

Access to public housing is means tested. All public housing households must be low income, having income less than 80% of the area median, and at least 40% of new admissions in any year must be extremely low income, defined as having an income below 30% of the AMI or the state poverty level adjusted for family size, whichever is greater. The FY14 HUD appropriations act included this expanded definition of "extremely low income" for HUD's rental assistance programs, including families below the poverty level, particularly to better serve poor households in rural areas. PHAs can also establish local preferences for certain populations, such as elderly people, people with disabilities, veterans, full-time workers, domestic violence victims, or people who are homeless or who are at risk of becoming homeless.

As in other federal housing assistance programs, residents of public housing pay the highest of: (1) 30% of their monthly adjusted income; (2) 10% of their monthly gross income; (3) their welfare shelter allowance; or (4) a PHA-established minimum rent of up to $50. The average public housing household pays $339 a month toward rent and utilities. Public housing operating and capital subsidies provided by Congress and administered by HUD contribute the balance of what PHAs receive to operate and maintain their public housing units.

With tenant rent payments and HUD subsidies, 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 the Housing Choice Voucher program.

Most PHAs are required to complete five-year PHA Plans, along with annual updates, which detail many aspects of their housing programs, including waiting list preferences, grievance procedures, plans for capital improvements, minimum rent requirements, and community service requirements. These PHA Plans represent a key way for public housing residents, voucher holders, and community stakeholders to participate in the PHA's planning process.

PHAs receive two annual, formula-based grants from Congressional appropriations to HUD: the operating fund and capital fund. If Congress provides the $4.569 billion HUD requests for the public housing operating subsidy in FY17, PHAs will receive 87% of known operating cost needs. If Congress provides the $1.865 billion HUD requests for the public housing capital subsidy in FY17, PHAs will still have a $26 billion capital needs backlog.

The public housing operating fund is designed to make up the balance between what residents pay in rent and what it actually costs to operate public housing. Major operating costs include: routine and preventative maintenance, a portion of utilities, management, PHA employee salaries and benefits, supportive services, resident participation support, insurance, and security. HUD's operating formula system, Asset Management, determines an agency's operating subsidy on a property-by-property basis, rather than the previous PHA-by-PHA basis.

The capital fund can be used for a variety of purposes, including modernization, demolition, replacement housing, and management improvements. The annual capital needs accrual amount makes clear that annual appropriations for the capital fund are woefully insufficient to keep pace with the program's needs.

Demolition and Disposition. Since 1983, HUD has authorized PHAs to apply for permission to demolish or dispose of public housing units. This policy was made infinitely more damaging in 1995 when Congress suspended the requirement that housing agencies replace, on a one-for-one basis, any public housing lost through demolition or disposition. Since 2000, more than 100,000 public housing units were demolished or disposed of.

In 2012, HUD clarified and strengthened its guidance on demolition and disposition in an effort to curb the decades-long sale and needless destruction of the public housing stock. The early 2012 guidance clarifies the demolition and disposition process in a number of ways. For example, the guidance unequivocally states that a proposed demolition or disposition must be identified in the PHA Plan or in a significant amendment to the PHA Plan, and that PHAs must comply with the existing regulations' strict resident consultation requirements for the PHA Plan process, the demolition or disposition application, and the redevelopment plan. That guidance also reminds PHAs that HUD's Section 3 requirement to provide employment, training and economic opportunities to residents applies to properties in the demolition and disposition process. The review criteria for demolition applications must meet clear HUD standards, and no demolition or disposition is permissible prior to HUD's approval, including any phase of the resident relocation process.

Rental Assistance Demonstration. As part of its FY12 HUD appropriations act, Congress authorized RAD. RAD allows HUD to approve the conversion of up to 60,000 public housing and Moderate Rehabilitation program units into either project-based Section 8 rental assistance contracts or project-based vouchers by September 2015. HUD issued a final Notice of Fund Availability on July 26, 2012, detailing requirements for gaining HUD approval to convert units. As of December 31, 2013, HUD had received applications for more than 176,000 units, exceeding HUD's 60,000-unit cap. By the end of 2013, HUD's entire RAD authority for public housing and moderate rehab units had been absorbed by high demand for the program. In FY14, HUD asked Congress to raise the 60,000-unit cap to 150,000 units. For FY15, Congress raised the cap to 185,000 units. For FY17, HUD has requested that the cap be removed.

The RAD statute requires residents of RAD-converted public housing properties to have the same rights after conversion that they had before, including rights regarding admissions, evictions, termination of assistance, and grievance hearings. The notice requires PHAs to continue to provide $25 per occupied unit annually for resident participation after conversion. The tenant organizing provisions currently only available to residents of private, HUD-assisted housing will be required for all RAD-converted public housing units. Residents cannot be involuntarily displaced or rescreened.

HUD must require 15-20 year renewable use and affordability restrictions for RAD-converted units. When initial contracts expire and at each renewal, HUD must offer and the owner must accept contract renewal.

HUD must require converted properties to be owned or controlled by a public or nonprofit entity, except if the property is threatened by foreclosure, bankruptcy, or termination of assistance for material violation. Then, ownership of the property must first be available to a public entity, and if one is not willing, then to a private entity. According to the statute, ownership can be by a for-profit only if necessary for Low Income Housing Tax Credit financing, and in such cases, the PHA must maintain its interest in the property.

Moving to Work. A key public housing issue is the Moving to Work (MTW) demonstration that provides a limited number of housing agencies flexibility from most statutory and regulatory requirements. 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 has long held that the MTW demonstration is not ready for expansion or permanent authorization. Various legislative vehicles have sought to maintain and expand the current MTW program. Today, there are 39 PHAs in the MTW demonstration. The MTW contracts for each of these 39 PHAs expire in 2018 and HUD is working with these MTW agencies to extend these contracts.

The FY16 funding bill for HUD expanded the MTW demonstration by a total of 100 PHAs over the course of a 7-year period. Within this expansion, PHAs will be restricted to testing specific policy flexibilities that will be evaluated under the microscope of rigorous evaluation.

FUNDING

The two public housing funds, operating and capital, received $6.4 billion for the two funds in FY16, and the president has requested about level total funding for public housing in FY17.

FORECAST

The main issue Congress is expected to consider related to public housing in 2016 is funding. Public housing's subsidy funding has been woefully insufficient to meet the need of the nation's 1.1 million public housing units for many years. Without adequate funds, more units will go unused. HUD's top goal for its public housing stock in FY17 is to increase public housing occupancy. This goal will be hard to achieve without adequate resources.

WHAT TO SAY TO LEGISLATORS

Advocates should ask Members of Congress to:

- Maintain funding for the public housing operating and capital funds.
- Support public housing as one way to end all types of homelessness in the United States.

FOR MORE INFORMATION

NLIHC, 202-662-1530, www.nlihc.org

National Housing Law Project, 415 546 7000, www.nhlp.org

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Rental Assistance Demonstration

By Ed Gramlich, Senior Advisor, NLIHC

Administering agency: HUD's Office of Multifamily Housing Programs

Year program started: 2012

Number of persons/households served: Initially 60,000 public housing units, expanded to 185,000 units in FY15; 26,446 private, HUD-assisted multifamily units as of December 1, 2015.

FY16 funding: $0

See also: *Public Housing*, *Project-Based Rental Assistance, Project-Based Vouchers, Public Housing Agency Plan*

As part of the FY12 HUD appropriations act, Congress authorized the Rental Assistance Demonstration (RAD) to help preserve and improve low income housing. RAD allows public housing agencies (PHAs) and owners of private, HUD-assisted housing to leverage Section 8 rental assistance contracts in order to raise private debt and equity for capital improvements. RAD has two components. The first pertains to public housing and the Moderate Rehabilitation (Mod Rehab) program; the second pertains to the Rent Supplement (Rent Supp) program, Rental Assistance Program (RAP), as well as the Mod Rehab program.

HISTORY

Congress authorized RAD through the FY12 HUD appropriations act. HUD published PIH Notice 2012-32 on July 26, 2012, implementing RAD, with a set of revisions on July 2, 2013, technical corrections on February 4, 2014, and significant revisions on June 15, 2015. The FY14 appropriations act extended the time for second component conversions to December 31, 2014 from September 30, 2013, and the FY appropriations act removed the second component deadline altogether. The FY15 appropriations act raised from 60,000 to 185,000 the number of public housing units that could convert under the first component and extended the first component deadline to September 31, 2018. The FY15 appropriations act made several other changes that are explained in the rest of this article.

PROGRAM SUMMARY

The intent of RAD is to help preserve and improve low income housing by enabling PHAs and owners of private, HUD-assisted housing to leverage Section 8 rental assistance contracts to raise private debt and equity for capital improvements. RAD has two components.

First Component. The first component initially allowed up to 60,000 units of public housing and Mod Rehab program units to compete for permission to convert their existing federal assistance to project-based Housing Choice Vouchers (PBVs) or to Section 8 project-based rental assistance (PBRA) by September 30, 2015. HUD proposed to limit the number of Mod Rehab units converted under the component to 1,250 units.

The FY15 appropriations act raised the cap on the number of public housing and Mod Rehab units that can be converted from 60,000 to 185,000 units. As requested by the administration, the FY15 appropriations act also extended the deadline for PHAs to apply for RAD conversion to September 30, 2018. In addition, projects assisted under the McKinney-Vento Single Room Occupancy program may now apply for RAD conversion.

On December 9, 2015, HUD announced that RAD reached its 185,000 unit limit, having given preliminary approval for 185,000 public housing units, the maximum allowed by Congress, to convert to either project-based vouchers (PBV) or to project-based rental assistance (PBRA). At that time HUD had a wait list of 10,946 public housing units that could be considered for RAD conversion if some of the projects with preliminary approval were withdrawn or revoked.

Second Component. The second RAD component initially allowed Rent Supp, RAP, as well as Mod Rehab projects to convert tenant protection vouchers to PBVs if a property's contract expired or terminated due to mortgage prepayment after October 1, 2006, or before December 31, 2014. There is no limit to the number of units that may be converted under the second component, and there is no competitive selection process for it. The

FY15 appropriations act allowed second component projects to convert to PBRA. It also removed the December 31, 2014, deadline, permanently extending authority under the second component. As of December 1, 2015, more than 18,000 second component units had completed conversion and another 8,400 were in the process of converting.

Key features of the first component. This section focuses on the first component's public housing provisions. RAD is a voluntary demonstration program. There is no new funding for RAD. Once converted under RAD, the amount of public housing Capital Fund and Operating Fund a specific development has been receiving is used instead as PBVs or PBRA.

PHAs considering RAD can choose to convert public housing units to one of two types of long-term, project-based Section 8 rental assistance contracts:

1. Project-based vouchers. These are Housing Choice Vouchers that are tied to specific buildings; they do not move with tenants as regular "tenant-based" vouchers do. If public housing units are converted to PBVs, the initial contract must be for 15 years (but could be up to 20 years), and must always be renewed. HUD's Office of Public and Indian Housing (PIH) would continue to oversee the units. Most of the current PBV rules would apply.
2. Project-based rental assistance. If units are converted to PBRA, the initial contract must be for 20 years and must always be renewed. HUD's Office of Multifamily Programs would take over monitoring. Most of the current PBRA rules would apply.

Voluntarily converting some public housing to Section 8 might be good because Congress continues to underfund public housing. That underfunding leads to deteriorating buildings and the loss of units through demolition. HUD estimates that 10,000 to 15,000 public housing units are lost each year. If a long-term rental assistance contract is tied to a property, private institutions might be more willing to lend money for critical building repairs. Congress is more likely to provide adequate funding for existing Section 8 contracts than for public housing. Therefore, some units that were public housing before conversion will remain available and affordable to people with extremely low and very low incomes because of the long-term Section 8 contract.

Ownership. The RAD statute requires converted units to be owned or controlled by a public or nonprofit entity. If there is a foreclosure, then ownership or control of the property will go first to a public entity, and if there is not a public entity willing to own the property, then to a private entity that could be a for-profit.

The June 15, 2015, revision of the RAD Notice (PIH-2012-32 REV-2) refined the meaning of "ownership and control" of post-conversion projects. This improvement has the potential to address concern expressed by many residents – that their public housing homes could be privatized after RAD conversion.

- A public or nonprofit entity must:
  - Hold fee simple interest in the real property.
  - Have direct or indirect legal authority (via contract, partnership share or agreement of an equity partnership, voting rights, or other means) to direct the financial and legal interests of the project owner.
  - Have a 51% or more interest of the general partner share in a limited partnership, or be the managing member of a Limited Liability Corporation (LLC), or have 51% or more of the membership shares of an LLC.
- HUD may allow ownership of a project to be transferred to a Low Income Housing Tax Credit (LIHTC) entity controlled by a for-profit entity to enable the use of LIHTC assistance, but only if HUD determines that the PHA preserves sufficient interest in the property. Preservation of a PHA's sufficient interest in a project using LIHTCs could include:
  - The PHA, or an affiliate under its sole control, being the sole general partner or managing member.
  - The PHA retaining fee ownership and leasing the real estate to the LIHTC entity as part of a long-term ground lease.
  - The PHA retaining control over project leasing, such as exclusively maintaining and administering the waiting list for the project, including performing eligibility determinations that comply with the PHA Plan.

- The PHA entering into a Control Agreement by which the PHA retains consent rights over certain acts of the owner (for example, disposition of the project, leasing, selecting the management agent, setting the operating budget, and making withdrawals from the reserves) and retaining certain rights over the project, such as administering the waiting list.

Resident protections and rights. The statute and the notice implementing the statute spell out a number of protections and rights for residents, including:

Displacement. Permanent involuntary displacement of current residents may not occur as a result of a project's conversion. If a household does not want to transition to PBV or PBRA, they may move to other public housing if an appropriate unit is available.

Tent Rent. Existing PBV and PBRA rules limit resident rent payment to 30% of income, or minimum rent, whichever is higher. Any rent increase of 10% or $25, whichever is greater, that is solely due to conversion is phased in over three to five years.

Rescreening. Current residents cannot be rescreened.

Right to Return. Residents temporarily relocated while rehabilitation is conducted have a right to return.

Renewing the Lease. PHAs must renew a resident's lease, unless there is "good cause" not to.

Grievance Process. The RAD statute requires tenants of converted properties to have the same grievance and lease termination rights they had under Section 6 of the Housing Act of 1937. For instance, PHAs must notify a resident of the PHA's reason for a proposed adverse action and of their right to an informal hearing assisted by a resident representative. Advocates think that HUD has not adequately implemented the statutory requirement.

Resident Involvement. Before submitting a RAD application to HUD, the PHA must notify residents and resident organizations of a project proposed for conversion. The PHA is not required to notify the Resident Advisory Board (RAB) or residents of other developments. The PHA must conduct two meetings with residents of the selected project to discuss conversion plans and to give those residents a chance to comment. Once there is preliminary HUD approval, the PHA must hold at least one more meeting with those residents.

RAD conversion is a "Significant Amendment" to the PHA Plan. However, HUD does not require a Significant Amendment process to begin until late in the conversion process, which could be as late as six months after HUD has issued a preliminary approval for RAD conversion of a specific development [called a Commitment to enter into a Housing Assistance Payment contract (CHAP)]. This is because HUD requires a PHA to have a letter from HUD approving a Significant Amendment when submitting a RAD Financing Plan. A Financing Plan is a document submitted to HUD demonstrating that the PHA has secured all necessary private financing needed to sustain the project for the term of the HAP contract. Financing Plans are due six months after HUD has issued a CHAP. Consequently, RAB involvement and the PHA-wide notice, broad public outreach, and public hearing required by the Significant Amendment regulations will not take place until the conversion application process is too far along. Rather than engage all PHA residents before an application for RAD conversion is submitted, the public engagement process is only required to take place close to the time when a PHA has all of its financing and construction plans approved and is ready to proceed.

A RAD conversion Significant Amendment must describe the units to be converted, including the number of bedrooms, bedroom distribution of units, and type of units (e.g., family, elderly, etc.). It must also indicate any waiting list preferences and indicate any change in the number of units or bedroom distribution of units, as well as any change in policies regarding eligibility, admission, selection, and occupancy of units.

Whether a property is converted to PBV or PBRA, each year the PHA must provide $25 per occupied unit at the property for tenant participation; of this amount, at least $15 per unit must be provided to the legitimate resident organization for resident education, organizing around tenancy issues, or training. If there is no legitimate resident organization, residents and PHAs are encouraged to form one. The PHA may use the remaining $10 per unit for resident participation activities; however, some PHAs distribute the entire $25 per unit to the resident organization.

Residents have the right to establish and operate a resident organization. If a property is converted to PBRA, then the current multifamily program's resident participation provisions apply, the so-called "Section 245" provisions. If a property is converted to PBV, instead of using public housing's so-called "Section 964" provisions, PIH Notice 2013-32 requires resident participation provisions similar to those of Section 245. For example, PHAs must recognize legitimate resident organizations and allow resident organizers to help residents establish and operate resident organizations. Resident organizers must be allowed to distribute leaflets and post information on bulletin boards, contact residents, help residents participate in the organization's activities, hold regular meetings, and respond to a PHA's request to increase rent, reduce utility allowances, or make major capital additions.

Properties converted to PBRA are no longer required to meet PHA Plan requirements.

In addition, PBRA residents can no longer be on the RAB, be a PHA commissioner, or be on a jurisdiction-wide resident council–unless the PHA voluntarily agrees.

One-for-One Replacement. Although PIH Notice 2013-32 does not use the term "one-for-one replacement," HUD's informal material says there will be one-for-one replacement. However, there are exceptions. PHAs can reduce the number of assisted units by up to 5% or 5 units, whichever is greater, without seeking HUD approval. HUD calls this the "de minimus" exception. Furthermore, RAD does not count against the 5%/5 unit de minimus: any unit that has been vacant for two or more years; any reconfigured units, such as efficiency units made into one-bedroom units; or, any units converted to use for social services. Consequently, the loss of units can be greater than 5%.

Choice Mobility. HUD states that one of the major objectives of RAD is to test the extent to which residents have greater housing choice after conversion. PHAs must provide all residents of converted units with the option to move with a regular Housing Choice Voucher (HCV). For PBV conversions, after one year of residency a tenant can request a HCV and one must be provided if available; if a voucher is not available, the resident gets priority on the waiting list. For PBRA, a resident has the right to move with a HCV, if one is available, after two years.

Limits on PBVs per Development. RAD limits to 50%, the number of units in a public housing development that can be converted to PBVs. However, the 50% cap can be exceeded if the other units are "exception units," those occupied by an elderly head of household or spouse, a disabled head of household or spouse, or a household with at least one member participating in a supportive service program.

A public housing household whose development is converted cannot be involuntarily displaced as a result of this 50% cap. In other words, any household living in a development at the time of RAD conversion that does not meet one of the exception criteria (e.g., elderly, disabled, supportive service) and does not want to move, cannot be terminated from PBV and cannot be required to move – even if they cause the development to exceed the 50% PBV + exception unit cap. However, once one of those original households (non-elderly, non-disabled, non-supportive services) leaves, causing the property to exceed the 50% PBV + exception unit cap, that unit can only be assisted with PBV if it is rented to a household that meets one of the three exception categories (supportive services, elderly, or disabled). What this means is that some PHAs might urge half of the households to move to other developments, if available–but, a resident's decision to relocate must be voluntary. It could also mean that for a development to be able to continue to use PBVs after current residents leave exception units, some developments might change in character. For example, a development mostly occupied by families might become 50% to 100% elderly.

Key Features of the Second Component. Owners of Mod Rehab properties have an alternative to the competitive process of the first RAD component. They may seek HUD permission to convert Enhanced Vouchers (EVs), which tenants are entitled to when a Mod Rehab contract expires, to PBVs. The second component enables owners of Rent Supp and RAP properties to choose to receive PBVs instead of tenant protection vouchers (TPVs) that would have been provided in response to a Rent Supp or RAP contract expiring or being terminated due to mortgage prepayment. As a result of the FY15 appropriations act, second component projects may now convert to PBRA as well.

Eligible properties are those with contracts that expired or terminated after October 1, 2006. The FY15 appropriations act eliminated the December 31, 2014, deadline, permanently extending the ability to convert under the second component. There is no limit to the number of units that may be converted under this component, and there is no competitive selection process.

Owners must notify residents of an intent to convert TPVs to PBVs. There must be a briefing to inform residents about the differences between PBVs, PBRAs, and EVs (for Mod Rehab) and TPVs (for Rent Supp and RAP), including different rights, potential impact on rent payments, and mobility provisions. Residents must be informed that they may remain in their unit with an EV or TPV and cannot be forced to move for rejecting a PBV or a PBRA. Residents must have an opportunity to comment at the briefing. HUD is expected to issue new guidance reflecting the FY15 change allowing conversion to PBRA.

FUNDING

RAD does not have any appropriated funds. The FY15 and FY16 Appropriations Acts did not include the administration's requested $10 million for targeted expansion of RAD to public housing properties that cannot feasibly convert at existing funding levels and are located in high-poverty neighborhoods.

FORECAST

The administration's FY17 budget request seeks several RAD changes. The request seeks to make Section 202 Project Rental Assistance Contract (PRAC) owners eligible to convert their subsidy stream under RAD. The request also seeks new RAD statutory language to ensure residents' right to continue their tenancy, by imposing the demonstration's prohibition on rescreening or termination of residents during redevelopment efforts on Rent Supp, Rental Assistance Payment, and Mod Rehab properties that convert under RAD. The president seeks $50 million in funding for RAD, to be targeted to PHAs and Section 202 PRAC owners to cover the incremental subsidy necessary for properties to feasibly convert.

TIPS FOR LOCAL SUCCESS

For residents of developments given preliminary or final RAD approval, make sure that the PHA or private, HUD-assisted housing owner is complying with all resident participation and protection provisions. Once HUD issues a formal RAD Conversion Commitment, the PHA must notify each household that the conversion has been approved, inform households of the specific rehabilitation or construction plan, and describe any impact conversion will have on them.

Be on the lookout for any substantial change in a conversion plan. A substantial change includes: a change in the number of assisted units, a major change in the scope of work, a transfer of assistance to a different property or owner, or a change in the eligibility or preferences for people applying to live at the property. If there is a substantial change in the conversion plan, the PHA must have additional meetings with the residents of the converting property and carry out the PHA Plan Significant Amendment process with the RAB, all PHA residents, and hold a public hearing.

For public housing residents at PHAs with RAD projects that are still in process or for those with projects on the waiting list, seek to get commitments from the PHA and any developers working with the PHA to keep residents fully informed throughout the process. Reports from residents at PHAs that are among the first PHAs gaining preliminary approval from HUD to convert under RAD indicate that their PHAs, developers, and local HUD offices do not provide residents with sufficient information. Make sure you fully understand the differences between PBVs and PBRAs so that you can influence the option best for you.

WHAT TO SAY TO LEGISLATORS

Ask Members of Congress to ensure that HUD, as required by statute, prepares, conducts, and publishes an assessment of the impact of conversion on public housing residents to ensure that further conversions do not adversely impact residents. Did residents have a genuine role during and after conversion? Were residents evicted just prior to conversion? Was every resident household that wanted to remain after conversion able to remain? Was there inappropriate re-screening? Are Section 6 resident protections, such as grievance procedures, being fully honored? Are residents of converted properties able to participate on resident councils and RABs? Is there compliance with the one-for-one replacement requirement? Are PHAs truly owning or controlling converted properties? Are conversions to PBRA consuming too many scarce tenant protection vouchers at the expense of other tenant protection voucher needs?

FOR MORE INFORMATION

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

NLIHC's "RAD: Key Features for Public Housing Residents," http://nlihc.org/sites/default/files/FactSheet_RAD_2015.pdf

National Housing Law Project's RAD resource webpage, http://nhlp.org/RAD

National Housing Law Project/American Federation of State, County, and Municipal Employees RAD-Watch.org, http://www.rad-watch.org

HUD's RAD website, http://portal.hud.gov/hudportal/HUD?src=/RAD

HUD's RAD Frequently Asked Questions addresses many detailed issues, http://www.radresource.net ■

Project-Based Rental Assistance

By Staff of the National Housing Trust

Administering agency: HUD's Office of Multifamily Housing Programs and Office of Recapitalization

Years started: 1961–Section 221(d)(3) Below Market Interest Rate (BMIR); 1963 – USDA Section 515; 1965–Section 101 Rent Supplement; 1968 – Section 236; 1974 – Project-Based Section 8, and Rental Assistance Payments program; 1978 – Section 8 Moderate Rehabilitation program.

Number of persons/households served: 1.5 million

Population targeted: Extremely low to moderate income households

FY 2016 funding: $10.6 billion

See also: USDA Rural Housing, Tenant Protection Vouchers, Project-Based Vouchers

Project-based housing is a category of federally assisted housing produced through a public-private partnership to build and maintain affordable rental housing for low income households. HUD has provided private owners of multifamily housing either a long-term project-based rental assistance contract, a subsidized mortgage, or in some cases both, to make units affordable. Project-based assistance is fixed to a property.

This stock of affordable housing is in danger of being permanently lost as a result of owners opting out, physical deterioration of a property, or maturing mortgages ending use restrictions. When owners "opts out" of the HUD project-based assistance program, they may convert their properties to market-rate rental buildings or condominiums. Recently, HUD has taken a number of actions to encourage the preservation of those properties.

HISTORY AND PROGRAM SUMMARY

From 1965 to the mid-1980s, HUD played an essential role in creating affordable rental homes by providing financial incentives such as below-market interest rate loans, interest rate subsidies, or project-based Section 8 contracts. Currently, no additional units are being produced through those programs.

Initially, project-based assistance was provided through the Federal Housing Administration (FHA) in the form of a mortgage subsidy. Mortgage subsidies reduced the cost of developing rental housing; in return, HUD required owners to agree to use restrictions that limit contract rents and limit occupancy to households meeting a program's income limits. These programs did not provide the direct rental assistance needed in order to be affordable to extremely low or very low income households.

The Section 221(d)(3) Below Market Interest Rate (BMIR) mortgage insurance program, created by the National Housing Act of 1961, enabled HUD to purchase below-market loans made by private lenders. In 1968, the Section 221(d)(3) BMIR program was replaced by the Section 236 program, which combined FHA mortgage insurance on private loans with an interest rate subsidy to effectively lower the mortgage interest rate to 1%. Owners of Section 221(d)(3) BMIR and Section 236 properties were required to make units available to low and moderate income families at HUD-approved rents for the term of their 40-year mortgages. More than 600,000 units of affordable housing were built under those two programs. Some, but not all, subsidized mortgage properties also have project-based rental assistance from the Section 8 program.

In 1974, Section 236 was replaced by the Section 8 New Construction and Substantial Rehabilitation program, now known as the project-based Section 8 program. HUD entered into 20- to 40-year contracts with private owners to serve low income tenants. More than 800,000 units were developed from 1974 to 1983, when authorization for new construction was repealed.

There are three other smaller programs that still have units associated with them. Those programs are sometimes referred to as the "orphan" programs. In addition to mortgage subsidies, HUD provided rental assistance payments to owners for some tenants of Section 221(d)(3) BMIR and Section 236 insured properties through several programs.

The Section 101 Rent Supplement program (Rent Supp) was authorized by the Housing and Urban Development Act of 1965. Many of those properties received Loan Management Set-Aside (LMSA) Section 8 contracts due to rapidly rising operating costs in the mid-1970s. Currently, there are 24 active Rent Supp contracts covering 1,810 units.

Some Section 236 properties were provided additional rental assistance through the Rental Assistance Payments (RAP) program, authorized by the Housing and Community Development Act of 1974. RAP payments were made to owners on behalf of very low income tenants unable to afford the basic rent with 30% of their income. RAP reduces tenant payment for rent to 10% of gross income, 30% of adjusted income, or the designated portion of welfare assistance, whichever is greater. Most RAP contracts converted to Section 8 LMSA contracts. Currently there are 85 active RAP contracts covering 7,850 units.

Another form of rental assistance is the Section 8 Moderate Rehabilitation (Mod Rehab) program, designed in 1978 to stimulate moderate levels of rehabilitation to preserve affordable housing. Mod Rehab provides project-based rental assistance for low and very low income residents, but unlike other project-based Section 8 programs, the agreement is between the owner and a local public housing agency (PHA). Like project-based Section 8, residents pay 30% of adjusted income for rent while rental assistance pays the balance. The program was repealed in 1991 and no new projects are authorized for development. There are 20,515 Mod Rehab units in 2016.

The Office of Rural Development at the U.S. Department of Agriculture (USDA) administers two rental housing programs, Section 515 and Section 521. The Section 515 program provided subsidized mortgage loans that developed more than 550,000 rental units for very low to moderate income households. Started in 1963, budget cuts reduced production dramatically after 1979. The stock of Section 515 units has been dwindling due to mortgage prepayment and deteriorating physical conditions. The Section 521 program is a project-based subsidy available for Section 515 projects (as well as Section 514/516 farm worker projects) that subsidizes the difference between the contract rent and a tenant rent payment of 30% of income.

ISSUE SUMMARY

Today, nearly 1.2 million households live in homes with project-based rental assistance. Fifty-six percent of these households include someone who is disabled or elderly. The average household income is less than $12,000. Another 300,000 households live in homes with one of the other forms of project-based assistance, but without rental assistance.

For project-based Section 8 rental assistance, HUD enters into Housing Assistance Payment (HAP) contracts with owners. These contracts can be renewed in 1-, 5-, or 20-year increments. However, funding for the contracts is provided 12 months at a time. Tenants pay 30% of their monthly adjusted income for rent and utilities, and HUD pays the owner the difference between the contract rent and the tenant's portion. The average monthly subsidy per unit in 2011 was $665. New residents in project-based Section 8 units can have income of no more than 80% of the area median income (AMI), with 40% of new admissions required to have incomes below 30% of AMI.

New residents of Section 221(d)(3) BMIR properties can have incomes up to 95% of AMI, although those in Section 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.

Although no new units are being constructed, the challenge today is ensuring that federally assisted affordable housing is not permanently lost, either through physical deterioration, or as a result of properties being converted to non-affordable uses, such as high-rent units or condominiums, when a HUD-subsidized mortgage is either prepaid or matures, or when an owner decides not to renew an expiring project-based Section 8 contract.

There are several specific conversion risks for rental housing with project-based assistance.

Mortgage Prepayment. Although Section 236 and Section 221(d)(3) BMIR mortgages originally had 40-year terms, program regulations allowed most for-profit owners to prepay their mortgages after 20 years. By prepaying, in most cases owners may terminate income and rent restrictions and any Section 8 rent subsidy. Owners must give tenants at least 150 days advance notice of an intention to prepay. Upon prepayment, tenants are eligible

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for Tenant Protection Vouchers (TPVs), or in some cases an enhanced voucher, that allows a tenant to either remain in the property or find new affordable rental housing with the voucher assistance.

Maturing Mortgages. Tens of thousands of low income families face escalating rents if affordability protections are not extended for properties with maturing Section 236 and Section 221(d)(3) BMIR mortgages. Residents living in apartments with affordability protections but without project-based Section 8 contracts do not currently qualify for enhanced vouchers or other rental assistance when the HUD-subsidized mortgage expires. The National Housing Trust estimates that over the course of the next five years, 69,000 households are at risk of rent increases or displacement because HUD-subsidized mortgages have recently matured or are due to mature.

Expiring Project-Based Section 8 Assistance Contracts. When project-based Section 8 contracts expire, owners may choose to opt out of their contracts, enabling them to increase rents to market levels or to convert units to market-rate condominiums, thereby rendering apartments unaffordable to lower income tenants. Owners must give tenants one year advance notice of intent to opt out. Most tenants will receive enhanced vouchers to enable them to remain in their homes. According to the Urban Institute, of the approximately 1.34 million active PBRA units, *more than 446,000 units (33%) are at risk* of losing their affordability status, according to calculations from the National Housing Preservation Database. Of the PBRA units currently at risk, the majority (397,000 units) are so because of contracts that expire within the next 24 months.

Enhanced Vouchers. Special voucher assistance is provided to tenants who would otherwise be displaced due to rising rents or condo conversion if an owner prepays a Section 221(d)(3) BMIR or Section 236 mortgage, or if an owner opts out of a project-based Section 8 contract. HUD is required by statute to provide enhanced tenant-based vouchers to tenants in such properties in order to enable them to afford to remain in their homes. Enhanced vouchers pay the difference between 30% of the tenant's income and the new rent, even if that rent is higher than the PHA's payment standard. Tenants have a right to remain in their apartments after conversion to market rents. Owners must accept enhanced vouchers. If a tenant with an enhanced voucher moves to another property, the enhanced voucher converts to a regular voucher and the unit they occupied is no longer affordable to any lower income household.

Mark-to-Market and Mark-Up-to-Market. Some FHA-insured properties with expiring project-based Section 8 contracts have rents that exceed market rents. Upon contract renewal, HUD is required to reduce rents to market level, creating a cash crunch for those 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. Owners of eligible properties must either go through the Mark-to-Market program, or opt out. In the Mark-to-Market program, an owner has two options:

- To choose to have the mortgage restructured in order to be able to afford to operate and maintain the property with lower, market rents. In exchange for this mortgage restructuring, an owner agrees to accept Section 8 rent subsidies for an additional 30 years.
- To choose to renew the Section 8 contract for one year with Section 8 rents reduced to market without undergoing a mortgage restructuring.
- HUD is also able to raise contract rents to market levels upon contract renewal for properties in high-cost areas through the Mark-Up-to-Market program. Contract renewals of at least five years are required in Mark-Up-to-Market. This provides a needed incentive for owners to renew their participation in the Section 8 program when private-sector rents are high. This also provides a source of revenue for capital improvements.

Troubled Properties. HUD multifamily properties may be at risk when a property is in poor financial or physical condition. An owner in default on a HUD-assisted mortgage could result in termination of the Section 8 subsidy through HUD's foreclosure and property disposition process. Since 2005, however, Congress has used appropriations acts to renew the so-called Schumer Amendment. The provision requires HUD to maintain a project-based Section 8 contract at foreclosure or disposition sale as long as the property is in viable condition. If not viable, HUD can, after consulting tenants, transfer the Section 8 subsidy to another property.

Another risk is that of HUD terminating a Section 8 contract mid-term or refusing to renew the Section 8 contract if there is a serious violation of the terms of the Section 8 Housing Assistance Payment contract. Appropriations act provisions since FY06 have allowed HUD to transfer project-based assistance, debt, and use restrictions from properties that are physically obsolete or not financially viable to another project. Residents must be notified and consulted.

Rental Assistance Demonstration. Through the Rental Assistance Demonstration (RAD) program, HUD may convert expiring Rent Supp or RAP contracts to a long-term project-based voucher (PBV) contract. Currently, Rent Supp and RAP contracts can only be extended for a one-year term, making it difficult to finance a rehabilitation project. By allowing owners to convert to a longer-term PBV contract, the affordability of the apartments will be maintained and owners will be able to finance recapitalization projects.

Provisions of FY 2016 Appropriations Act. The FY16 Appropriations Act had five key provisions affecting project-based programs:

1. RAD is extended into the future, without raising the cap beyond the current level of 185,000 units.
2. $5 million was set aside within the public housing TPV account to provide TPVs or enhanced vouchers to at-risk tenants living in buildings with expiring HUD-insured mortgages (e.g., Rent Supp) or expiring RAP contracts that do not qualify tenants for enhanced vouchers. Tenants would have to be in jeopardy of paying more than 30% of income for rent in properties located in low-vacancy areas. These vouchers could also be project-based.
3. The Schumer Amendment was renewed for FY16, generally requiring HUD to preserve project-based contracts on troubled properties before or during the foreclosure process, canceling HUD's prior policy of automatically terminating contracts. This provision also requires HUD to notify tenants and obtain their consent before HUD abates a contract and relocates tenants for imminent health and safety threats.
4. Section 8 transfer authority is renewed, allowing HUD to transfer a Section 8 contract, debt, and use restrictions from a financially troubled or physically obsolete building to another building or buildings. This provision allows transfers to be completed in phases, and permits the number of units in the receiving property to be fewer than in the original if those units were unoccupied and the reconfiguration is justified by current market conditions.
5. HUD is required to take affirmative steps to address physically troubled properties. For properties that fail required inspections multiple times, HUD is required to take an action that could result in a new owner of the property, new property management, or transfer of the project-based rental assistance contract to another property or site. The language encourages HUD to preserve the rental assistance contract while also removing non-responsive owners from the program.

HUD PRESERVATION ACTION

In 2015, HUD encouraged the preservation of the existing multifamily housing stock through several important regulatory actions. First, the department issued Notice HUD 2015-07, announcing the availability of up to $7 million for TPVs for certain at-risk households in low vacancy areas for FY15. In addition, HUD published a notice establishing the terms and conditions by which the department will approve a request for the transfer of PBRA, debt held or insured by HUD, and statutorily required income-based use restrictions from one multifamily housing project to another, or between several such projects. HUD issued guidance for the PBV program (PIH-2015-05), related to reporting and data collection, calculation of the 20% PHA-wide limit, and procedures for PBVs in PHA-owned units. HUD also released a revised RAD housing notice, incorporating changes authorized by the FY 2015 appropriations bill. It raises the cap on public housing conversions, provides for more streamlined transactions, and provides additional clarification for stakeholders. Finally, HUD published a revised Section 8 Renewal Guide and a proposed rule revising the department's previous participation reviews, also known as HUD Form 2530.

TIPS FOR LOCAL SUCCESS

Preservation of affordable rental housing is usually undertaken by preservation mission developers, often regional or national nonprofits. The most successful local efforts include early identification of properties at risk of conversion, as well as active partnerships with tenants, local HUD officials, state and local housing officials, and lenders and investors with a shared commitment to preserving affordable rental housing.

Subsidized multifamily rental housing can be at risk of leaving the affordable housing stock for any number of reasons, such as an owner's intent to prepay a subsidized mortgage or not renew a project-based rental subsidy contract, or uninhabitable living conditions prompting a HUD foreclosure.

Having a local database of subsidized multifamily rental housing is an essential tool for preserving assisted housing in a community because it provides an inventory of properties available to low income households, their location, and factors threatening the affordability of each project.

Many projects benefit from multiple layers of subsidy. HUD makes data on specific affordable housing programs available to the public, but nowhere does HUD combine these files into one database that counts each subsidized project only once and associates it with all of the subsidies that make it affordable to low income households. NLIHC has a publication that spells out how to create an easy-to-use database. See Chapter 5 of *The Preservation Guide*, located at: http://nlihc.org/library/other/preservation/guides/2010

NLIHC and the Public and Affordable Housing Research Corporation created the National Housing Preservation Database, a tool for preserving the nation's affordable rental housing. It provides integrated information on all housing subsidies for each federally subsidized project. It also enables advocates and researchers to easily quantify the supply of federally assisted affordable housing in any geographic area, while at the same time establishing a baseline of subsidized affordable units against which future levels can be measured. The database is at: http://www.preservationdatabase.org.

WHAT TO SAY TO LEGISLATORS

Advocates should urge legislators to provide sufficient funding to renew all project-based Section 8 contracts for a full 12 months in FY17.

Members of Congress should be asked to support preservation features of the RAD program and improvements to the project-based voucher program to allow housing authorities, developers, and owners to preserve the existing housing stock. In addition, advocates should urge reintroduction of broad legislation to preserve assisted housing that would:

- Provide grants and loans to for-profit and nonprofit housing sponsors to help ensure that properties can be recapitalized and kept affordable.
- Allow owners to request project-based assistance in lieu of enhanced vouchers.
- Protect the rights of states to enact preservation and tenant protection laws that will not be preempted by federal law.
- Ensure data needed to preserve housing are publicly available and regularly updated, and allow for the creation of a single database for all federally assisted properties based on a unique identifier for each property.
- Authorize rural housing preservation program for Rural Development Section 515 properties.

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, 415-546-7000, www.nhlp.org

National Alliance of HUD Tenants, 617-267-9564, www.saveourhomes.org

HUD Notice H 2013-3, http://1.usa.gov/VAXMZ6 ■

202 Supportive Housing for the Elderly

By Alayna Waldrum, Affordable Senior Housing Consultant, B'nai B'rith International

Administering agency: HUD's Office of Housing Assistance and Grant Administration within the Office of Multifamily Housing Programs

Year program started: 1959

Number of persons/households served: 400,000 households

Population targeted: People over the age of 62 with very low income (below 50% of area median income)

FY15 funding: $420 million, including $70 million to renew existing service coordinator grants

Also see: *Services for Residents of Low Income Housing*

The Section 202 Supportive Housing for the Elderly program provides funding to nonprofit organizations that have developed and operate housing for seniors with very low incomes. Unfortunately, in the FY12 Congress eliminated the Section 202 Capital Advance Program to fund the development of new units. As the U.S. population ages, the preservation of existing Section 202 units will be critically important.

There are three current issues related to the Section 202 program: a rental assistance-only demonstration authorized in the FY14 omnibus bill; a lack of funding for the construction of new affordable and supportive senior housing when there is a growing demand for units, and; the preservation of senior housing.

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. 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. In 1991 the Section 202 program was converted to a capital advance grant with a project rental assistance contract for operational expenses, known as Section 202 PRAC.

According to HUD, senior households with very low incomes are the most likely to pay more than they can afford for their housing. The 2011 HUD study of worst case housing needs found that the number of senior renter households with worst case housing needs is 1.47 million, out of the estimated 8.48 million households with worst case housing needs.

PROGRAM SUMMARY

The Section 202 Supportive Housing for the Elderly program provides funds to nonprofit organizations, known as sponsors, to develop and operate senior housing. Many Section 202 project sponsors are faith-based or fraternal organizations.

Section 202 tenants generally must be at least 62 years old and have income less than 50% of the 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. There are more than 400,000 Section 202 units serving very low income seniors.

The Section 202 PRAC has two main components: a capital advance that covers expenses related to housing construction, and operating assistance that supports a building's 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), although the Capital Advance program has not been funded since FY11.

Capital funding. The first component of the Section 202 program provides capital advance

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funds to nonprofits for the construction, rehabilitation, or acquisition of supportive housing for seniors. These funds can now be augmented by Low Income Housing Tax Credit (LIHTC) debt and equity to either build additional units or supplement the capital advance as gap financing in so-called mixed-finance transactions. Congress must restore the Capital Advance program to address the growing need.

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.

In addition to the core components of the Section 202 program, HUD administers three complimentary programs that have been established by Congress to help meet the needs of seniors aging in place:

1. Service coordinators grant program to fund staff in Section 202 buildings to help residents to age in place. About a third of Section 202 properties have a service coordinator funded as part of the Section 202 appropriation. 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.
2. Section 202 Demonstration Program to test the effectiveness of housing and services models. Although funding for this demonstration has not been released HUD, has been working closely with stakeholders on a model for the NOFA.
3. Senior Preservation Rental Assistance Contract (SPRAC), which was created to provide rental assistance for the pre-1974 Section 202 properties, has its renewals funded out of the project-based assistance account.

FUNDING

In FY16, Congress appropriated $432.7 million for Section 202, again providing no new funding for new construction. Congress did provide funding for PRAC renewals and $77 million for service coordinators. In addition, Congress included the estimated $16 million the Senior Preservation Rental Assistance Contracts (SPRAC) renewals in the Section 202 account.

Fortunately Congress did not rescind the Section 202 demonstration program that was funded in FY14, despite pressure to reallocate those dollars. A NOFA for the Section 202 demonstration program, to demonstrate the benefits and effectiveness of supportive services through enhanced service coordinator positions and wellness nurses, has since been released.

FORECAST

The Administration's FY17 budget request to Congress seeks $505 million total for the Section 202 account, including $75 million for service coordinators grants - a $2 million cut. The Service Coordinator program will not have enough to fund all grant renewals. The Administration proposed continued funding of SPRAC renewals under the account and making Section 202 PRAC properties eligible for the Rental Assistance Demonstration (RAD).

The future of the Section 202 Program may rest heavily on the anticipated economic benefits of the program based on the results of the housing and services demonstration. The overall goal for the program is continued funding to support housing and services, and restoration of the capital advance program to develop new units necessary to meet the growing need. An ongoing need for the program is creation of a preservation strategy for Section 202 PRAC properties, which do not have sufficient funding in their operating budgets to accommodate debt service.

New Section 202 units. American's seniors face a severe housing crisis. The National Alliance to End Homelessness predicts the elderly homeless population will increase by 33 percent by 2020 and more than double by 2050. Three and a half million elders live below the poverty level. A recent study by the U.S. Department of Housing and Urban Development (HUD) found that worst case needs affected 1.47 million elderly households who were paying more than half of their income for rent. There are still 10 seniors on the waiting list for every Section 202 unit that becomes available, according to AARP. And the population of people aged 65 and over will double by 2030. In the face of this documented and growing demand for affordable housing for elders, federal spending on affordable housing development is essential. We must develop sustainable and replicable models of affordable housing with short-term and long-term supports and services within and/or in partnership with outside providers to meet the growing needs of seniors. These communities can serve as a platform for the successful delivery of home- and community-based services and help to delay elders' entry into nursing homes or other expensive care settings.

Future of the Section 202 Program. The Administration has proposed "reforming" the Section 202 program in order to better understand the benefits of the housing and services model. The proposed demonstration must establish measurable criteria to shape the future of the program and maximize efficiencies for this program and for the services that compliment aging in place. In addition, restored funding is needed for Assisted Living Conversion Program to convert existing 202 housing into either licensed assisted living or service-enriched housing where possible to increase opportunities for frail seniors to remain in housing, and for the emergency capital repair program.

Section 202 Preservation. Those currently residing in assisted senior housing are aging in place. Just as the residents age, the buildings themselves 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 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 and few properties have project-based rental assistance contracts. Some mortgages have been refinanced and some properties have already been sold out of the inventory. HUD has only released one round of SPRAC awards to some of these properties, but additional funding is needed. Congress and HUD must make preservation of Section 202 properties easier to accomplish. Additional strategies are needed to help preserve all Section 202 properties 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 for existing for-profit owners to sell 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 program including full PRAC renewals.
- Provide $91 million for the Section 202 Service Coordinator program to fund all existing grant renewals and provide new grants to Section 202 properties.
- Support the Section 202 program as a platform for the delivery of supportive services and make sure all buildings have the necessary staff to assist seniors aging in place.
- Support the restoration of the capital advance program to increase the number of affordable, supportive units available to low-income seniors across the country.
- Provide sufficient renewal funding for all Project-Based Section 8 contracts, including the Section 202/8 properties.
- Include funding for an advance appropriation for Project-Based Section 8 and Section 202 PRAC renewal accounts to preserve affordable senior housing and minimize funding disruption.
- Develop a strategy, legislation, and funding to rehab the early Section 202 PRAC properties that need physical upgrades and modernization.

FOR MORE INFORMATION

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http://www.bnaibrith.org ■

Supportive Housing for Persons with Disabilities Program

By Gina Schaak, Senior Associate, and Lisa Sloane, Senior Policy Advisor, Technical Assistance Collaborative

Administering agency: HUD's Office of Assets Management and Portfolio Development

Year program started: 1992 (previous to this Section 811 was part of the Section 202 program)

Numbers of persons/households served: An estimated 24,500 households

Population targeted: Persons ages 18-61 who are extremely or very-low income, and have significant and long-term disabilities

FY16 funding: $151 million for renewals only

Also see: *Olmstead Implementation*

The Section 811 Supportive Housing for Persons with Disabilities is a federal program that assists the lowest income people with the most significant and long-term disabilities to live independently in the community by providing affordable housing linked with voluntary services and supports. Congress passed major reforms to the Section 811 program in 2010. The reforms are creating thousands of new, highly integrated Section 811 units more efficiently, beginning with an innovative and competitive Section 811 Project Rental Assistance (PRA) program made available by HUD through state housing agencies in FY12 and FY13 Notices of Funding Availability (NOFAs). The PRA NOFAs are intended to identify, stimulate, and support innovative state-level partnerships and strategies to substantially increase integrated permanent supportive housing opportunities. Forty-three of the 50 states plus the District of Columbia (D.C.) submitted applications in response to the FY12 and/or FY13 NOFA[1], a very high response rate for this innovative and supportive housing funding approach.

HISTORY

Over the course of the past two decades, the Section 811 program created more than 24,500 new supportive housing units, primarily through the development of group homes and independent living projects, under regulations and guidelines developed in the early 1990s. Since that time, judicial decisions have affirmed important community integration mandates in the Americans with Disabilities Act (ADA), and national disability housing and services policies have evolved significantly to emphasize consumer choice, Medicaid-financed community-based services, and integrated housing opportunities. For many years, the Section 811 program did not keep pace with these improvements in disability policy. Demand for the program steadily declined, while the cost per unit from Section 811's capital-intensive model increased. In 2007, with less than 1,000 new units of Section 811 housing produced annually, national disability advocates began a successful three-year legislative campaign to reform, improve, and reinvigorate this important permanent supportive housing program. The Frank Melville Supportive Housing Investment Act of 2010—the Section 811 reform legislation signed into law by President Barack Obama in early 2011—honors the memory of Frank Melville, who was the first chair of the Melville Charitable Trust and a national leader in the supportive housing movement.

PROGRAM SUMMARY

The Section 811 Program includes two different components: the Capital Advance/PRA Contract, including a new multi-family integrated housing option, and the PRA Program. As Congress directed that all FY12, FY13, and FY14 funding for new Section 811 units be provided solely through the PRA option, the remainder of this article focuses on the PRA program. Advocates seeking additional information about the other Section 811 options are directed to HUD's webpage at http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/grants/section811ptl.

The Section 811 PRA program facilitates the creation of cost effective and integrated supportive housing units for extremely low-income people with disabilities.

1 The FY13 NOFA included funds appropriated in FY13 and FY14.

- Affordability: The Section 811 PRA program is targeted to non-elderly people with disabilities and extremely low incomes, at or below 30% of AMI. The PRA program provides housing affordability by ensuring that tenants pay no more than 30% of their adjusted income for rent.
- Cost-effective: The statute requires that the PRA Program leverage capital from other sources such as the federal Low Income Housing Tax Credit (LIHTC) program, the Home Investment Partnerships (HOME program, or similar federal, state or local capital financing programs.
- Integrated: No more than 25% of the units in a development receiving PRA funds may be targeted specifically for people with disabilities. This ensures that people with disabilities living in PRA units will have the opportunity to live in affordable rental properties alongside people who do not have disabilities.
- Voluntary Services: States are required to make appropriate services available to PRA tenants. PRA tenants, however, are not required to accept or use services except on a voluntary basis.

Section 811 PRA funds are awarded by HUD to state housing agencies through a competitive NOFA process. To apply for Section 811 PRA funds, the state housing agency is required to enter into an agreement with the state health and human services agency and, if separate, the state's Medicaid agency. The agreement must identify the target population(s) to be assisted, the outreach and referral process for the Section 811 PRA units, and commitments of appropriate supportive services for Section 811 PRA tenants.

The state housing agencies select properties to participate in the PRA Program. Properties may be new construction or existing properties. Once selected, the owner will sign a Rental Assistance Contract (RAC) which includes an agreement to maintain the units for extremely low-income persons with disabilities for 30 years.

FUNDING

In May 2012, HUD published the first Section 811 PRA NOFA, announcing a demonstration to create an estimated 2,800 new integrated supportive housing units. By the August deadline, HUD had received applications from 35 states and the District of Columbia. In February 2013, HUD announced PRA demonstration awards totaling $98 million for the development of 3,006 units to the state housing finance agencies in California, Delaware, Georgia, Illinois, Louisiana, Massachusetts, Maryland, Minnesota, Montana, North Carolina, Pennsylvania, Texas, and Washington.

In March 2014, HUD published the second NOFA for the Section 811 PRA program, and, in early 2015, HUD announced PRA awards in the amount of $150 million in 24 states plus the District of Columbia. Of the 43 states who have applied for Section 811 PRA program funding in the NOFAs, 29 (or 57% of states and the District of Columbia) will now be administering the program, with more than 7,500 units total anticipated.

States have demonstrated a high degree of interest in the PRA Program; 86% of the states plus the District of Columbia submitted applications in response to the FY12 and/or FY13 NOFAs.

FORECAST

In addition to renewal funds, national disability advocates will be advocating for $250 million in the FY17 Budget for expansion of the Section 811 PRA Program to address the critical need for community-based, affordable PSH for persons with significant disabilities and build on HUD's successful implementation of the PRA model. This request is in line with the amounts HUD made available in their FY12 and FY13 PRA NOFAs. Affordable housing advocates are encouraged to support this request of $250 million in FY17 for new PRA units.

TIPS FOR LOCAL SUCCESS

Advocates in states receiving Section 811 PRA funds from the FY12 and FY13 competitions should work with state officials to support the implementation of the demonstration. Advocates in states that did not apply for funds in FY12 or FY13 should educate state leaders, local agencies, and organizations on the new PRA option to encourage a successful application for funds in future rounds. At the state level, activities should focus on state housing agencies, state Medicaid, and state health and human service agencies. Nonprofit and for-profit developers that frequently use federal LIHTC and HOME funds should also be made aware of this new opportunity to assist people with disabilities. The PRA option is modeled after successful, innovative, integrated, supportive housing initiatives underway in several states, including Louisiana, Illinois, Pennsylvania, and Massachusetts. Efforts in these states have resulted in thousands of new and integrated permanent supportive housing units being created by nonprofit and for-profit affordable housing developers.

WHAT TO SAY TO LEGISLATORS

Advocates are encouraged to contact their Members of Congress with the message that people with disabilities continue to be the poorest people in the nation. Nearly five million non-elderly adults with significant and long-term disabilities have Supplemental Security Income levels equal to only 20% of AMI and cannot afford housing in the community without federal housing assistance. Because of this housing crisis, many of the most vulnerable people with disabilities live unnecessarily in costly nursing homes, in seriously substandard facilities that may violate the ADA, or they may become homeless. The Section 811 PRA Program can help government reach its goals of ending homelessness and minimizing the number of persons living in costly institutions. National disability advocates are requesting $250 million for expansion of the Section 811 PRA Program in FY17. Affordable housing advocates are encouraged to support this request. These funds will provide states with the flexibility to create new and more cost-effective permanent supportive housing options to help highly vulnerable people with disabilities live successfully in the community with supports, while also reducing reliance on expensive and unnecessarily restrictive settings.

FOR MORE INFORMATION

Technical Assistance Collaborative, 617-266-5657, www.tacinc.org ■

USDA Rural Rental Housing Programs

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

Administering agency: U.S. Department of Agriculture (USDA)

Year program started: Section 515 – 1963; Section 514 – 1962; Section 516 – 1966; Section 521 – 1978

Number of households served: Section 515 – 533,000; Section 514/516 – 38,000; Section 521 – currently 273,000; Section 542 – currently 4,460

Population targeted: Section 515 – very low, low, and moderate income households; Section 514/516 – farm workers

FY16 funding: Section 515 – $28.4 million; Section 514 - $23.9 million; Section 516 – $8.3 million; Section 521 – $1.39 billion; MPR – $22 million; Section 542 – $15

The U.S. Department of Agriculture's (USDA's) Rural Development (RD) arm runs several rental housing programs (and homeownership programs) through its Rural Housing Service. USDA makes loans to developers of rental housing for elderly persons and families through the Section 515 program, and for farm workers through the Section 514 program (usually used in combination with Section 516 grants). It provides project-based rental assistance to some of the properties it finances through the Section 521 Rental Assistance (RA) program. It also offers several tools to preserve the affordability of USDA-financed rentals.

The programs face serious problems, however. Production of new units has greatly decreased, many existing units are deteriorating physically or are in danger of leaving the affordable housing stock, and rental assistance costs are growing faster than available funding.

HISTORY AND PURPOSE

In operation since the 1960s, the Section 515 Rural Rental Housing program and the Section 514/516 Farm Labor Housing program have provided essential, decent housing for the lowest income rural residents. Section 521 Rental Assistance is available for some units in Section 515 and 514/516 housing, to keep rents at or under 30% of tenant incomes.

While dramatic improvements have been made in rural housing quality over the last few decades, problems persist. Many of rural America's 65 million residents experience acute housing problems that are often overlooked while public attention is focused on big-city housing issues. Farm workers, especially those who move from place to place to find work, suffer some of the worst, yet least visible, housing conditions in the country.

Nearly 30% of rural households experience at least one major housing problem, such as 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 southern Black Belt, the *colonias* along the U.S.-Mexico border, Central Appalachia, and among farm workers and Native Americans.

Forty-seven percent of rural renters are cost burdened, paying more than 30% of their income for their housing, and nearly half of them pay more than 50% of their income for housing. More than half of the rural households living with multiple problems, like affordability, physical inadequacies, or overcrowding, are renters.

PROGRAM SUMMARY

Under the Section 515 program, USDA RD makes direct loans to developers to finance affordable multifamily rental housing for very low income, low income, and moderate income families, for elderly people, and for persons with disabilities. Section 515 loans have an interest rate of 1%, amortized over 50 years, to finance modest rental or cooperatively-owned housing.

The Section 514 farm worker housing program also makes direct loans; they have a 1% interest rate for 33 year terms. Some Section 514 borrowers, such as nonprofits, are also eligible for Section 516 grants.

Sections 515 and 514/516 funds can be used for new construction as well as for the rehabilitation of existing properties. Funds may also be used to buy and improve land, and to provide necessary facilities such as water and waste disposal systems. However, no new rental properties have been developed under Section 515 since 2011; the program's entire appropriation for the last few years has been used to preserve existing units.

Very low, low, and moderate income households are eligible to live in Section 515-financed housing. Section 514/516 tenants must receive a substantial portion of their incomes from farm labor. Residents' incomes average about $12,700 per year. The vast majority (93%) of Section 515 tenants have incomes less than 50% of area median income. More than half of the assisted households are headed by elderly people or people with disabilities.

Section 514/516 loans are made available on a competitive basis each year, using a national Notice of Funding Availability (NOFA). Beginning in FY12, USDA has not issued NOFAs for Section 515 loans; instead, it has used all of its Section 515 funds for preservation purposes.

Preservation. To avoid losing affordable housing, preservation of existing affordable units is essential. Three factors pose challenges for preserving units in developments whose owners are still making payments on Section 515 or 514 mortgages.

First, many Section 515 and 514 mortgages are nearing the end of their terms. More than 11,500 properties will be able to pay off their mortgages by 2025. Since USDA Section 521 Rental Assistance (RA) is available only while USDA financing is in place, when a USDA mortgage is fully paid off the property also loses its Rental Assistance. USDA can offer Section 542 vouchers for tenants when a mortgage is prepaid, but not when a mortgage matures. Advocates are exploring ways to protect tenants when USDA mortgages mature. Possibilities include offering new or reamortized USDA mortgages so that RA can continue; providing vouchers; or "decoupling" RA from USDA mortgages so RA can continue even when a mortgage has been paid in full.

Second, many Section 515 properties are aging and must be preserved against physical deterioration. The most recent data available is from a 2004 Comprehensive Property Assessment (CPA) prepared for USDA by a team of consultants, which 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 that 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 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.

Third, every year some property owners request permission to prepay their mortgages – pay them off before their terms end – and thus remove 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 on 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 who rejects the offered incentives must offer the project for sale to a nonprofit or public agency. If an owner does prepay, tenants become eligible for Section 542 vouchers.

For the last few years, USDA RD has funneled most of its preservation efforts through its Multifamily 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 assistance is debt deferral, while other possibilities include grants, loans, and soft-second loans. Since FY08, MPR has also been available to Section 514/516 farm worker housing properties.

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 because of mortgage prepayments. For several years, ending in FY11, Congress also funded a Preservation Revolving Loan Fund program, which used intermediaries to make loans to owners or purchasers who sought to preserve rural rental properties.

FUNDING

The Section 515 program, which received about $115 million in annual appropriations in the early 2000s and has been cut repeatedly, was funded at $28.4 million in FY14, FY15, and FY16. Section 514 received $28.9 million in FY14, $28.6 million in FY15, and $28.9 million in FY16. Section 516 was been funded at $8.3 million in FY14, FY15, and FY16.

The MPR preservation program received $20 million in FY14, $17 million in FY15, and $22 million in FY16. The Preservation Revolving Loan Fund has not been funded since FY11.

Funding for the Section 521 Rental Assistance (RA) program has been a major concern for appropriators and supporters. RA contracts were once 20 years long, then shortened to ten years, and now have one-year terms. The cost for each one-year contract increases every year as housing costs increase. In addition, some older, longer term contracts are still expiring every year, so the program's cost just to renew expiring contracts rises annually. In FY14 for the first time RA's appropriation topped $1 billion. It was $1.11 billion in FY14, $1.09 billion in FY15, and $1.39 billion in FY16.

The Rental Assistance program suffered from sequestration in FY13 funding and some property owners, including not only for-profit companies but also nonprofit organizations and "mom and pop" landlords, were required to absorb losses. Its funding was adequate in FY14 but fell short again in FY15. A large portion of the increase from the FY15 level to the FY16 appropriation was needed to fill gaps left at the end of FY15. In its FY15 and FY16 budgets the Administration proposed to impose minimum monthly rents for units with Section 521 assistance. NLIHC strongly opposed this request, and Congress did not adopt it. The Administration did not include minimum rents in its FY17 budget.

Rural housing interests have developed more sustainable ways to reduce RA costs, as well as ways to improve USDA's rental housing preservation process. Most changes in RA and preservation can be made by USDA without legislative changes by Congress, although making vouchers available for tenants in properties with expiring mortgages, or decoupling RA from USDA mortgages, does require congressional action. Over the next five years and beyond, RA costs will drop as USDA mortgages expire, but there will be corresponding increases in costs for alternatives such as USDA vouchers, HUD vouchers, or assistance to those who become homeless.

FORECAST

Maintaining funding levels for the rural housing programs, like other non-defense discretionary programs, is likely to be a major challenge in 2016.

It is also possible that Congress might consider moving the USDA rural housing programs to HUD, a change that has been suggested in the past because housing is a minor part of the Department of Agriculture. While that is true, it is equally true that rural places are a minor part of HUD's housing programs, that HUD does not have a field office structure as extensive as USDA's, and that HUD does not have recent experience operating direct loan programs, several of which are included among the rural programs.

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 (including those whose mortgages are expiring) 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

Advocates should speak with their Members of Congress and urge them to:

- Maintain funding for all USDA rural housing programs (do not reduce funding for other programs in order to shift funds to Section 521 Rental Assistance).

- Provide enough funding to renew all Section 521 RA contracts.
- Work with USDA Rural Development to find positive ways to reduce Section 521 costs through energy efficiency measures, refinancing USDA mortgages, and reducing administrative costs.
- Expand eligibility for USDA Section 542 vouchers so tenants can use them when USDA mortgages expire and Section 521 RA becomes unavailable.
- Reject any proposals to move the rural housing programs from USDA to HUD.

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 ■

Housing Choice Vouchers

By Linda Couch, Senior Vice President for Policy, NLIHC

Housing Choice Vouchers (HCV) help people with the lowest incomes afford housing in the private housing market by paying landlords the difference between what a household can afford to pay in rent and the rent itself, up to a reasonable amount. The HCV program is HUD's largest rental assistance program, assisting more than 2.2 million households.

ADMINISTRATION

The voucher program is administered by HUD's Office of Public and Indian Housing, as well as approximately 2,300 state and local public housing agencies.

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. In recent decades, the program has enjoyed broad bipartisan support. It grew incrementally between 1974 and 1996, the first year when no new, incremental vouchers were appropriated. Since then, Congress has authorized HUD to award some 700,000 additional vouchers, but about half of these have simply replaced public housing or other federally subsidized housing that has been demolished, or is no longer assisted.

In the last 10 years, Congress has funded incremental vouchers (new vouchers that are not replacements for other assisted housing) only for special populations, primarily for the HUD - Veterans Affairs Supportive Housing (HUD-VASH) program. These new vouchers are targeted to specifically address the housing needs of a particular group, as opposed to vouchers that would add to a community's overall voucher pool.

PROGRAM SUMMARY

Today, more than 2.1 million households have HUD HCVs, also called Section 8 tenant-based rental assistance. Of voucher households, 75% are extremely low income, 27% have a head of household with a disability, and 22% are seniors. 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, people on limited fixed incomes, and other poor people. 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, and by allowing public housing agencies (PHAs) to attach a portion of their vouchers to particular properties (project-based vouchers), or to help families buy homes. The national average income of a voucher household is $13,568.

The HCV 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 about 2,300 PHAs to administer vouchers. Funding provided by Congress is distributed to these agencies by HUD 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.

To receive a voucher, residents put their names on local PHA waiting lists. The HCV program, like all HUD affordable housing programs, is not an entitlement program. Many more people need and qualify for vouchers than actually receive them: Only one in four households eligible for housing vouchers receives any federal rental assistance. The success of the existing voucher program and any expansion because of new vouchers depends on sufficient annual appropriations.

Local 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. The amount of the housing subsidy is capped at a payment standard set by the PHA. A PHA can set its payment standard between 90% and 110% of HUD's Fair Market Rent (FMR), the rent in the area for a modest apartment. HUD sets FMRs annually. Nationally, voucher households pay just more than $300 a month for rent and utilities, on average.

Generally, voucher program participants pay 30% of their income toward rent and utilities. The value of the voucher then makes up the difference between the tenant's rent payment and the housing agency's rent payment standard. 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). After a year in an apartment, a family can choose to pay more than 40% of its income toward rent.

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 alleged inadequate funding. Recent HUD guidance requires approval of the local HUD office before a PHA may prohibit a family from using a voucher to move to a new unit due to insufficient funding.

FUNDING

Beginning in 2003, Congress shifted away from providing renewal funding for all authorized vouchers. Annual changes in funding policies that failed to base renewal funding on the actual cost of vouchers in use, combined with funding shortfalls, resulted in the loss of more than 150,000 vouchers nationwide. In 2007, Congress returned to basing each agency's eligibility for renewal funding on the cost of vouchers in use in the prior year. In 2013, the voucher program received another significant jolt: the sequester. These across-the-board cuts forced local PHAs to freeze their waiting lists, effectively stopping new households from being assisted as vouchers were returned. All told, the Center on Budget and Policy Priorities estimates that 70,000 vouchers were lost in 2013 because of the sequester. Since 2013, Congress has restored funding for only about two-thirds of the vouchers lost due to the sequester.

FORECAST

Funding. The president's budget request for FY17 would provide funds to renew vouchers in use in 2016.

New Vouchers. For many years, the primary source of increased federal housing assistance for very poor people was new annual appropriations for additional vouchers. Between FY 1995 and FY 1998, however, no such incremental vouchers were funded. Congress then approved the following incremental vouchers: 50,000 new vouchers for FY 1999; 60,000 for FY 2000; 87,000 for FY01; and 26,000 for FY02. Congress approved no new vouchers in FY03, FY04, FY05, FY06 or FY07. Since FY08, Congress has appropriated funding for a small number of incremental vouchers each year, no more than about 17,000, for special populations, mostly for homeless veterans under the HUD-VASH program. Each year, from FY06 through FY16, Congress has provided funds for HUD-VASH vouchers.

In FY17, HUD is seeking $88 million for approximately 10,000 new vouchers to assist families with children experiencing homelessness. These vouchers would be awarded competitively to PHAs based on geographic areas of demonstrated need. These PHAs would be required to partner with their local Continuum of Care to identify program participants. HUD is also seeking funds for a Tribal HUD-VASH demonstration to provide rental assistance for Native American Veterans who are homeless or at risk-of homelessness living on or near a reservation or other Indian areas.

For FY17, HUD is also seeking $15 million for a new HCV Mobility demonstration to encourage voucher participants to move to lower-poverty areas and expand access to opportunity areas. Funds would be used for pre- and post-move counseling as well as for PHA administrative costs.

Housing Opportunity Through Modernization Act. This bill, introduced as H.R. 3700, passed the House of Representatives unanimously in 2015. Because 2016 is the second year of the two-year Congressional session, the bill remains alive and ready for Senate action. The bill would make various improvements to the project-basing of vouchers, to the income certification and rent determination processes, to the Family Unification Program, and to the inspection process for voucher apartments.

WHAT TO SAY TO LEGISLATORS

Advocates should encourage Members of the House and Senate to:

- Fully fund renewal of all vouchers in use as of December 2016.
- Provide funds for the new 10,000 vouchers for families with children experiencing homelessness.
- Provide funds for the Mobility Demonstration to get vouchers into higher opportunity neighborhoods.

FOR MORE INFORMATION

NLIHC, 202-662-1530, www.nlihc.org

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

National Housing Law Project, 415-546-7000, www.nhlp.org ■

Vouchers: Family Unification Program

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

Administering agency: HUD's Office of Public and Indian Housing

Year program started: 1990

Number of persons/households served: Nearly 30,000 households currently hold Housing Choice Vouchers through the Family Unification Program (FUP).

Population targeted: Low income families in danger of losing children to foster care or that are unable to regain custody primarily due to housing problems, as well as youth aging out of foster care who are at risk of homelessness.

FY16 funding: HUD has not yet issued funding for FUP from the $130 million available in the Tenant Protection Fund for new vouchers.

Also see: *Housing Choice Voucher Program, Tenant Protection Vouchers, Services for Residents of Low Income Housing – Family Self-Sufficiency Program*

HUD's FUP is a federal housing program aimed at keeping homeless families together and safe and preventing homelessness among youth aging out of foster care. HUD provides FUP Housing Choice Vouchers to Public Housing Authorities who must work in partnership with public child welfare agencies in order to select eligible participants for the program. These vouchers can be used to prevent children from entering foster care, to reunite foster children with their parents, and to help ease the transition to adulthood for older youth in foster care. Although recently funded after nearly nine years of inactivity, the program still reaches only a fraction of families and children in need.

HISTORY AND PURPOSE

The 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 of 1990.

FUP is designed to address the housing-related needs of children in the foster care system. According to HHS, more than 20,000 children are placed in foster care because their families lack access to safe, decent, and affordable housing. Once children from homes with housing problems enter foster care, they are among the longest stayers in the foster care system. Equally troubling are the housing challenges faced by the 22,392 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 foster 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 (PHAs) and public child welfare agencies. PHAs interested in administering FUP vouchers must sign a memorandum of understanding (MOU) with their partner agency in order to apply to HUD in response to a Notice of Funding Availability. FUP vouchers are awarded through a competitive process. Depending on the size of the PHA, communities can receive a maximum of 100, 50, or 25 vouchers. Communities are encouraged to apply only for the number of vouchers that can be leased up quickly, meaning that both families and youth have been identified and landlords have been recruited for the program.

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 help FUP clients gather the necessary Section 8 paperwork, find suitable housing, and to maintain their housing through aftercare services. 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. The housing subsidies available to youth under this program are limited to 18 months.

Eligible families include those who are in imminent danger of losing their children to foster care primarily due to housing problems, and those who are unable to regain custody of their children primarily due to housing problems. Eligible youth include those who were in foster care any time after the age of 16 and are currently between the ages of 14 and 24 (have not reached their 22nd birthday) and are homeless or at risk of homelessness. Unlike families, youth can only participate in FUP for 36 months. Also, it is important to note that homeless youth who have been in foster care at any point after the age of 14 are eligible for FUP.

FUNDING

Each year between 1992 and 2001, HUD awarded an average of 3,560 FUP vouchers to public housing agencies. Unfortunately, from FY02 through FY07, HUD used its rescission authority to avoid funding FUP, even though the Housing Choice Voucher program's Tenant Protection Fund, out of which FUP is funded, had carryover funds ranging from $18 million to $170 million. Thanks to the efforts of the Senate Appropriations Subcommittee on Transportation, Housing and Urban Development, $50 million in new funding was awarded for new FUP vouchers in FY08 and FY11. Despite the continuing availability of Tenant Protection Fund vouchers for FUP, HUD has failed to issue new vouchers for FUP for the past five years.

Advocates must urge HUD to issue no less than $20 million in funding from the Tenant Protection Fund to issue new FUP vouchers for 2016.

FORECAST

There is growing interagency support for FUP at the federal level in Congress and within the administration. With the recent passage of the Housing Opportunity through Modernization Act of 2015, Congress extended the time limit on FUP vouchers for youth from 18 months to 36 months. Also, HUD and HHS recently worked together to create a pilot program that will allow Public Housing Authorities to enroll young people using FUP vouchers into the Family Self Sufficiency (FSS) program. Young people who participate in FSS can maintain their subsidy for five years.

Because the distribution of the Tenant Protection Fund is entirely up to the discretion of the Secretary of HUD, it is important to remind the secretary of the department's joint commitment with HHS to keep families together and safe using HUD resources. It will be important to inform the secretary of the impact that this vital funding can have on the lives of children who are separated from their parents because of homelessness, and to tell the secretary the stories of youth who have faced homelessness upon emancipation from foster care.

This year, HUD will have the authority to issue a demonstration program to allow PHAs to pair FUP vouchers for youth with the FSS Program. Under the new program, youth who agree to participate in FSS will be allowed to keep their voucher for the life of their FSS contract. FSS is a five year program. This demonstration program is designed to give young people leaving foster care increased access to services and more time to achieve self-sufficiency as they transition to adulthood. Perhaps more importantly, this demonstration sends the right message to child welfare agencies that oversee the transition to adulthood for America's most vulnerable youth—that access to affordable housing is a key to self-sufficiency for youth.

TIPS FOR LOCAL SUCCESS

Throughout the years, it has become clear that the most successful FUP partnerships require cross-training, single points of contact (liaisons) within each partner agency, and ongoing communication. In fact, HUD now requires that FUP sites have regular communication, liaisons, and other elements to support their partnership and provide case management and other supportive services to FUP households. FUP sites must include ongoing, intensive case management provided by the local child welfare agency or through a contract funded by the child welfare system. HUD also encourages child welfare partners to take part in landlord recruitment, housing training for frontline staff, and encourages regular communication with the PHA point of contact. Finally, HUD encourages PHAs to enroll FUP households in the FSS program because this adds an extra layer of supportive services to help ensure that FUP households will successfully maintain permanent housing and reduce the amount of subsidy paid by the government over time.

The MOU required by HUD provides an excellent formula for all community partnerships designed to share resources and information in an effort to prevent and end family and youth homelessness. In communities across the country, PHAs use this model and demonstrate an extraordinary commitment to matching services to Section 8 vouchers in order to successfully serve hard-to-house families and youth leaving foster care.

WHAT TO SAY TO LEGISLATORS

Advocates should engage legislators who are interested in housing as a vital tool for promoting family unification, easing the transition to adulthood for foster youth, and achieving significant cost savings. Advocates can inform their elected officials that when a FUP voucher is used to reunify a family and subsidize a two bedroom unit, the community saves an average of $32,500 per family in annual foster care costs. Additionally, advocates should contact HUD and urge the secretary to issue no less than $20 million in funds for new FUP vouchers in 2016.

FOR MORE INFORMATION

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

Vouchers: Project-Based Vouchers

By Barbara Sard,
Vice President for Housing Policy,
Center on Budget and Policy Priorities

Administering agency: HUD's Office of Public and Indian Housing (PIH)

Year current version of program started: 2001

Number of persons/households served: Fewer than 100,000 households (could rise to more than 400,000)

Population targeted: Extremely low and low income households

Also see: *Housing Choice Voucher Program, Public Housing Agency Plan*

Public housing agencies (PHAs) may "project base" up to 20% of their Housing Choice Voucher (HCV) funding. [Public housing or other federally-assisted housing converted to project-based vouchers (PBVs) as part of the Rental Assistance Demonstration are not counted in this calculation.] The term project based means that the assistance is linked to a particular property, as opposed to tenant-based vouchers, which move with the family. More than 400,000 vouchers could be project based nationwide, but fewer than 100,000 units had PBV assistance in 2014. About 560 of the 2,300 PHAs that administer HCVs operate PBV programs.

PBVs are an important tool to provide supportive housing for individuals with disabilities or others who need services to live stably in their own homes. PBVs can also help PHAs in tight housing markets utilize all of their vouchers by making it unnecessary for some families to search for units they can rent with their vouchers. Another benefit of PBVs is that they can encourage the production or preservation of affordable housing, since owners of properties with PBVs receive financial security from the long-term contracts they sign with PHAs. This potential is particularly important in higher cost areas, where PBV rules may allow higher subsidies than tenant-based vouchers.

ADMINISTRATION

PBVs are administered by PHAs that decide to include this option as part of their HCV programs, and are overseen by PIH.

HISTORY AND PURPOSE

The current PBV program was created by Congress in October 2000, as part of the FY01 appropriations bill for HUD and other agencies. [Section 232 of Pub.L. 106-377, revising section 8(o)(13) of the U.S. Housing Act, 42 U.S.C. §1437f(o)(13).] It replaced the project-based certificate program, which was rarely used because it was cumbersome (e.g., HUD approval was required for each individual transaction), did not allow long-term financial commitments by PHAs, was limited to new development or rehabilitation, and did not provide incentives for owners to commit units to the program.

In addition to addressing weaknesses of the prior program, Congress included a novel feature, the "resident choice" requirement. This guarantees that a family with PBV assistance that wishes to move after one year will receive the next available tenant-based voucher. The project-based subsidy stays with the unit to assist another eligible family. This requirement helps ensure that PBV recipients remain able to choose the areas in which they live. Congress also included statutory requirements to promote mixed-income housing and to deconcentrate poverty.

HUD issued a notice on January 16, 2001, making most of the statutory changes immediately effective, but did not issue final rules fully implementing the statute until 2005. Congress made several amendments to the statute in 2008 as part of the Housing and Economic Recovery Act (HERA), notably extending the maximum contract period from 10 to 15 years in order to correspond to the initial affordability period for the Low Income Housing Tax Credit (LIHTC) program, and making contract extensions more flexible. Effective July 2014, HUD revised the PBV rule to incorporate the HERA amendments and make some additional changes.

PROGRAM SUMMARY

A PHA may initiate a PBV program by including the following in its PHA Plan: the projected number of units to be project based, their general locations, and how project basing would be consistent with the needs and goals identified in the Plan. A PHA also must include in its HCV Administrative Plan various details about how it will select properties in which to project base vouchers and how it will maintain waiting lists. (See HUD Notice PIH 2011-54, September 20, 2011.) No HUD approval is required.

Vouchers may be project based in existing housing as well as in newly constructed or rehabilitated units, but cannot be used in transitional housing. Use in existing housing permits a more streamlined process. The locations where PBVs are used must be consistent with the goal of deconcentrating poverty and expanding housing and economic opportunity, but agencies have substantial discretion to make this judgment, so long as they consider certain HUD-specified factors. PHAs must use a competitive process to select properties, or rely on a competition conducted by another entity, such as the process used by the state to allocate Low Income Housing Tax Credits.

In general, PBVs can be attached to no more than 25% of the units in a property in order to achieve a mix of incomes in a property, although there are several exceptions to this requirement. The limitation does not apply to properties with four units or less, units housing seniors or families with a member with a disability, and units whose residents are receiving supportive services. PHAs have discretion to define "supportive services." By requiring owners to attract unsubsidized tenants for a majority of the units, the requirement imposes market discipline in place of direct HUD oversight. The "resident choice" feature described above also is intended to promote market discipline, as owners' costs will increase if there is a great deal of turnover in their units.

Units receiving PBV assistance, like other HCV units, must meet HUD's housing quality standards prior to initial occupancy. Where tenants remain in place, PHAs may inspect only a sample of PBV units in a property in subsequent years rather than each assisted unit, reducing administrative costs.

With a PBV, a family typically pays 30% of its adjusted income on housing, and the voucher covers the difference between that amount and the unit rent plus the PHA's allowance for tenant-paid utilities. As in the tenant-based voucher program, the unit rent must not exceed the rents for comparable unassisted units in the area. However, there are two important differences in rent policy in PBV units:

1. There is no risk that families will have to pay more than 30% of its income if the rent is above the agency's payment standard; and
2. The unit rent is not limited by the PHA's payment standard, but may be any reasonable amount up to 110% of HUD's Fair Market Rent (FMR), or HUD-approved exception payment standard. This flexibility on unit rents applies even in the case of units that receive HOME Program funds, where rents usually are capped at 100% of the HUD FMR. Special and more flexible rent rules apply in LIHTC units.

PHAs may consider other government subsidies to reduce allowable unit rents below market. This could be an important tool to stretch voucher funding to assist more units that receive additional capital subsidies through the National Housing Trust Fund.

PHAs must maintain the waiting list for PBV units and refer applicants to owners with anticipated vacancies for selection. PHAs can maintain the PBV waitlist as part of their full voucher waitlist, or maintain a separate PBV waitlist, or even maintain separate waitlists for different properties. To minimize the risk to owners of losing income due to a PHA's failure to promptly refer applicants, PHAs are allowed to pay the rent on vacant units for up to 60 days.

PHAs may use different preferences for their PBV waiting list or the lists for individual PBV properties than for the regular tenant-based list, including a preference based on need for services offered in conjunction with a property. HUD does not generally permit preferences based on type of disability. Applicants for regular tenant-based vouchers must be notified of the right to apply to any separate project-based waiting list, and retain their place on the tenant-based list if they decline to apply for PBV units or are rejected by a PBV owner. Such notice needs not be provided directly to each individual on the tenant-based waiting list at the time the project-based list is established; PHAs may use the same procedures used to notify the community that the waiting list will be opened.

PHAs are bound by the PBV contract with an owner, and may not refuse to refer applicants to vacant units in order to reduce costs. If Congress drastically reduced or eliminated funding for the HCV program, PHAs could terminate PBV contracts, but otherwise funding for PBV units is more secure than for other vouchers.

Families admitted to PBV units count for purposes of determining a PHA's compliance with the HCV program's targeting requirement that 75% or more of the families admitted annually have extremely low incomes. Targeting compliance is measured for a PHA's entire HCV program, not at the property level.

HUD's rules now make clear that owners may evict a family from a PBV unit only for good cause. (In contrast, families may be evicted from units assisted by tenant-based vouchers when their lease expires, without cause, unless state laws are more stringent.) The rules require the eviction from an assisted unit of any family who fails to comply with a supportive service requirement if that family does not have a member with a disability and the property uses the supportive services exception to have PBV assistance in more than 25% of the units.

FUNDING

PBVs are funded as part of the overall Tenant-based Rental Assistance account. PHAs use a portion of their HCV funding for PBVs if they decide to offer the program. The formula Congress directs HUD to use to allocate annual HCV renewal funding provides additional funding to agencies that had to hold back some vouchers in order to have them available for use as project-based assistance in new or rehabilitated properties.

FORECAST

Statutory changes. On February 2, 2016, the House of Representatives unanimously approved H.R. 3700, the Housing Opportunity Through Modernization Act. Section 106 of this bill includes a number of positive changes in the PBV program. [These changes are identical to those included in the Project-Based Voucher Improvement Act of 2015 (H.R. 3827), introduced by Ranking Member Maxine Waters (D-CA).]

First, H.R. 3700 would increase the share of vouchers that agencies could project base by shifting the measure from 20% of voucher funding to 20% of authorized vouchers, which is a higher level for nearly all PHAs. In addition, it would allow an agency to project base an additional 10% of its vouchers, up to a total of 30% in units that:

a. House individuals and families meeting the McKinney homelessness definition, veterans, or elderly persons.
b. Provide supportive housing to persons with disabilities.
c. Are located in areas where vouchers are difficult to use.
d. Are specified by HUD for other reasons.

Second, the bill would alter the "income-mixing" requirements by: allowing the greater of 25% of the units in a project or 25 units to receive PBV assistance; and by permitting 40% of the units in a project to have PBVs in areas where vouchers are difficult to use (as defined by HUD), or in areas where the poverty rate is 20% or less. Units that house the elderly would continue to be exempt from these limitations, but the supportive services exception for new PBV contracts would be modified to apply to households eligible for (rather than receiving) services meeting standards established by HUD (rather than by PHAs). Units housing persons with disabilities would no longer be exempt from the income-mixing requirements unless they qualify for the supportive services exception.

Third, the bill permits owner-managed, site-based waiting lists, subject to PHA oversight and responsibility, as well as requirements of applicable civil rights laws.

Fourth, the bill would provide PHAs and owners additional flexibility regarding the terms of PBV contracts. It extends the maximum term of the initial contract or any extension from 15 to 20 years, allows PHAs and owners to add units to existing contracts, allows PHAs to enter into a contract for a property under construction, and to agree to rent adjustments using operating cost adjustment factors (rather than market rent comparisons).

Finally, the bill allows vouchers provided under the Family Unification or HUD-VASH programs to be project-based subject to the same requirements as other vouchers.

It is unclear when the Senate will consider H.R. 3700. If the comprehensive bill does not pass the Senate this year, parts of it may be attached to the year-end appropriations bill.

Regulatory changes. HUD may issue guidance to clarify some of the concerns raised during the comment process on the recent rule changes that HUD declined to address in the final rule.

FOR MORE IMFORMATION

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

A "policy basic" on PBVs is at http://www.cbpp.org/sites/default/files/atoms/files/12-7-15hous-pb.pdf

Information on housing policy and funding is at http://bit.ly/1d2pkIR. ■

Vouchers: Tenant Protection Vouchers

By Ed Gramlich, Senior Advisor, NLIHC

Administering agency: HUD's Office of Public and Indian Housing, and Office of Multifamily Housing Programs

Year program started: 1996 for prepayments; 1999 for opt outs

Population targeted: Low income tenants of HUD's various project-based housing assistance programs

FY16 funding: $130 million

See also: *Housing Choice Voucher Program*, *Project-Based Rental Assistance*

Tenant Protection Vouchers (TPVs) may be provided to low income residents of project-based HUD-assisted housing when there is a change in the status of their assisted housing that will cause residents to lose their home (for example, public housing demolition) or render their home unaffordable (for example, an owner "opting out" of a Section 8 contract). HUD calls such changes "housing conversion actions." There are two types of TPVs, regular tenant-based Housing Choice Vouchers (HCVs) and tenant-based Enhanced Vouchers (EVs). Both types are administered by a local public housing agency (PHA). The amount of funding available for TVPs is determined by HUD estimates of need in the upcoming year and Congressional appropriations.

PROGRAM SUMMARY

There are two types of TPVs—HCVs and (EVs. The type of TPVs residents might be eligible for depends on which housing program assisted the development in which they are living, as well as certain circumstances for some of the programs. The FY16 Appropriations Act continues the policy of limiting TPVs to units that have been occupied during the previous two years.

Regular Tenant Protection Vouchers Traditional HCVs are provided to residents to enable them to find alternative affordable homes when:

- Public housing is demolished, sold, or undergoes a mandatory conversion to HCVs.
- Private housing assisted with a project-based Section 8 contract has the contract terminated or not renewed by HUD (for example if the owner continuously fails to maintain the property in suitable condition).
- Private housing with a HUD-subsidized mortgage undergoes foreclosure.
- A Rent Supplement Payments Program (Rent Supp) or a Rental Assistance Payment Program (RAP) contract expires, or underlying mortgage is prepaid, or HUD terminates the contract.
- Certain Section 202 Direct Loans are prepaid.

TPVs issued as regular HCVs follow all of the basic rules and procedures of non-TPV HCVs.

Enhanced Vouchers. EVs are provided to tenants living in properties with private, project-based assistance when an "eligibility event" takes place, as defined in Section 8(t)(2) of the Housing Act of 1937. The most typical "eligibility event" is when a project-based Section 8 contract expires and the owner decides not renew the contract – "opt outs" of the contract. Prepayment of certain unrestricted HUD-insured mortgages (generally Section 236 and Section 221(d)(3) projects) is another type of eligibility event.

There are a number of other situations triggering an eligibility event, depending on the program initially providing assistance. HUD must provide TPVs for opt outs and qualifying mortgage prepayments just described; however, HUD has discretion regarding TPVs for other circumstances such as Rent Supp or RAP contract terminations, or Section 202 Direct Loan prepayments.

Special Features of Enhanced Vouchers. EVs have two special features that make them "enhanced" for residents:

1. **Right to Remain.** A household receiving an EV has the right to remain in their previously-assisted home, and the owner must accept the EV as long as the home:
   a. Continues to be used by the owner as a rental property; that is, unless the owner converts the property to a condominium, a

cooperative, or some other private use.

b. Meets HUD's "reasonable rent" criteria, basically rent comparable to unassisted units in the development or in the private market.

c. Meets HUD's Housing Quality Standards.

Instead of accepting an EV, a household may move right away with a regular HCV. A household accepting an EV may chose to move later, but then their EV converts to a regular HCV.

2. **Higher Voucher Payment Standard.** An EV will pay the difference between a tenant's required contribution toward rent and the new market-based rent charged by the owner after the housing conversion action even if that new rent is greater than the PHA's basic voucher payment standard. A PHA's regular voucher payment standard is between 90% and 110% of the Fair Market Rent. EV payment standards must be adjusted in response to future rent increases.

   In most cases a household will continue to pay 30% of their income toward rent and utilities. However, the statute has a minimum rent requirement calling for households to continue to pay toward rent at least the same amount they were paying for rent on the date of the housing conversion action, even if it is more than 30% of their income. If, in the future, a household's income declines by 15%, the minimum rent must be recalculated to be 30% of income or the percentage of income the household was paying on the date of the conversion event, whichever is greater.

Mortgage Prepayment Eligibility Events Under Section 8(t) of the Housing Act. When an owner prepays an FHA-insured loan, under certain conditions EVs may be provided to tenants in units not covered by rental assistance contracts. However, EVs may not be provided to unassisted tenants if the mortgage matures.

If a mortgage may be prepaid without prior HUD approval, then EVs must be offered to income-eligible tenants living in units not covered by a rental assistance contract. Section 229(l) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRHA) spells out the various types of such mortgages.

Some properties that received preservation assistance under the Emergency Low-Income Housing Preservation Act may have mortgages that meet the criteria of Section 229(l). For such properties, HUD may provide EVs to income-eligible tenants not currently assisted by a rental assistance contract when the mortgage is prepaid. However, HUD may not provide EVs if after mortgage prepayment the property still has an unexpired Use Agreement.

Set-Aside for TPVs at Certain Properties. The FY16 Appropriations Act continues the provision setting aside $5 million of the $130 million appropriated for tenant protection vouchers for low income households in low-vacancy areas who may have to pay more than 30% of their income for rent at three types of HUD-assisted multifamily properties. The act states that existing HUD guidance, Notice HUD 2015-7, will continue to apply until modified.

Notice HUD 2015-7 describes the three types of HUD-assisted multifamily housing at which TPVs could be provided as those that experienced:

1. The maturity of a HUD-insured, HUD-held, or Section 202 loan during FY14 or previous years, and that required the permission of the secretary in order to prepay a loan.
2. The expiration of a rental assistance contract for which the tenants are not eligible for enhanced voucher or tenant protection assistance under existing law.
3. The expiration of affordability restrictions accompanying a mortgage or preservation program administered by the secretary.

The HUD Notice requires owners to request TPVs; if an owner does not request assistance, tenants cannot receive vouchers. HUD does not provide a mechanism for tenants to make a request if the owner did not. Owners could request either enhanced vouchers or project-based vouchers. PHAs must administer the vouchers. A public housing PHA could decline to participate; if so, HUD would attempt to identify an alternative PHA willing to administer the vouchers. Eligible tenants are those that are unassisted low income tenants who are rent-burdened or who would become rent-burdened, that is spend more than 30% of income for rent and utilities.

FUNDING

The amount of funding available for TVPs should be determined by HUD estimates of need in the upcoming year and Congressional appropriations. For FY16 there is $130 million appropriated for TVPs, the same amount as FY14 and FY15, and a significant increase over the sequester-reduced $71 million in FY13 or $75 million in other recent years. HUD's FY17 budget request to Congress seeks $110 million.

The FY16 Appropriations Act continues a provision first introduced by the FY15 Appropriations Act, prohibiting TPVs to be reissued when the initial family with the TPV no longer uses it, except as a replacement voucher as defined by HUD in a future notice.

WHAT TO SAY TO LEGISLATORS

Advocates should tell their Members of Congress to support funding sufficient to cover all tenant protection vouchers that might be needed due to housing conversion actions so that: low income households are not displaced from their homes as a result of steep rent increases when an assisted property leaves a HUD program; and, low income households losing their homes as a result of public housing demolition, disposition, or mandatory conversion to vouchers have tenant-based assistance to be able to afford rent elsewhere.

FOR MORE INFORMATION

NLIHC, 202-662-1530, www.nlihc.org

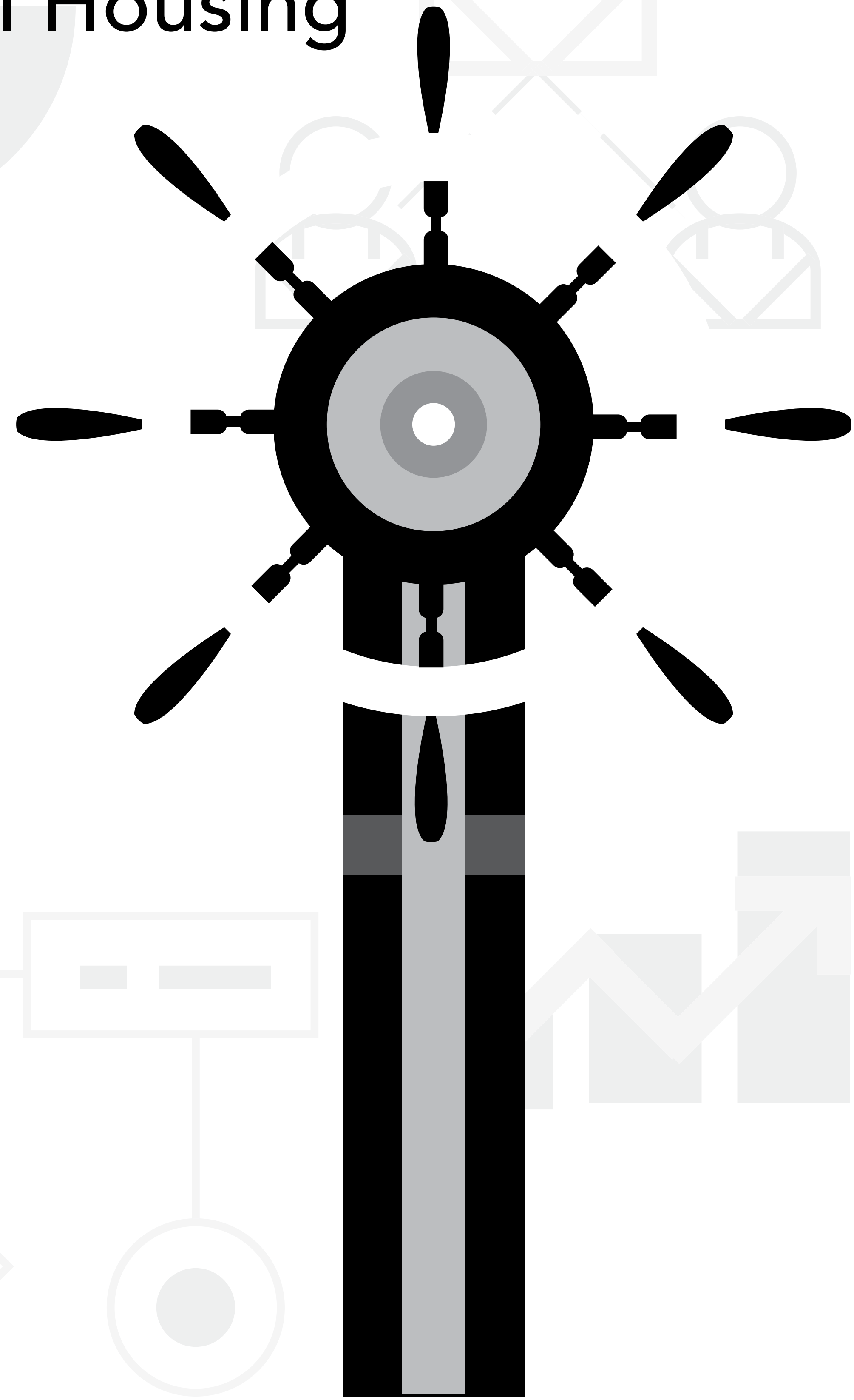
National Housing Law Project, 415-546-7000, http://nhlp.org/resourcecenter?tid=114

Notice HUD 2015-7 is at http://portal.hud.gov/hudportal/documents/huddoc?id=15-07pihn.pdf

HUD's Section 8 Renewal Policy Guide, is at http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/mfhsec8 ■

Chapter 5:

Additional Housing Programs



Fair Housing Programs

By Jorge Andres Soto, Director of Public Policy, National Fair Housing Alliance

Administering agency: HUD's Office of Fair Housing and Equal Opportunity (FHEO)

Year program started: 1989

Number of persons/households served: In 2013 and 2014, organizations funded by the Fair Housing Initiatives Program (FHIP) investigated 37,958 complaints of housing discrimination.

Population targeted: "Protected classes"–race, national origin, color, religion, sex, familial status, and disability

FY16 funding: FHIP, $39.2 million; Fair Housing Assistance Program (FHAP), $24.3 million

Also see: *Affirmatively Furthering Fair Housing*

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 has also provided guidance that interprets the Fair Housing Act's prohibition on sex discrimination to prohibit discrimination based on sexual orientation or gender identity in HUD-assisted housing and housing insured by the Federal Housing Administration.

Two HUD-funded programs are specifically dedicated to the enforcement of the Fair Housing Act: FHIP and FHAP.

ADMINISTRATION

FHEO is responsible for administering FHIP, FHAP, and HUD's investigation of fair housing and fair lending complaints. The Civil Rights Division of the U.S. Department of Justice (DOJ) may also investigate complaints and is responsible for litigating on behalf of the federal government in cases of fair housing and fair lending violations. FHEO also retains exclusive fair housing authority over complaints involving zoning and land use, and pattern and practice cases.

HISTORY AND PURPOSE

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 programs dedicated solely to assist in the enforcement of the Fair Housing Act. FHIP funds private fair housing organizations, and FHAP funds the fair housing enforcement programs of state and local government agencies.

Fair Housing Initiatives Program. FHIP supports private nonprofit fair housing organizations in their efforts to provide education and outreach to the public and housing providers, and to enforce the Fair Housing Act by investigating allegations of rental, sales, homeowner insurance, and lending discrimination in their local housing markets. FHIP is a competitive grant program administered by FHEO. FHIP supports three primary activities: The Private Enforcement Initiative enables qualified private fair housing organizations to conduct complaint intake, testing, investigations, and other enforcement activities. The Education and Outreach Initiative funds organizations to educate the general public about fair housing rights and responsibilities, and local housing providers about how to comply with the law. The Fair Housing Organizations Initiative builds the capacity and effectiveness of fair housing organizations, and funds the creation of new organizations.

In 2013 and 2014, FHIP-funded organizations investigated 37,958 complaints of housing discrimination across the country for families and communities, more than twice that of all state and federal agencies combined, and nearly three times as many as local and state government agencies participating in HUD's FHAP program combined during the same period.

Fair Housing Assistance Program. 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 FHAP funds. HUD funds FHAP agencies by reimbursing them based on the number of cases 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. In 2013 and 2014, FHAP entities investigated 13,254 complaints.

FUNDING

President Obama has proposed $46 million for FHIP, and $23.3million for FHAP for FY17. In FY16, FHIP was the target of an amendment in Congress by Representative Steve Stivers (R-OH) to zero out funds for private enforcement and divert all enforcement resources to the defunct Administrative Enforcement Initiative, which was replaced by the FHAP program in the 1990s. Fortunately, further negotiations on several policy riders in the Omnibus spending package for FY16 resulted in near-level funding for FHIP for all of its primary components, at $39.2 million, $900,000 below the previous year's level. FHAP received a $1 million increase to $24.3 million in FY16, despite a drop in the number of participating agencies. At least $57 million, including $5 million for a systemic testing program must be provided for the FHIP program going forward. FHAP must be funded at $40 million.

An increased FHIP appropriation would provide fair housing groups with the capacity to address larger systemic issues, such as discriminatory sales practices, insurance policies, and bringing about investigations into increasingly harmful blanket policies that have a widespread impact on available housing choice in entire markets. FHIP must also be increased to allow for the successful creation of private nonprofit fair housing organization in a dozen states without such groups.

FORECAST

Conservative members of Congress continue to attack enforcement of the Fair Housing Act, and will likely again target HUD's recently finalized Affirmatively Furthering Fair Housing Act and funding for the FHIP program's private enforcement component. The same conservative members of Congress may also try to direct HUD to focus funding on education and outreach instead of enforcement grants. Advocates should support increased fair housing funding and help HUD retain its discretion with regard to how to allocate grant opportunities under the FHIP program. Advocates should also support a the president's funding request for the FHAP program, as HUD and the administration have determined that with the program need not be wasted on appropriations in excess of what existing program participants can achieve.

Private fair housing organizations remain a critical part of the United States' civil rights enforcement infrastructure. In 2013, private nonprofit fair housing organizations investigated 18,932 (69%) fair housing complaints, more than twice as many complaints as all federal, state, and local government agencies combined. Public FHAP agencies processed 6,986 (23.8%) complaints and HUD processed 1,881 (6.9%) complaints.

TIPS FOR LOCAL SUCCESS

Individuals and advocates who suspect or observe a fair housing violation, including a failure to affirmatively further fair housing, should contact a local fair housing organization or the National Fair Housing Alliance at 800-910-7315, or see a list of fair housing organizations under "Find Local Help" at www.nationalfairhousing.org

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

Advocates working with distressed homeowners who believe they may have been victims of lending discrimination should encourage borrowers to submit mortgage complaints to the Consumer Financial Protection Bureau (CFPB). Individuals and advocates may submit mortgage complaints by visiting www.consumerfinance.gov or by calling 855-411-CFPB (2372). Non-English speakers can receive information and submit mortgage complaints in any one of 200 languages by calling the CFPB.

WHAT TO SAY TO LEGISLATORS

Advocates should speak to legislators with the message that private fair housing organizations investigate 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 at least $57 million, including $5 million for a systemic testing program, and funding for FHAP should be $40 million for FY17.

Legislators must also be prepared to protect HUD's Affirmatively Furthering Fair Housing regulation.

FOR MORE INFORMATION

National Fair Housing Alliance, 202-898-1661, 800-910-7315, www.nationalfairhousing.org ■

Federal Housing Administration

By NLIHC Policy Team

The Federal Housing Administration (FHA) insures mortgages made by lenders, and in doing so helps provide single-family housing and multifamily housing for low and moderate income families. 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-family dwellings (one- to four-unit) and multifamily dwellings (five units or more). 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 an FHA payment to the lender for the claim amount. FHA then takes possession of the property that secured the mortgage loan. The FHA consists of several insurance funds supported by: premium, fee, and interest income; Congressional appropriations if necessary; and, other miscellaneous sources. According to reports to Congress, FHA has insured more than 40 million home mortgages and 53,000 multifamily project mortgages since 1934.

Mutual Mortgage Insurance. FHA's primary single-family programs are within the Mutual Mortgage Insurance (MMI) Fund, which is managed by the Office of Single Family Housing. 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 down payment than is often available in the nongovernmental 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 down payment of 3.5%. FHA insures loans only in amounts under set loan limits. Generally, the loan limits are set at 115% of area median home prices, with a floor of 65% of the Federal Home Loan Mortgage Corporation (Freddie Mac) loan limit and a ceiling of 150% of the Freddie Mac limit. The limit for high-cost areas is 625,500, down from the previous temporary high-cost area limit of $729,750, which expired at the end of 2013. The mortgage amount also cannot exceed 100% of the property's appraised value.

The fiscal health of the MMI Fund has been a subject of concern in the 114th Congress. In January 2015, the administration announced that it would reduce the cost of mortgage insurance for FHA borrowers by 0.5 percentage points, from 1.35%to 0.85%. In response to this decision, the House Committee on Financial Services held a hearing on the financial health and oversight of the MMI Fund. Lawmakers questioned this decision, given the fact that FHA had not maintained the MMI Fund's capital reserve ratio requirement. The MMI Fund capital reserve ratio is required to be at or above 2%. In FY13, however, the MMI Fund had a capital reserve ratio of -0.11%. FHA attributes this to loans insured prior to 2010. FHA has implemented a number of internal changes to strengthen the fund.

Secretary Julián Castro testified at the hearing that the fee cut would only prevent the fund from reaching its 2% mandate by a couple of months. He also stressed that the decision did not affect who qualified for an FHA loan, but rather made loans more affordable for hard-working families.

In November 2015, FHA reported to Congress that the MMI Fund capital reserve ratio increased from 0.41% in 2014 to 2.07% in 2015, now exceeding the congressionally required 2% threshold for the first time since 2008. The economic health of the MMI Fund improved significantly in FY15 with a net value of nearly $24 billion, an increase of $19 billion over FY14. For FY17, advocates are eager to learn how the Congressional Budget Office will calculate receipts from the FHA.

Special Risk Insurance and General Insurance Funds. In addition to the MMI Fund, FHA also operates Special Risk Insurance and General 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, this insurance requires subsidies from the federal budget.

Manufactured Housing. FHA provides insurance for the purchase or refinancing of a manufactured home, a loan on a developed lot on which a manufactured home will be placed, or a manufactured home and lot in combination. The home must be used as the principal residence of the borrower. 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 part of HUD, and 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 the U.S. Department of Agriculture's Rural Housing Service mortgages, thereby enabling a constant flow of capital for mortgage loans. In FY15, Ginnie Mae guaranteed $436 billion in new mortgage-backed securities. These transactions supported nearly two million families, representing one-third of all home loans issued during the year.

FORECAST

So far in the 114th Congress, the House and Senate have not sought to reform the FHA to assure the stability of the agency and avoid future instances where congressional appropriations are needed to bolster the MMI Fund. Although there have been several hearings that focused on the financial health and oversight of FHA, neither chamber has introduced legislation that would include tools requested by FHA to manage the MMI Fund.

Even though FHA announced in November of 2015 that the MMI Fund had surpassed the legally required threshold of 2%, House Financial Services Committee Chair Jeb Hensarling (R-TX) still questioned the health of the fund. Mr. Hensarling voiced concern for the size of the fund's capital reserve, and said that, without a spike in the value of FHA's "volatile" reverse mortgage program, the fund would not have met the 2% threshold. He further stated his belief that FHA continues to crowd out private mortgage lenders from entering the market.

A 2015 Urban Institute analysis showed that in addition, the FHA, along with Freddie Mac, the Federal National Mortgage Association (Fannie Mae), and the VA, provided the financing for about 71% of the mortgage loans in this country. Although private capital is returning to the market, the government has a disproportionately large share, and this level of federal government support for the mortgage market is unsustainable and undesirable over the long run. However, in its first session, the 114th Congress has largely failed in working to reduce the government's role in the housing finance system and return the bulk of mortgage lending to the private sector. With election-year politics at play, this trend is expected to continue through 2016.

Revenue generated by FHA is used to underpin HUD's annual budget request. In FY14, HUD counted FHA receipts to undergird its budget, keeping HUD from making deep cuts in rental assistance programs. However, the amount of FHA revenue HUD counts on to help fund its budget has declined in the last few years. When FHA receipts are down, as they were for the FY16 budget cycle by $1.1 billion, appropriators must fill the hole before HUD's other programs can be funded. FHA's market share has been decreasing as the housing market starts to recover, resulting in a lower level of receipts that can be applied to the HUD budget. The Congressional Budget Office will ultimately determine if HUD's revenue projections for FHA are accurate. Ideally, the pace of declining receipts will decrease and Congress can use its limited funds for HUD programs rather than to fill a revenue gap. Congress decides whether FHA revenue can be dedicated to HUD's bottom line, or whether these revenues should flow into the general treasury of the United States.

FOR MORE INFORMATION

2015 FHA Annual Report to Congress, http://1.usa.gov/1Pw5QET

Ginnie Mae 2015 Annual Report to Congress, http://1.usa.gov/1TvITSI ■

Lead Hazard Control and Healthy Homes

By Julie Kruse, Director of Policy, National Center for Healthy Housing

Administering agency: HUD's Office of Lead Hazard Control and Healthy Homes (OLHCHH)

Year program started: Lead Hazard Control, 1992; Healthy Homes Initiative, 1999

Population targeted: Low income and very low income families who reside in worst-quality private housing where children under six years of age reside or are likely to reside.

FY16 funding: $110 Million

Indoor pollution and hazards inside our homes typically pose far greater risks to children's health than outdoor exposure. This is due to the fact that children spend as much as 90% of their time indoors, and toxic substances can reach more concentrated levels indoors than they do outside. Older, dilapidated housing with lead-based paint, and the dust and soil it generates, are the biggest sources of lead exposure for children. Often these units have a combination of health dangers that include dust mites, molds, and pests that can cause or trigger asthma; carcinogens, such as asbestos, radon, and pesticides; and other deadly toxins such as carbon monoxide.

HISTORY AND PURPOSE

Lead Hazard Control. The Residential Lead-Based Paint Hazard Reduction Act, or Title X of the Housing and Community Development Act of 1992, was enacted to focus the nation on making housing safe for children by preventing exposure to lead-based paint that has deteriorated due to moisture problems and 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 communities to control lead-based paint hazards in privately owned, low income, owner-occupied and rental housing. In 2003, Congress created Lead Hazard Reduction Demonstration Grants to target additional lead hazard control grants to the nation's highest-risk cities. Both programs and enforcement of related regulations are housed in HUD's OHHLHC.

Healthy Homes Initiative. The Healthy Homes Initiative was established by HUD in 1999 to protect children and their families from residential health and safety hazards. The goal of this program is a comprehensive, integrated approach to housing hazards through grants that create and demonstrate effective, low-cost methods of addressing mold, lead, allergens, asthma, carbon monoxide, home safety, pesticides, and radon. These grant programs are housed in HUD's OLHCHH.

The beneficiaries of the lead hazard control program are low income households. Assisted rental units served must be made available on a priority basis for at least three years for families with children under age six. Ninety percent of owner-occupied units served must house or be regularly visited by a child under age six. Because the funds do not cover all housing eligible under federal policy, each grantee develops its local plan and is permitted to target investment of grant funds based on factors such as the presence of a lead-poisoned child and location in a high-risk neighborhood. The programs' funds are awarded via a competitive combined Notice of Fund Availability.

ISSUE SUMMARY

Recent research confirms that housing policy has a profound impact on public health, and for any public health agenda to be effective, it must include a housing component. The statistics and key findings regarding the long-term effects of housing-related health hazards are alarming. More than 500,000 children under five in the U.S. have elevated blood lead levels. Childhood exposure to lead can have lifelong consequences including decreased cognitive function, developmental delays, behavior problems, and, at very high levels can cause seizures, coma, and even death. Asthma is the single most common chronic condition among children in the U.S.; 26 million people in the U.S. have asthma, including 9.5% of children under 18. In 2007-2008, the economic costs to society of lead poisoning and asthma were estimated at $50 billion and $56 billion respectively.

The burden of housing-related health hazards falls disproportionately on the most vulnerable children and communities, contributing greatly to U.S. health disparities. 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 of low income families are eight times more likely to be lead-poisoned than those of higher income families, and African-American children are five times more likely than whites to be lead-poisoned. Children poisoned by lead are seven times more likely to drop out of school, and six times more likely to end up in the juvenile justice system.

Those numbers begin to add up to even bigger consequences when dealing with the cumulative effects of multiple hazards. Inadequate ventilation increases the concentration of lethal 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 exacerbated by 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. Thus, a 'whole-house' approach is critical—including thorough visual assessments, air tests, and remediation activities.

Additionally, solutions and opportunities may arise through existing weatherization and rehabilitation work. Since improperly disturbing lead-based paint may cause lead poisoning, it is necessary to use lead-safe work practices and comply with EPA's renovation rule. Many weatherization treatments have healthy homes benefits. For example, window replacement can help with lead poisoning prevention, and roof repair and insulation may help reduce moisture intrusion and prevent mold. Improving ventilation to ameliorate the ill effects of tightening a building can help ensure no harm from energy-efficiency measures.

PROGRAM SUMMARY

Programs based at HUD include:

Healthy Homes Initiative. The Healthy Homes Demonstration Grant Program develops, demonstrates and promotes cost-effective, preventive measures for identifying and correcting residential health and safety hazards. HUD awards Healthy Homes Demonstration grants to not-for profits, for-profit firms located in the U.S., state and local governments, federally recognized Indian Tribes, and colleges and universities.

The Healthy Homes Technical Studies grant program develops and improves cost-effective methods for evaluating and controlling residential health and safety hazards through a separate competition open to academic and nonprofit institutions, state and local governments, tribes, and for-profit organizations.

Lead Hazard Control Grants. The typical award of $3 million addresses hazards in several hundred homes and provides needed outreach and capacity-building services. Grants can only be awarded to states, counties, and cities for lead hazard control in private housing. 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 to provide a match of 10%-25% from local or Community Development Block Grant (CDBG) 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 100 highest-risk cities as defined by the prevalence of lead poisoning and the number of pre-1940 rental housing units. 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 funds. High-risk cities can receive demonstration grants in addition to basic lead hazard control grants.

Lead Technical Studies Program. This program funds academic institutions, nonprofit and for-profit organizations, states, Native American tribes, and local governments to conduct research to gain knowledge on improving the efficacy and cost-effectiveness of methods for evaluation and control of residential lead-based paint hazards.

Other Federal Agencies:

The Centers for Disease Control and Prevention (CDC) Healthy Homes and Lead Poisoning Prevention and Asthma Control Programs, and the U.S. Environmental Protection Agency (EPA) provide complementary programs to HUD's OLHCHH. The EPA identifies housing hazards and their impacts and provides training; CDC-funded programs provide surveillance data, education and outreach on resulting diseases and injuries; and HUD-funded programs remediate homes to remove the health hazards.

CDC Childhood Lead Poisoning Prevention Program. Until 2012, CDC's Childhood Lead Poisoning Prevention Program provided funding to state and local health departments to determine the extent of childhood lead poisoning by: screening children for elevated blood lead levels; helping to ensure that lead-poisoned infants and children receive medical and environmental follow-up; and, developing neighborhood-based efforts to prevent childhood lead poisoning. This program's funding was reduced from $29 million in FY11 to $2 million for a small federal effort in FY12 and FY13. Congress partially restored the lead poisoning prevention program to $15 million in FY15 and then to $17 million in FY16. In 2014, CDC awarded 3-year grants for surveillance activities to 35 states and cities.

FUNDING

HUD FY16 funding includes $110 million for the Office of Lead Hazard Control and Healthy Homes, including $90 million for Lead Hazard Control and Demonstration Programs as well as Lead Technical Studies, and $20 million for Healthy Homes Demonstration and Production Programs. The president's FY16 budget request retains level funding for these programs.

The president's FY16 budget request maintains level funding for the CDC's Healthy Homes and Lead Poisoning Prevention and Asthma Control Programs, at $17 and $29.5 million respectively.

FORECAST

In the first year of the 113th Congress, Senators Jack Reed (D-RI), Mike Johanns (R-NE), Barbara Boxer (D-CA), and Al Franken (D-MN) introduced S. 290, the Title X Amendments Act. Representative Louise Slaughter (D-NY) led a group of other House members in introducing the companion bill, H.R. 1232. This bill would allow lead hazard control grantees to help families residing in efficiency apartments; address multiple housing-related health hazards; and, accept a family's income eligibility information from other federally funded programs. The bill would also expand the existing Title X statute, which focuses solely on lead hazards, to enable the use of up to 30% of grant funds to correct other health and safety threats. The bill also expands eligibility for grants, presently limited to state and local governments, to include tribal governments, and nonprofit organizations if they have the support of the applicable state or local government.

Senator Reed and Rep. Slaughter plan to reintroduce the Title X Amendments Act in 2016.

Additionally, due to the Flint, Mich., lead poisoning crisis, there is an increased awareness of lead poisoning and the need for prevention. Many members of Congress are calling for lead poisoning surveillance in all 50 states, and thus increases of CDC's Healthy Homes and Lead Poisoning Prevention program to $35 million, its level in FY10, up from FY16's $17 million in funding for the program.

Further, in 2000, the Presidential Task Force on Environmental Health Risks and Safety Risks to Children recommended $230 million in funding annually over 10 years for lead hazard control in its Federal Strategy Targeting Lead Paint Hazards. An annual allocation of $230 million over the course of10 years will provide lead hazard screening and lead hazard control of pre-1960 housing occupied by low-income families. This would constitute prevention by eliminating the majority of lead paint hazards in low-income housing. Many Members of Congress are calling for this increase to finally substantively prevent lead poisoning through lead paint hazards, the largest cause of lead poisoning in the U.S.

TIPS FOR LOCAL SUCCESS

Many communities have improved the quality of their housing stock and have eliminated housing-related health hazards 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. The International Residential Code requires carbon monoxide detectors in new homes with fuel-burning appliances or attached garages. Efforts are underway to: require carbon monoxide detectors in existing housing; add a requirement for radon-resistant new construction; and, prohibit lead hazards and excessive moisture that leads to mold. Increasing public awareness and concern about other housing-related hazards is fueling new attention to state and local regulation of healthy homes issues. The National Healthy Housing Standard was released in 2014 and provides advocates with a health-centered overlay for the International Property Maintenance Code and a template for comprehensive local healthy housing policy.

Many communities have also urged strong collaboration between departments of housing and health; effective utilization of CDC surveillance data to guide HUD programs to families and areas of greatest need; and state Medicaid reimbursement for environmental health services in the homes of lead-exposed children and people with asthma.

WHAT TO SAY TO LEGISLATORS

Advocates should contact their Members of Congress, ask to speak to the person who deals with housing policy, and deliver the message that funding is needed in FY17 to correct health and safety hazards in homes to improve health outcomes. For every $1 spent on reducing lead hazards, there is a benefit of $17 - $220, and for asthma control an estimated $5.30 - $14; healthy homes interventions prevent injury, neurological and respiratory diseases, and cancer and even death from toxins such as carbon monoxide and radon. Advocates should inform legislators of the following ways through which they can lend support for reducing housing-related health problems:

- Fully fund HUD's Lead Hazard Control and Healthy Homes Program through which communities can fix homes with health hazards—including lead-based paint problems. Allocating $230 annually over the course of 10 years would provide lead hazard screening and lead hazard control of pre-1960 housing occupied by low-income families, the homes with the great majority of lead hazards.
- Restore the full level of funding for CDC's $30 million Healthy Homes and Lead Poisoning Prevention Program so that all states can provide surveillance of children's blood lead levels, promote prevention, and respond to lead-poisoned children.
- Pass and Implement the Title X Amendments Act.

FOR MORE INFORMATION

National Center for Healthy Housing, 202-280-1982, www.nchh.org

National Safe and Healthy Housing Coalition, http://bit.ly/1dvzV04

HUD's Office of Lead Hazard Control and Healthy Homes, http://1.usa.gov/1iOKkas

CDC's Healthy Homes and Lead Poisoning Prevention Program, http://www.cdc.gov/nceh/lead/ ■

HOME Investment Partnerships Program

By Ed Gramlich, Senior Advisor, NLIHC

Administering agency: HUD's Office of Community Planning and Development (CPD)

Year program started: 1990

Population targeted: Households with incomes below 80% area median income (AMI); when used to assist renters, 90% of a jurisdiction's rental units must be occupied by households with incomes below 60% AMI.

FY16 funding: $950 million

Also see: *Consolidated Plan*

The HOME Investment Partnerships (HOME) program is a federal block grant intended to expand the supply of decent, affordable housing for lower income people.

HISTORY

The HOME Program was authorized in 1990 as part of the Cranston-Gonzalez National Affordable Housing Act.

PROGRAM SUMMARY

HOME is a federal block grant to 643 participating jurisdictions (PJs), which are states and certain localities that use the funds to provide affordable housing to low and moderate income households. States and localities use the funds for a variety of homeownership and rental activities. In general, all HOME money must benefit people with low or moderate incomes, tenant rents must generally be capped at a fixed percentage of the area median income, and units must be occupied by income-eligible households for a set period of time. The HOME program regulations are at 24 CFR Part 92. Numerous changes to the HOME regulations were finalized on July 24, 2013. A summary of key changes are at: http://bit.ly/1qWWD7J

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; demolishing structures to make way for affordable housing; relocation; making site improvements; and paying soft costs, such as engineering plans, attorneys' fees, title search, and fair housing services. HOME can also be used to help people purchase or rehabilitate a home by offering loans, loan guarantees, or down payment assistance. Tenants can be given grants for security deposits and rental assistance so that they pay no more than 30% of their income for rent and utilities. Although tenant-based rental assistance agreements are limited to two-year terms, they can be renewed without limit.

PJs may spend no more than 10% of their HOME dollars for overall program planning and administration, but there is no limit on the use of HOME funds for project-specific administrative costs. Among other limitations, PJs cannot spend HOME dollars on public or assisted housing modernization, operation, or preservation, because public housing has its own separate funding accounts.

Community-based Housing Development Organizations (CHDOs). At least 15% of a participating jurisdiction's HOME funds must be spent for housing that is developed, sponsored, or owned by Community-based Housing Development Organizations (CHDOs). Up to 10% of this 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 its low income residents lose that amount of money. 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.

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, a change to the HOME regulations in 2013 require a nonprofit that is a developer or sponsor to have paid employees on staff who have housing development experience. However, another change in 2013 could assist nonprofits seeking to keep or obtain CHDO status by allowing those that own rental housing to operate it even if the nonprofit does not have development expertise. The 2013 HOME regulation amendments introduced other changes that might make it more difficult for existing small and rural CHDOs to continue.

The HOME law requires a CHDO to be accountable 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 can be one where only 51% of the residents have incomes below 80% of the area median income (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.

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 appropriated by Congress to local governments and consortia; the remaining 40% is allocated to states. Local PJs are eligible for an allocation of at least $500,000 ($335,000 in years when Congress appropriates less than $1.5 billion). Each state receives the greater of its formula allocation or $3 million. 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, or other noncash contributions.

Beneficiaries. When HOME is used to assist renters, at least 90% of the PJ's assisted rental units must be occupied by households with incomes below 60% of AMI; the remaining 10% of the rental units can benefit those with incomes up to 80% of AMI, known as low income households. 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, known as very low income households. 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. Advocates should work to convince their PJ or state to improve HOME's targeting to people with extremely low incomes, those below 30% of AMI.

Affordability. To qualify as affordable rental housing, rent can be no greater than the lower of the fair market rent (FMR) or 30% of the adjusted income of a hypothetical household with an annual income of 65% of AMI. 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 considered 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 HUD Exchange HOME program web page at: https://www.hudexchange.info/manage-a-program/home-income-limits

Newly constructed rental projects must remain affordable for 20 years. Existing rental housing that is either purchased or rehabilitated must remain affordable for 15 years if more than $40,000 is spent per unit, 10 years if between $15,000 and $40,000 is spent per unit, and five years if less than $15,000 is spent per unit.

Homeowner-assisted units are considered affordable if, in general, the value of the home 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 or recapture provisions. A resale provision is intended to ensure affordability during the required periods by requiring 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 during the affordability period.

As of December 31, 2015, HOME has delivered 1,211,996 completed physical units and provided another 301,012 tenant-based rental assistance contracts since 1992. Out of the 1,211,996 physical units, only 39.2% (478,371) were rental units, 19.4% (236,495) were homeowner rehabilitation and/or new construction units, and 41.4% (504,627) were homebuyer units.

At the time of initial occupancy, households with incomes below 30% of AMI occupied 43.9% of the physical rental units, but only 8.3% of all 1,211,996 physical units. Households with incomes below 30% AMI occupied 30.6% of the homeowner units, and 5.9% of the homebuyer units. In addition, 79.2% of the tenant-based rental assistance units were occupied by extremely low income people.

FUNDING

In FY11, Congress appropriated $1.6 billion for HOME formula grants, but cut it 38% to $1 billion in FY12 and FY13, which with the sequester netted only $948 million for HOME in FY13. Congress appropriated $1 billion again for FY14, and further reduced HOME to $900 million for FY15. The Administration's FY16 budget request was $1.05 billion; Congress appropriated $950 million.

FORECAST

The Administration's FY17 budget request seeks authority to:

- Eliminate the set-aside for CHDOs, which are private nonprofit, community-based organizations that have staff with the capacity to develop affordable housing. In order to qualify for designation as a CHDO, the organization must meet certain requirements relating to their legal status, organizational structure, and capacity and experience. The HOME statute requires that not less than 15% of each participating jurisdiction's grant be reserved for projects owned, developed, or sponsored by CHDOs. In its budget documents, HUD says that it "is extremely difficult for participating jurisdictions receiving smaller and smaller allocations, to administer this 15% set-aside."
- Not allocate HOME funds to participating jurisdictions that received less than $500,000 in HOME funds for any three of the prior five consecutive fiscal years.
- Change eviction or termination requirements. Tenants of HOME-assisted housing must be given a 30-day written notice when an owner intends to evict or deny renewing a lease. HUD proposes changing that provision of law if a tenant poses a direct threat to the safety of other residents or employees of the housing, of if the tenant presents an imminent threat to the property.

TIPS FOR LOCAL SUCCESS

At the local level advocates will want to continue to be actively involved in the Consolidated Plan's 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 previous allocations. To monitor their local PJ's accomplishments, advocates can access several useful reports on the HUD Exchange website, https://www.hudexchange.info/programs/home.

- The monthly Open Activities Report lists each HOME project in a PJ that is still "open," 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. (https://www.hudexchange.info/manage-a-program/home-pjs-open-activities-reports)
- The Vacant Unit Report identifies units marked vacant in HUD's reporting system. (https://www.hudexchange.info/manage-a-program/home-pjs-vacant-unit-reports)
- 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. (https://www.hudexchange.info/manage-a-program/home-performance-snapshot-and-pj-rankings-reports)
- 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 (https://www.hudexchange.info/manage-a-program/home-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.
  - Average total development cost per unit for rental, homeowner rehab, and home buyer projects.

- The National Production Report offers cumulative information since 1992. (https://www.hudexchange.info/manage-a-program/home-national-production-reports)

WHAT TO SAY TO LEGISLATORS

The major responsibility of advocates is to continue pushing for increased federal appropriations.

FOR MORE INFORMATION

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

HOME program information, 202-708-2470, http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/affordablehousing/programs/home

Most HOME program information has migrated to HUD Exchange, https://www.hudexchange.info/programs/home ■

The Resident Opportunities and Self-Sufficiency Service Coordinator Program, the Family Self Sufficiency Program and Service Coordinators in Multifamily Housing for the Elderly and Disabled

By Judith Chavis, Executive Vice President/ Public Policy, American Association of Service Coordinators

HUD currently has three distinct service coordinator programs, each with its own federally-appropriated funding stream:

1. The Resident Opportunities and Self-Sufficiency (ROSS) Service Coordinator program.
2. The Family Self-Sufficiency (FSS) program.
3. Service Coordinators in Multifamily Housing for the Elderly/Disabled.

HUD's Office of Public and Indian Housing administers the ROSS Service Coordinator and FSS programs. The Service Coordinators in Multifamily Housing for the Elderly/Disabled program funds the work of service coordinators in Section 202 housing and is administered by HUD's Office of Multifamily Housing Programs.

A service coordinator is defined as a social service staff person hired or contracted by a property owner, housing management company, public housing agency (PHA), resident association (RA), or Tribal Housing entity. The service coordinator's primary role is to coordinate the provision of supportive services and provide access to benefits, entitlements, and community-based resources for low-income residents.

In general, a service coordinator is a social service professional who acts as an information and referral resource for 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 increase their assets and self-sufficiency by connecting them with community-based services and other income-related benefits.

HISTORY

Service coordination is a growing profession that has expanded since beginning when Congress created HUD's Service Coordinator program through Section 808 of the National Affordable Housing Act of 1990 (also known as the Cranston-Gonzalez Affordable Housing Act, Public Law 101-625). This law gave HUD the authority to use Section 8 funds to employ service coordinators in Section 202 Multifamily Housing for the Elderly/ Disabled. The Act also enacted the FSS program.

Service coordination programs received additional authority through the 1992 Housing and Community Development Act (HCDA; Public Law 102-550). The HCDA Amendments of 1992 amended Section 808 through Sections 674 and 677, and added Sections 675 and 676. Section 851 of the American Homeownership and Economic Opportunity Act of 2000 (Public Law 106-569) further amended these Acts, allowing Service Coordinators to serve low-income elderly and disabled persons living in the vicinity of the development, and expanded the program by broadening authority for funding of service coordinators in most HUD-assisted and conventional public housing (PH) developments designated for the elderly and people with disabilities.

As a response to the Quality Housing and Work Responsibility Act of 1998 (the Public Housing Reform Act), ROSS is a redefined and restructured combination of programs funded in prior years: The Tenant Opportunities Program, Economic Development and Supportive Services Program, and Public Housing Service Coordinators Program.

PROGRAM SUCCESSES

National research conducted throughout the past 30 years has chronicled the widely recognized preference by older adults to remain independent and in their own homes and communities for as long as possible. A research study on service coordination offers some exciting information on the benefits of service coordination across the country. Additionally, national data from the American Association of Service Coordinators (AASC) Online documentation system has shown the benefits of service coordination in terms of: providing access to services and supports; increased length of independent living; and, most recent data from the system is also showing improved health outcomes for elderly residents through wellness and healthy habits programs, health status checks, and other services arranged for and brought to the property by the service coordinator. Additionally, the AASC Online system has been able to identify cost-savings for the residents from their access to needed services, benefits, and supports.

In terms of cost savings, a comparison of the national average monthly cost of nursing home care versus keeping a low income, frail elderly person in their own apartment with access to benefits, supports, and services at a property with a service coordinator reveals some startling data. According to the *Genworth 2015 Cost of Care Survey of Home Care Providers, Adult Day Health Care Facilities, Assisted Living Facilities and Nursing Homes*, the average monthly cost of a semi-private room in a nursing home is $6,600. Keeping a frail elderly person independent in his/her own subsidized apartment with supportive services and public benefits can reduce spending of taxpayer dollars to approximately 66% less than the monthly average cost of nursing home care. This figure is based on: the average SNAP (food stamp) benefit for seniors of $121/month; Homemaker/Home Health Aide services at an average of 40 hours/month; 70% of the national average of HUD's 2015 fair market rent for a one-bedroom apartment; and, the average monthly cost of a service coordinator based on the *AASC 2014 Service Coordinator Salary Survey*.

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 housing properties. 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% longer than at developments without a service coordinator. This increased length of independent living serves to reduce the long-term care costs for this population.

SUMMARIES OF THE PROGRAMS

Service Coordinators in Multifamily Housing for the Elderly/Disabled, and ROSS Service Coordinators

The service coordinator position is funded to carry out the following activities:

- Assessing each elderly resident's needs in Activities of Daily Living and determining their respective service needs.
- Assisting residents with obtaining needed community-based services and/or public benefits.
- Monitoring and evaluating the effectiveness of the supportive services provided to residents individually and collectively.
- Identifying and networking with appropriate community-based supports and services.
- Advocating on behalf of residents individually and collectively to ensure their needs are met.
- Assisting residents with establishing and working with RAs/Resident Councils, as requested.
- Assisting residents in setting up informal support networks.
- Assisting residents with resolving problems with their tenancy.
- Developing and acquiring appropriate health and wellness programs for the housing community.
- Developing after-school youth, job readiness, literacy, volunteer, and financial management programs for residents and their families.

- Performing other functions to eliminate barriers 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, serving as an activities director, or coordinator or assisting with other administrative work of the property. However, based on the collective needs of the residents of the property or properties where they work, service coordinators will develop health, wellness, financial literacy, after-school programs, and other beneficial group presentations or programs at the property. Additionally, service coordinators assist residents at a property with starting a residents' or tenants' association, and will provide guidance, contacts, and strategies for planning events, conducting effective meetings, and completing tasks. However, they do not conduct the meetings, nor do they regularly attend these meetings unless they are invited to do so.

Eligible applicants for Service Coordinator in Housing for the Elderly and Disabled 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, or by people with disabilities aged 18 to 61. Funds are distributed by national competitive grant processes through HUD Notices of Funding Availability (NOFAs).

Eligible applicants for ROSS Service Coordinator funds include PHAs, Tribes/tribally designated housing entities, RAs such as resident management corporations, resident councils, and intermediary resident organizations and nonprofit organizations supported by residents and/or PHAs. Funds are distributed by national competitive grant processes through HUD NOFAs.

Although 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 properties and PHAs do not have sufficient resources in their operating budgets to staff service coordinators.

Family Self-Sufficiency

The FSS program helps housing choice voucher (HCV) holders and PH residents to build assets, increase their earnings, and achieve other individual goals including homeownership, if desired. FSS supplements stable, affordable housing in two ways: (1) with case management to help families overcome barriers to work and develop individualized skills training and services plans, and (2) with escrow accounts that grow as families' earnings rise. The program is voluntary and allows participants up to five years to achieve their goals and "graduate" from the program.

The FSS program is administered through PHAs that 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 a sufficient number of 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.

Each family participating in the FSS program works with an FSS coordinator/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 résumé building, job search, job counseling and education and training. The nature of the services varies based on families' needs and local program offerings.

A significant component of the FSS program is the escrow account that serves 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 may also 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.

FUNDING

For FY16, Congress appropriated $77 million for the Service Coordinators in Multifamily Housing for the Elderly and Disabled grant program. This was a reduction in funding that served to only fund one-year grant extensions for existing service coordinator grants with no Cost of Living increase for the grantees. There was no funding to provide for new three-year grants for properties to hire a service coordinator.

The president's FY17 budget request, if passed by Congress would only appropriate $75 million for the Service Coordinators in Multifamily Housing for the Elderly and Disabled grant program. At this funding level, it is doubtful that all one-year grant extensions will be fully funded. Again, there is no money identified for new grants.

For ROSS Service Coordinator grants, FY16 funds were appropriated at a level of $35 million. However, the FY16 appropriations bill also provided $15 million for a Jobs-Plus Pilot program as a set- aside in the Public Housing Capital Fund. The HUD secretary was granted the authority to provide additional pilot funding by setting-aside and decreasing ROSS funding. As has been the practice in this as well as previous administrations, no funding was requested in the FY17 budget for the ROSS Service Coordinator grant program. The administration's FY17 budget request does include $35 million for the Jobs-Plus initiative.

In the FY14 Omnibus Appropriations Act, the FSS program was consolidated into one program and funded at a $75 million level to pay the salary and benefits of FSS coordinators/case managers. This funding level constitutes "flat funding," meaning there was no increase in funding for the FSS program. Previously, there were two separate FSS programs with separate funding streams–one specifically for HCV holders (funded at the $60 million level for the past few funding cycles) and another for PH residents with funding carved out of ROSS funds (approximately $15 million out of a total ROSS funding level of $50 million for the past few funding cycles).

For HCV participants, FSS escrow deposits are eligible expenses for reimbursement under the housing assistance payments that HUD makes to PHAs. For PH residents, PHAs are compensated for FSS escrow deposits through the PH operating subsidy calculation.

The president's FY17 budget request maintains the FY16 funding level for the consolidated FSS programs at $75 million and again proposes expanding the program to allow privately owned Project-Based Rental Assistance multifamily projects with a Section 8 contract to voluntarily make a FSS program available to their tenants and may use funds from their residual receipt accounts or other sources to hire service coordinators.

FORECAST

Service Coordinators in Multifamily Housing for the Elderly and Disabled Grant Program.

There continues to be a need for a multifaceted strategy for funding service coordinators that includes maintaining the service coordinator grant programs and increasing the ability for routine staffing of service coordinators from a property's operating budget or through modest rent adjustments or the property's residual receipts. Although statutory authority exists to allow HUD to fund service coordinators, many senior housing facilities continue to not be able to secure the necessary rent adjustments to accommodate them. Currently, there are more than 12,000 properties for low-income elderly that are eligible for a service coordinator. However, only one-third–approximately 4,300+—of the properties eligible have a service coordinator on staff. There is a critical need for service coordinators in these properties to provide assistance with accessing benefits, supportive social and health/wellness services to maintain the independence and improve the health outcomes for these low-income elderly tenants.

A promising initiative is developing that is anticipated to provide evidence-based data on the benefits of an "enhanced" form of service coordination in improving the health/wellness outcomes for low-income, frail elderly residents in multifamily housing. On January 20, 2016, HUD announced the availability of $15 million (from FY14 appropriations) for the "Supportive Services Demonstration for Elderly Households in HUD-Assisted Multifamily Housing." This three-year demonstration seeks to test models of housing-with-services that demonstrate the potential to delay or avoid the need for nursing home care. The demonstration is expected to produce evidence about the impact of housing with an expanded and "enhanced" service coordinator role and a wellness nurse on site on aging in place, transitions to institutional care, housing stability, well-being and improved health/wellness outcomes, and proactive health care utilization.

There is also a need to expand the funding for housing-based service coordinators to assist frail seniors and non-elderly people with disabilities in the surrounding community where the property is located. Even though 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 effectively assist these 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 administered by 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. If a Section 515 Rural Housing property has a Section 8 contract, they are also eligible to apply for Service Coordinators in Multifamily Housing for the Elderly/Disabled new grant funds, if available, and are eligible for one-year extension funding for existing grants.

ROSS Service Coordinator Grant Program.

The need for service coordination in PHAs continues to be a critical concern. For the past few funding cycles, the Operating and Capital Funds appropriated to PHAs have decreased to the point that funds are insufficient to meet PH operating and repair needs, much less fund a service coordinator. It is imperative that PHA residents have access to the information, assistance, and case management of a service coordinator that would enable them to gain or maintain their independence, improve their health outcomes, and achieve economic self-sufficiency. If the $45 million funding level could be restored without any carve-outs for other initiatives, there would be a modest amount available to fund new ROSS Service Coordinators in additional PHAs.

Family Self-Sufficiency Grant Program.

For the FSS program, the key issue is expanding and 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, 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 FSS coordinator staff to reduce caseloads to manageable levels at the outset and then work 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 FSS program coordinators/case managers to serve additional families.

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 AASC continues to advocate for a change in the program's funding restrictions and an increase in funding for FSS coordinators to cover the costs of training, computer equipment, and case management software for FSS coordinators/case managers. It should be noted that shortfalls in Section 8 and PH funding 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 previous Congressional sessions, a number of legislative proposals have sought to streamline the FSS program and stabilize its funding, including S. 454, The Family Self-Sufficiency Act sponsored by Senator Jack Reed (D-RI). In addition to simplifying the funding, these proposals would also open up funding to additional housing types and agencies that wanted to start or expand their FSS programs. Unfortunately, S. 454 did not make significant progress through the federal legislative process of the 113th Congress, and was never enacted into law.

WHAT TO SAY TO LEGISLATORS

Service Coordinators in Multifamily Housing for the Elderly and Disabled Grant Program.

Advocates are encouraged to contact their Members of Congress with the message that Service Coordinators in Multifamily Housing for the Elderly/Disabled save taxpayer dollars by keeping frail, low-income seniors living independently in cost-effective housing instead of being placed in costly institutional (nursing home) care. Funding for service coordinators remains very limited despite the critical need in eligible properties without a service coordinator on staff. The supportive services demonstration will provide evidence-based data on the cost-effective impact service coordinators have on maintaining low-income, frail elderly with multiple chronic medical conditions in stable, subsidized housing in the community with access to adequate care and treatment in lieu of more-costly nursing home settings.

Members of Congress should be urged to:

- Restore the $91 million funding level in FY17 for service coordinators in federally-assisted housing, particularly to ensure adequate funds for expiring grants for 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 the housing property's operating budget.
- Appropriate a minimum of $10 million in FY17 to fund a competitive grant for service coordinators in Section 514, 515, and 516 programs under USDA.
- Direct HUD and its regional hub offices to provide necessary budget adjustments and regulatory relief to remove any barriers restricting the staffing of service coordinators through a property's operating budget.

ROSS Service Coordinator Grant Program.

Advocates are urged to contact Members of Congress with the message that service coordination in PH is as critical a need as it is in multifamily housing for the elderly. Residents of PHAs should be afforded access to information, assistance, and linkages to community-based supports and services afforded by a service coordinator to enable them to gain or maintain their independence, improve health/wellness outcomes, and achieve economic self-sufficiency.

Members of Congress should be urged to:

- For FY17, restore the $45 million funding level as a stand-alone appropriations line item for ROSS Service Coordinator grants without any carve-outs for other programs. This would ensure that existing ROSS grants are maintained and would allow more PHAs to have access to grant funds for service coordinators.

Family Self-Sufficiency Coordinators Grant Program.

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

- HUD's FSS program is critical for helping families in subsidized housing to build assets and make progress toward self-sufficiency and economic independence.
- To better support FSS in the near term, Congress should appropriate funding for FSS program coordinators at the $85 million level for FY17 so as to include training for FSS coordinators as well as needed case management tools and equipment as allowable expenses.
- Congress should pass legislation that strengthens and expands the FSS program, and stabilizes funding for FSS coordinators, their training, and necessary equipment to effectively perform their case management duties.

FOR MORE INFORMATION

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

HUD's Office of Public and Indian Housing's ROSS and FSS website is at, http://1.usa.gov/1gxezRs

HUD's Office of Multifamily Housing Program's Service Coordinator's website is at, http://1.usa.gov/1qzW0Tf

The HUD report *Multifamily Property Managers' Satisfaction with Service Coordination*, http://bit.ly/XoZo5d ■

Housing Bonds

By Garth Rieman, Director of Housing Advocacy and Strategic Initiatives, National Council of State Housing Agencies

Administering Agency: U.S. Department of the Treasury

Year program started: 1954

Number of households served: In 2013, 34,473 with Mortgage Revenue Bonds (MRBs); 10,096 with Mortgage Credit Certificates (MCCs); and 23,992 with multifamily bonds.

Population targeted: Low and moderate income home buyers and renters

See also: *Low Income Housing Tax Credits, HOME Investment Partnerships Program*

Housing bonds are used to finance low-interest mortgages for low and moderate income home buyers, 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 home buyers and renters in reduced housing costs.

HISTORY

Private activity bonds (PABs) 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

PABs, 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. The private activities must fulfill public purposes, and each private activity bond issuer must hold public hearings to demonstrate such public purposes. PABs are tax-exempt for the purchaser and are issued by state and local governments to support the stated public purpose. Purchasers, or investors, of PABs can include individuals and corporations. In addition to housing, PABs can be issued for other public purposes that include student loans, infrastructure, and redevelopment activities.

State and local housing finance agencies (HFAs) have authority under the Internal Revenue Code to issue housing bonds to support affordable housing activities in their states. Issuing bonds is a way for HFAs to access private capital markets to help support affordable housing activities. HFAs sell the tax-exempt bonds to individual and corporate 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), which finance single-family home purchases for qualified low-income home buyers; and, multifamily housing bonds, which finance the acquisition, construction, and rehabilitation of multifamily developments for low-income renters.

Mortgage Revenue Bonds. Proceeds from MRBs finance below-market rate mortgages to support the purchase of single-family homes. By lowering the interest rate, MRBs make homeownership affordable for families who would not be able to qualify for a market rate loan. Congress limits MRB mortgages to first-time home buyers who earn no more than the greater of area or statewide median income in most areas, and up to 140 percent of the applicable median income in targeted areas. Families of three or more in non-targeted areas can earn up to 115 percent of the greater of area or statewide median income. Congress also limits the price of homes purchased with MRB mortgages to 90 percent of the average area purchase price in most areas and up to 110 percent of the average area purchase price in targeted areas.

HFAs also use their MRB authority to issue Mortgage Credit Certificates (MCCs), which provide a nonrefundable federal income tax credit for part of the mortgage interest qualified home buyers pay each year. The MCC program is a flexible subsidy source that can be adjusted depending on the incomes of different home buyers. It provides a relatively constant level of benefit to first-time home buyers regardless of the spread between market and MRB rates.

Interested borrowers should contact their state or local HFA for information on obtaining an MRB loan or MCC.

Multifamily Bonds. Multifamily bonds provide funding for affordable rental 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. Multifamily housing developments with bond financing must set aside at least 40% of their apartments for families with income of 60% of area median income (AMI) or less, or 20% for families with income of 50% of AMI or less. The income-restricted apartments financed by those bonds must remain affordable for at least 15 years.

States increasingly combine multifamily bonds with other resources, including Low Income Housing Tax Credits (LIHTC) and HOME Investment Partnerships (HOME) 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 formerly homeless people, veterans housing, transitional housing, senior housing, assisted living housing, housing for persons with disabilities, workforce housing, housing for persons with AIDS, migrant worker housing, and rural housing.

ISSUE SUMMARY

In 2013, the most recent year for which data are available, state HFAs used MRBs to provide $4.7 billion to support the purchase of 34,473 homes nationwide. Some bond issuance was used to raise proceeds that were escrowed for use in future years, and to refund prior-year bonds. HFAs also issued 10,096 MCCs in 2013, more than double the amount issued in the previous year. States issued upwards of $4.4 billion in multifamily bonds in 2013 to finance more than 20,000 affordable rental homes.

Housing bonds have been an unqualified success in providing lower income Americans an opportunity they might not otherwise have to own a decent and affordable home and to access quality rental opportunities. Using MRBs, HFAs have made homeownership possible for more than 3 million low and moderate income families. They help another approximately 100,000 families buy their first homes with MRB mortgages in a typical year. In 2013, 82% of MRB borrowers earned less than AMI. The median MRB borrower income was $45,328, 89% of the national median income.

HFAs have also provided over 200,000 lower and moderate income homeowners critical tax relief through the MCC program. Seventy percent of all MCC borrowers in 2012 earned less than AMI.

HFAs have financed an additional 1 million affordable rental apartments with Multifamily Bonds. About 40% of all annual LIHTC rental home production includes Housing Bond financing. HFAs have used the LIHTC to produce almost 3 million rental homes for families earning 60% of AMI or less. They add another 100,000 LIHTC apartments every year.

FUNDING

By law, the annual state issuance of PABs, including MRBs and multifamily bonds, is capped by each state's population and indexed to inflation. The 2016 state cap is $100 per capita, with a per-state minimum of $302,875,000.

FORECAST

As Congress continues to consider comprehensive tax reform, the tax exemption for housing bonds, and all municipal bonds, may face its biggest threat since Congress last considered tax reform in 1986. Indeed, then-Ways and Means Committee Chairman Dave Camp (R-MI) proposed to eliminate the tax-exemption for private activity bonds in his 2014 tax reform proposal. Although it is unlikely that Congress will pass tax reform legislation this year, we expect it to continue to work on tax reform and make serious efforts to enact tax reform legislation as soon as 2017.

President Obama's FY17 Budget proposes legislation to allow states to convert up to 18% of their PAB volume cap received in a calendar year into LIHTC authority for that same year. The FY17 Budget also proposes to repeal the MRB program purchase price limit and refinancing restriction; create a new permanent American Fast Forward Bond program, which would be an optional alternative to traditional tax-exempt bonds; and to cap the value of itemized deductions and other tax preferences, including the income exclusion of interest on tax-exempt bonds, to 28 percent.

Eliminating or capping the tax exemption for municipal bonds would have a significant negative impact on municipal bond investment, directly increasing borrowing costs for HFAs and detracting from their ability to provide affordable housing opportunities to lower income people and Americans with special needs. It is estimated that the president's 28% deduction value cap proposal would cause issuers to pay yields of up to half a percent higher to continue attracting investors, resulting in an additional $10 billion annually in debt payments. The ultimate impact, however, would likely fall not on bond issuers and investors but on the bond programs' ultimate beneficiaries, including home buyers and renters, who would bear the cost of higher interest rates demanded by investors. Further, lower and middle income taxpayers could face increases in taxes if state and local governments are forced to increase revenue to cover higher borrowing costs.

WHAT TO SAY TO LEGISLATORS

Advocates should tell legislators to preserve the tax exemption for housing bonds and other municipal bonds, and to strengthen the housing bonds program with targeted improvements.

Advocates should ask legislators to express their support for the tax exemption for all municipal and private activity bonds, including housing bonds, directly to the leaders of the Senate Finance Committee or House Ways and Means Committee.

Advocates should speak with staff in their Members' offices responsible for housing or tax policy and deliver the message that support is needed for housing bonds in any tax reform or deficit reduction proposal.

Specifically, lawmakers should:

- Preserve the tax exemption for municipal and housing bonds.
- Maintain and strengthen the MCC program.
- Allow states to convert PAB authority into Housing Credit authority.
- Repeal the housing bonds purchase price limit and refinancing restriction and increase the MRB home improvement loan limit by an amount at least adequate to reflect the rise in construction costs since it was first established, and index it for construction cost inflation annually thereafter.

FOR MORE INFORMATION

National Council of State Housing Agencies, 202-624-7710, www.ncsha.org ■

Housing Counseling

By Ramon Bullard, Senior Associate, Policy, Housing Partnership Network

Administering agencies: HUD's Office of Housing Counseling in the Office of Housing; NeighborWorks America

Year program started: HUD Housing 1968; National Foreclosure Mitigation Counseling (NFMC) Program 2007

Number of persons/households served: More than 1.3 million households for HUD Housing Counseling (Fiscal Year 2014); More than 1.9 million since 2007 for NFMC

Population targeted: Low and moderate income households, people of color, and people with Limited English Proficiency

FY17 Administration Budget Request: $47 million for HUD Counseling Program; $0 for NFMC

Housing counseling agencies are a critical community resource for homeowners and renters. For nearly 40 years, housing counselors have worked to help people achieve a broad spectrum of goals related to housing, from renting or purchasing a home to setting a budget, and accessing resources to retain housing. Housing counselors play a critical role in helping communities in crisis. Housing counselors continue to help families in the communities hit hardest by the foreclosure crisis stay in their homes. During recent disasters such as Hurricane Sandy, housing counselors also have played an important role in connecting affected families to key housing resources. Housing counseling agencies are also important providers of affordable, high-quality pre- and post-purchase homebuyer education and counseling, which prepare potential borrowers for the processes of purchasing a home and work with them to maintain and upkeep their housing. Finally, housing counselors provide rental counseling services to low- and moderate- income households, helping renters locate, secure, and retain affordable rental housing and prevent homelessness.

According to OHC, HUD-approved housing counseling agencies assisted more than 1.3 million households in FY14. The OHC provides crucial support for housing counseling agencies, including regulatory guidance, certification and training, and grant funding. The OHC has also promoted the integration of homebuyer education and counseling into the mainstream mortgage market.

In FY16 Congress allocated funding for a tenth round of the National Foreclosure Mitigation Counseling (NFMC) program. This temporary program administered by NeighborWorks America provides funding to grantees to support foreclosure prevention counseling. Since inception in 2007 the program has helped more than 1.9 million homeowners.

HISTORY

The HUD Housing Counseling program is authorized by the Housing and Urban Development Act of 1968, "to provide counseling and advice to tenants and homeowners, both current and prospective, to assist them in improving their housing conditions, meeting their financial needs, and fulfilling the responsibilities of tenancy or homeownership." HUD is authorized to provide grants to and contract with public and private organizations to provide housing counseling services to homeowners and tenants. HUD is also authorized to provide Home Equity Conversion Mortgages counseling by the National Housing Act.

The 2010 Dodd-Frank financial reform legislation outlined the creation of a new HUD OHC, as part of the broader Expand and Preserve Home Ownership through Counseling Act. OHC was established in 2012, and consists of three offices: the Office of Policy and Grant Administration, the Office of Outreach and Capacity Building, and the Office of Oversight and Accountability. The office is led by the Deputy Assistant Secretary for Housing Counseling.

NFMC was authorized as a temporary program by the Consolidated Appropriations Act of 2008 (P.L. 110-161), "to provide mortgage foreclosure mitigation assistance primarily to States and areas with high rates of defaults and foreclosures primarily in the sub prime housing market to help eliminate the default and foreclosure of mortgages of owner-occupied single-family homes that are at risk of such foreclosure." Under the program NeighorWorks America is authorized to award grants to HUD-approved or NeighorWorks-approved housing counseling intermediaries that can directly provide the counseling or award grants to sub-grantees.

PROGRAM SUMMARY

OHC is supported by approximately 70 staff. OHC staff work at sites across the country, supporting HUD's national network of housing counseling agencies in order to carry out OHC's mission to help families "obtain, sustain, and retain their homes."

OHC provides several key services for housing counseling agencies. OHC is in charge of certifying housing counseling agencies as HUD-approved, and ensuring that HUD-approved agencies continue to meet HUD's performance and service delivery standards. OHC also approves housing counseling intermediaries, which provide housing counseling services through networks of affiliates. Intermediaries manage pass-through funding, ensure compliance with program standards, and cultivate best practices through peer learning. Finally, OHC supports housing counseling agencies through grant funds, a key source of financial support that help agencies leverage additional funding to support their services, which are often provided free of charge or at low cost. In FY15, HUD awarded more than $40 million in grants to housing counseling agencies, which supported those agencies' work counseling homeowners and tenants.

OHC has also worked to streamline the process of granting and maintaining HUD-approval for Housing Counseling agencies and the process of distributing grant funds, including developing the agency's first two-year NOFA (FY14-FY15) for the HUD counseling grant. However, OHC's efforts to implement programs such as the Homeowners Armed with Knowledge program have continued to be blocked with the passage of the Consolidated Appropriations Act of 2016 (P.L. 114-113). To fulfill a new requirement under Dodd Frank, the agency released a proposed rule in late 2013 to certify housing counselors at HUD-approved agencies, however, that rule has not been finalized.

The NFMC program was established by Congress as a temporary program in response to the foreclosure crisis. NFMC funds are distributed through NeighborWorks America, and are awarded to local counseling programs to support their work helping families at risk of foreclosure. A 2013 evaluation of the NFMC program determined that homeowners receiving foreclosure mitigation counseling were more likely to receive a modification or other delinquency cure, and were also more likely to stay current and avoid foreclosure after obtaining that cure.[1]

FUNDING

Congress appropriated $47 million for HUD housing counseling programs for FY16, the same funding level awarded in FY15, including $42.5 million for direct provision of housing counseling services; and $4.5 million for administrative contract services. The president's FY17 budget request to Congress seeks $47 million for HUD housing counseling, a decrease from the president's FY16 request, which was $60 million. Congress allocated $40 million for NFMC in the final FY16 spending bill, despite the Senate's proposal to eliminate funding for the program, this was a slight decrease from the $50 million in FY15 as the program winds down. The president's FY17 budget request would eliminate funding for NFMC and end the temporary program.

FORECAST

In 2016, OHC is expected to release a final rule on certification standards for housing counselors working at HUD-approved counseling agencies, and intends to better track industry and program outcomes through updated data collection and impact reporting. OHC also plans to have in place the Housing Counseling Federal Advisory Committee in 2016 and develop industry standards across housing counseling activities.

TIPS FOR LOCAL SUCCESS

One significant challenge facing housing counseling agencies is a lack of awareness about the existence and advantages of housing counseling and homebuyer education among communities that

1 "National Foreclosure Mitigation Counseling Program Evaluation, Final Reports Rounds 1 and 2," prepared for NeighborWorks America by the Urban Institute, December 2011 http://www.neighborworks.org/Homes-Finances/Foreclosure/Foreclosure-Counseling-(NFMC)/Urban-Institute-Evaluation

could benefit greatly from their services. Advocates should find out whether there are HUD-approved housing counseling agencies in their area and raise awareness about the valuable resources that housing counseling agencies can provide to their communities. HUD links to two different search methods, one by state (http://www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm) and the other by ZIP code (http://www.consumerfinance.gov/find-a-housing-counselor/).

WHAT TO SAY TO LEGISLATORS

Housing counseling advocates should continue to talk to their local and federal representatives about the value of housing counseling services for all participants in the housing process. On the homeownership side, consumers, lenders, and investors benefit from lower default and delinquency rates associated with pre-purchase education and counseling. On the renter side, both tenants and landlords benefit from quality renter education, which can help to facilitate housing stability for tenants and reduce turnover. We also see opportunities to further integrate housing counseling and homebuyer education into the mortgage process, for instance through online or in-person homebuyer education and counseling requirements for certain mortgage products. Advocates should emphasize both the strong evidence backing the value of pre-purchase homebuyer education and post-purchase counseling as tools for mitigating borrowers' risk of default and delinquency[2] and share stories from clients who have been counseled.

Given cutbacks to housing counseling programs in recent years, advocates should encourage lawmakers to support new housing counseling business models and innovations, including distance learning and online technology-based programs. Advocates should also continue to urge Congress to fully fund HUD programs that provide crucial services to families, including OHC and its programs.

Finally, Congress and the Obama Administration have expressed their intent to wind down the temporary post-foreclosure crisis NFMC program. As they do so, advocates should emphasize the importance of increasing funding for the HUD Housing Counseling Program to compensate for the loss of NFMC, which continues to play a key role in supporting housing counseling agencies in communities still feeling the impacts of the foreclosure crisis.

FOR MORE INFORMATION

HUD's OHC website has relevant resources for housing counselors, advocates, homeowners, and tenants looking for services in their area, http://1.usa.gov/1iiUkem

HUD's OHC has also launched a new website for HUD-approved housing counselors to prepare for the upcoming housing counseling certification standards, http://bit.ly/1KqvwBH

The Consumer Financial Protection Bureau recent released a new tool to help consumers find housing counselors in their area, http://1.usa.gov/1qzvVDO.

The National Industry Standards for Homeownership Education and Counseling outline guidelines for high-quality homebuyer education and counseling programs, http://bit.ly/1nmV3eX

NeighborWorks America has additional information on NFMC, including an evaluation of the program's effectiveness and information on individuals helped since its inception http://bit.ly/23XuiEG.

Housing Partnership Network, 617-720-1999, http://www.housingpartnership.net. ■

2 Studies include the 2014 Philadelphia Federal Reserve Study, "The Effectiveness of Pre-Purchase Homeownership Counseling and Financial Management Skills," the 2013 Freddie Mac Working Paper on "The Benefits of Pre-Purchase Homeownership Counseling". https://www.philadelphiafed.org/community-development/homeownership-counseling-study http://www.freddiemac.com/news/blog/pdf/benefits_of_pre_purchase.pdf

The Low Income Home Energy Assistance Program (LIHEAP)

By Olivia Wein, Staff Attorney, National Consumer Law Center

Administering agency: U.S. Department of Health and Human Service (HHS), Office of Community Services within the Administration for Children and Families

Year program started: 1981

Number of persons/households served: An estimated 6.8 million families receive Low Income Home Energy Assistance Program (LIHEAP) grants.

Population targeted: Low-income households (below 150% of the poverty threshold or 60% of the state median income) who cannot afford to keep their homes at safe temperatures, particularly households with frail elderly, members with disabilities, or very, young children

FY16 funding: $3.39 billion for LIHEAP

LIHEAP is a targeted block grant program to help struggling families pay their heating and cooling bills. States have flexibility in setting eligibility criteria, benefit amounts, how much to direct to energy crisis situations where the health of the household is in jeopardy, as well as other program components. As more families struggle to pay their heating bills in the winter and afford air conditioning in the summer due to the high price of energy and the weak economy, the main challenge for LIHEAP is securing adequate annual appropriations.

HISTORY

LIHEAP was created in response to rising energy prices in the 1970s and the decreasing purchasing power of low income households. In 1980, low income energy assistance was part of the Crude Oil Windfall Profit Act, Public Law 96-223, and LIHEAP was authorized in the Omnibus Budget Reconciliation Act of 1981, Public Law 97-35. Since then LIHEAP 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 program 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 households with the lowest incomes and highest energy needs (i.e., those who pay a large percentage of their income on home energy), and to households with populations vulnerable to extreme heat or cold. These are households with very young children, individuals with disabilities, and the frail elderly. The LIHEAP program focuses on home energy, which is defined as a source of heating or cooling in residential dwellings.

In order to receive LIHEAP funds, states must submit an annual application (state plan) to the Secretary of HHS. 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 states, the state agency contracts with local providers, such as community action agencies, to handle intake.

Although states have a great deal of flexibility in designing their programs 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 includes a range of fuels from natural gas and electricity for heating or cooling, to home heating oil, propane, kerosene, and wood. Assistance is often in the form of a vendor payment or two-party check (the customer and the utility).

States also have the flexibility to set their program's eligibility criteria in the annual state LIHEAP plan based on income eligibility. The maximum eligibility for LIHEAP is 150% of poverty or 60%

of state median income. States are prohibited from setting income eligibility below 110% of the poverty level. States can also rely on participation in another means-tested program to determine eligibility. Low income households are also eligible for LIHEAP through participation in Temporary Assistance for Needy Families, Supplemental Security Income, the Supplemental Nutrition Assistance Program (also known as food stamps) 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 from 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 low income 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 subsidized separately 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. Unfortunately, Congress has not appropriated funds for the LIHEAP emergency contingency fund since FY11.

According to the National Energy Assistance Director's Association (NEADA), in FY15 LIHEAP provided essential heating assistance to 6.9 million households, and essential cooling assistance to about 996,000 households in FY14. NEADA also reports that the number of veteran households accounted for almost 35% of the total growth in LIHEAP from FY08 to FY11.

FUNDING

H.R. 2029, the Consolidated Appropriations Act of 2016 (Public Law 114-113) includes funding for HHS along with other government agencies. LIHEAP received $3.39 billion for the regular block grant program. No emergency contingency funding was provided. States can allocate the amount of their block grant they would like to receive each quarter.

The high water mark for LIHEAP was in FY09 and FY10 when LIHEAP was funded at a total of $5.1 billion: $4.509 billion through the regular formula and $590 million through the LIHEAP emergency contingency fund. The authorized funding level for LIHEAP is $5.1 billion for the regular block grant program and $600 million in LIHEAP emergency contingency funds.

FORECAST

The administration's FY17 budget proposal to Congress seeks $3.0 billion for the regular LIHEAP program, a 12% cut to the regular program. The President's Proposed Budget would also allow states to transfer 40% of their regular program funding for low-cost weatherization without HHS approval (the current threshold is 15% for weatherization without HHS approval and a maximum 25% with HHS approval). The President's Proposed Budget also proposes a new $560 million for the LIHEAP emergency contingency fund for fuel spikes, extreme weather or an increase in the number of eligible households. Whereas LIHEAP is funded out of discretionary funds, this new proposed contingency fund would require Congress to pass a new authorizing law. There is also a proposed new multi-agency "Family Energy Assistance Fund" that would start at $1.445 billion in 2017 that would, and increase to $9.022 billion in 2026. This, too, would require Congressional authorization. Given the tight budget outlook and the current lack of Congressional appetite for increased spending measures, this is unlikely to have traction right now.

For several years now, advocates have managed to move the LIHEAP appropriations above the president's proposed funding levels to maintain level funding. LIHEAP is serving about 20% of the eligible households at the current funding level.

TIPS FOR LOCAL SUCCESS

Advocates should become involved in the development of their 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.

Each state's LIHEAP office is listed at http://www.acf.hhs.gov/programs/ocs/liheap-state-and-territory-contact-listing. Please note that some tribes receive their LIHEAP grant directly through the federal agency (as opposed to the state).

Advocates should also become familiar with the other energy assistance programs and utility consumer protections. In addition to LIHEAP, some states and some utilities have separate low income energy assistance programs. For a list of some of the additional assistance programs, see http://www.liheapch.acf.hhs.gov/dereg/usfintro.htm, or contact the consumer protection division of a state's utility commission.

Advocates should also become familiar with certain utility rules. For utilities regulated by the state utility commission (generally, 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 a severe illness shut-off protection rule); payment plans; special protections for low income or LIHEAP customers; and, deposits and reconnection fees. Staff in the consumer protection division of the utility commission may be able to help you find the relevant rules. For links to the state utility commissions, visit: https://www.naruc.org/about-naruc/regulatory-commissions/. For municipal utilities or cooperatives, the rules will reside with the municipality or the co-op.

WHAT TO SAY TO LEGISLATORS

Advocates should meet with their Members of Congress to share the following messages:

- LIHEAP is a critical safety net program to help vulnerable households afford residential energy.
- There is significant need in your 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.
- Supporters of LIHEAP should visit the LIHEAP Action Day website of the National Energy and Utility Affordability Coalition (www.NEUAC.org) for state-by-state fact sheets on the LIHEAP program.

FOR MORE INFORMATION

For advocates seeking more information about LIHEAP program design:

• The LIHEAP Clearinghouse is a wealth of information regarding the various ways states have designed their LIHEAP programs. View at: http://www.liheapch.acf.hhs.gov/. The LIHEAP Clearinghouse also tracks states supplemental energy assistance activities (listed as "State Leveraging under State Programs in the menu on the homepage). View at: http://www.liheapch.acf.hhs.gov/state-leveraging

For those seeking information about advocacy regarding LIHEAP funding:

- The National Energy Assistance Directors' Association's website provides information on LIHEAP funding needs and current funding levels. View at: www.neada.org
- The National Energy and Utility Affordability Coalition is an organization of utility, non-profit and anti-poverty organizations focused on the energy needs of low-income consumers. View at: http://www.neuac.org/
- The Campaign for Home Energy Assistance has helpful fact sheets for advocates that describe the need for increased LIHEAP funding as well as local assistance programs. View at: www.liheap.org ■

Low Income Housing Tax Credits

By Ed Gramlich, Senior Advisor, NLIHC

Administering Agency: Internal Revenue Service (IRS) of the Department of the Treasury

Year program started: 1986

Number of households served: 51,000 new households served in 2013, the latest data available

Population targeted: Households with incomes either below 60% of area median income (AMI) or 50% AMI

FY15 funding: Joint Committee on Taxation estimates $7.8 billion for 2016

Also see: *Qualified Allocation Plan*

The Low Income Housing Tax Credit program (LIHTC) finances the construction, rehabilitation, and preservation of housing affordable to lower income households. The LIHTC program encourages private investment by providing a tax credit: a dollar-for-dollar reduction in federal taxes owed on other income. Although housing tax credits are federal, each state has an independent agency that decides how to allocate the state's share of federal housing tax credits within a framework formed by the Internal Revenue Code.

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 finances the construction, rehabilitation, and preservation of housing affordable to lower income households. LIHTC can be used to support a variety of projects: multifamily or single-family housing; new construction or rehabilitation; special needs housing for elderly people or people with disabilities; and permanent supportive housing for homeless families and individuals. The latest data from HUD indicates that LIHTC provided nearly 2.6 million housing units between 1987 and 2013.

LIHTC is designed to encourage corporations and private individuals to invest cash in housing affordable to lower income people by providing a tax credit over the course of a 10-year period: a dollar-for-dollar reduction in federal taxes owed on other income. The cash that investors put up, called equity, is used along with other resources to build new affordable housing or to make substantial repairs to existing affordable housing. Tax credits are not meant to provide 100% financing. The infusion of equity reduces the amount of money a developer has to borrow and pay interest on, thereby reducing the rent level that needs to be charged.

The Furman Center for Real Estate and Urban Policy at New York University released a report in October 2012 using tenant-level data from 15 states representing 30% of all LIHTC units. The report found that LIHTC recipients tend to have higher incomes than households assisted by other federal rental assistance programs. Although 43% of the households had income below 30% AMI—were "extremely low income" (ELI)—approximately 70% of those ELI households also had other forms of rental assistance, such as vouchers. For the 30% of ELI LIHTC households who did not have rental assistance, 86% paid more than 30% of their income for rent and utilities; they had "cost burden." Only 8% of ELI households in LIHTC homes were neither cost-burdened, nor in receipt of additional housing assistance.

Although housing tax credits are federal, each state has an independent agency, generally called a housing finance agency (HFA), which decides how to allocate the state's share of federal housing tax credits. Tax credits are allocated to states based on population. In 2015, each state received $2.30 per capita, with small states receiving a minimum of $2.68 million.

Each HFA must have a qualified allocation plan (QAP), which sets out the state's priorities and eligibility criteria for awarding federal tax credits, as well as tax-exempt bonds and any state-level tax credits. Developers apply to an HFA and compete for tax credit allocations. The law requires that a minimum of 10% of an HFA's total tax credits be set aside for nonprofits.

Once awarded tax credits, a developer then sells them to investors, usually to a group of investors pulled together by someone called a syndicator. Syndicators sometimes pool several tax credit projects together and sell investors shares in the pool. The equity that the investors provide, along with other resources such as conventional mortgages, state loans, and funds from the HOME program, is used by the developer to construct or substantially rehabilitate affordable housing.

When applying to an HFA for tax credits, a developer has two lower income unit set-aside options, and must stick with the chosen option during a required lower income occupancy period. The two lower income unit set-aside choices are:

- Ensuring that at least 20% of the units are rent-restricted and occupied by households with income below 50% of AMI.
- Ensuring that at least 40% of the units are rent-restricted and occupied by households with income below 60% of AMI.

Rent-restricted units have fixed maximum gross rents, including allowance for utilities, that are less than or equal to the rent charged to a hypothetical tenant paying 30% of either 50% of AMI or 60% of AMI, whichever option the developer has chosen. Tenants may have to pay rent up to that fixed maximum tax credit rent even if it is greater than 30% of their income. In other words, the maximum rent a tenant pays is not based on 30% of the tenant's income; rather it is based on 30% of the fixed AMI level (50% or 60%).

Consequently, lower income residents of tax credit projects might be rent-burdened, meaning they pay more than 30% of their income for rent and utilities. Or, tax credit projects might simply not be financially available to very low and ELI people because rents charged are not affordable to them. HUD's tenant-based or project-based vouchers or U.S. Department of Agriculture 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.

Tax credits are available only for rental units that meet one of the above rent-restricted minimums (20/50 or 40/60). With these minimums it is possible for LIHTC projects to have a mix of units occupied by lower income, moderate and middle income people. These are minimums; projects can have higher percentages of rent-restricted units occupied by lower income people. In fact, the more rent-restricted lower income units in a project the greater the amount of tax credits provided. New developments should balance considerations of the need for more units with concerns about undue concentrations of poverty in certain neighborhoods.

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, for a total of 30 years. Some states require 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, an owner may submit a request to the HFA to sell a project or convert it to market rate during year 14 of the 15-year compliance period. The HFA then has one year to find a buyer willing to maintain the rent restrictions for the balance of the 30-year period. If the property cannot be sold to such 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.

HFAs must monitor projects for compliance with the income and rent restriction requirements. The IRS can recapture tax credits if a project fails to comply, or if there are housing code or fair housing violations.

There are two levels of tax credit, 9% and 4%, formally known as the 'applicable percentages.' Projects can combine 9% and 4% tax credits. For example, buildings can be bought with 4% tax credits and then substantially rehabilitated with 9% tax credits. Instead of 9% and 4%, tax credits are sometimes referred to by the net present value they are intended to yield, either 70% or 30%. This is just another way of saying, in the case of a 9% credit, that the stream of tax credits over the 10-year credit period has a value today equal to 70% of the eligible development costs.

The 9% tax credit is available for new construction and substantial rehabilitation projects that do not have other federal funds. Federal funds include loans and bonds with below market-rate interest. Rehabilitation is substantial if the greater of an average of $3,000 is spent on each rent-restricted lower income unit or 10% is spent on the "eligible basis" (described below) during a 24-month period.

The 4% tax credit is available for three types of activities:

- Acquisition of existing buildings for substantial rehabilitation.
- New construction or substantial rehabilitation subsidized with other federal funds.
- Projects financed with tax-exempt bonds. (Every year, states are allowed to issue a set amount, known as the volume cap, of tax-exempt bonds for a variety of economic development purposes.)

In recent years, the figures 9% and 4% were only approximate rates. IRS computed actual rates monthly based on Treasury Department interest rates, the 'appropriate percentage.' For any given project, the real tax credit rate was set the month a binding commitment was made between an HFA and developer, or the month a finished project was first occupied, 'placed in service.' This applicable percentage is applied to the 'qualified basis' (described below) to determine the investors' tax credit each year for 10 years (the 'credit period').

For 9% projects, the Housing and Economic Recovery Act of 2008 (HERA) established a fixed 9% value for projects placed in service between July 30, 2008, and January 1, 2014. The American Taxpayer Relief Act of 2012 allowed any project receiving a LIHTC allocation before January 1, 2014 to qualify for the fixed 9% credit. There was no Congressional action in FY13 and FY14 renewing a fixed the 9% value. Although the FY15 Appropriations Act provided a fixed 9% minimum, it only extended the rate through December 31, 2014, providing virtually no benefit because most HFAs had already made their 2014 allocations and the vast majority of projects had closed using the floating rate. Therefore, the applicable percentage continued to float. For example, the applicable percentage was 7.51% in January 2015, 7.47% in June, and 7.49% in December. The 4% credit continued to float, with an applicable percentage rate of 3.22% in January 2015, 3.2% in June, and 3.21% in December.

Finally, on December 18, 2015, the president signed into law a broad tax extenders bill, the "Protecting Americans from Tax Hikes Act of 2015," which, among many other tax provisions, made the fixed 9% applicable percentage permanent and retroactive to January 1, 2015. However, the statute did not establish a fixed 4% applicable percentage rate. The Joint Committee on Taxation estimates that permanently setting the 9% rate will cost $19 million over a 10-year period.

The amount of tax credit a project can receive, and therefore how much equity it can attract, depends on several factors. First, the 'eligible basis' must be determined by considering costs such as building acquisition, construction, soil tests, engineering costs, and utility hookups. Land acquisition and permanent financing costs are not counted toward the eligible basis. The eligible basis is usually reduced by the amount of any federal funds.

The eligible basis of a project can get a 30% increase, or 'basis boost,' if the project is located in a census tract designated by HUD as a low income tract (a Qualified Census Tract, or QCT) or a high-cost area (a Difficult to Develop Area, or DDA). QCTs are census tracts with a poverty rate of 25% or in which 50% of the households have incomes below 60% of the AMI. LIHTC projects in QCTs must contribute to a concerted community revitalization plan. The aggregate population in census tracts designated as QCTs cannot exceed 20% of the metropolitan area's population. DDAs are areas in which construction, land, and utility costs are high relative to incomes. HERA expanded the use of this basis boost to areas designated by a state as requiring an increase in the credit amount in order to be financially feasible.

Next, the 'applicable fraction' must be determined. This is a measure of rent-restricted lower income units in a project. There are two possible percentages: the ratio of lower income units to all units (the 'unit fraction'), or the ratio of square feet in the lower income units to the project's total square feet (the 'floor space fraction'). The lowest percentage is the applicable fraction. The applicable fraction agreed to by the developer and IRS at the time a building is first occupied is the minimum that must be maintained during the entire affordability period.

The 'qualified basis' is the eligible basis multiplied by the applicable fraction. The amount of annual tax credits a project can get is the qualified basis multiplied by the tax credit rate (9% or 4%).

FUNDING

The LIHTC is a tax expenditure, which does not require an appropriation. The Joint Committee on Taxation estimated that the program would cost $7.3 billion in tax expenditures in 2015, rising to $7.8 billion in FY16 and $8.3 billion in FY17.

FORECAST

Chief issues of concern for the LIHTC program in recent years—tax reform and deficit reduction—have diminished for the time being. Several advisory commissions in previous years recommended either the elimination of or a substantial reduction in tax expenditures. Because the LIHTC is one of the largest corporate tax expenditures, it remains vulnerable to future elimination or substantial reduction to help pay for the lowered rates.

On March 26, 2015, Representative Keith Ellison (D-MN) introduced H.R. 1662, "the Common Sense Housing Investment Act." The bill would reform the mortgage interest deduction by changing it to a 15% non-refundable mortgage interest tax credit, and cap the amount of a home mortgage eligible for a tax break at $500,000—down from $1 million. Such reform is estimated to make the tax break available to 15 million more households, most of whom have annual incomes less than $100,000. The reform is estimated to save the federal government $213 billion over 10 years. Mr. Ellison proposes to dedicate 60% of the savings to the National Housing Trust Fund (NHTF). In addition, Mr. Ellison's bill proposes significant LIHTC provisions. Before determining the 60% in federal savings for the NHTF, the LIHTC per capita allocation would be raised to $2.70 and increased annually by a cost-of-living index. The $2 million minimum allocation for small states would also be increased by an annual cost-of-living adjustment. Most importantly, the LIHTC program would create an incentive to develop units affordable to ELI people by providing a 150% basis boost.

The president's budget request for FY17 contains proposed changes to the LIHTC program:

1. Allowing LIHTC projects to elect an "average income" criterion where at least 40% of the units in a LIHTC project would have to be occupied by tenants with annual incomes that average no more than 60% of AMI. Under the proposal, no rent-restricted unit could be occupied by a tenant with an income over 80% AMI. Tenants making less than 20% of AMI would be treated as earning that much for income averaging purposes. NLIHC's policy agenda includes a similar proposal, but would require projects that use the income averaging criterion to provide at least 30% of a project's units to households with incomes below 30% AMI.
2. Allowing states to convert some of their private activity bond (PAB) volume cap received for a particular calendar year into tax credits applicable to the same year. The conversion ratio would change each calendar year to respond to shifting interest rates, and there would be a maximum amount of the PAB volume cap that could be converted.
3. Adding a fourth required allocation preference to clarify states' obligations to allocate tax credits in a way that affirmatively furthers fair housing. The proposal would also add preservation of federally assisted affordable housing to the IRS' selection criteria that each state must include in its Qualified Allocation Plan.
4. Removing the QCT population cap. HUD could designate as a QCT any census tract that meets the current statutory criterion of having a poverty rate of at least 25% or having at least 50% of its households earning incomes less than 60% AMI.
5. Implementing changes to comply with the Violence Against Women Reauthorization Act (VAWA) of 2013, which extended protections for survivors of domestic violence to the LIHTC program. The legislation that was signed into law failed to include changes to the Internal Revenue Code or enforcement provisions that Treasury believes are necessary to impose VAWA protections in LIHTC buildings. To remedy this problem, the FY17 proposal would require all long term use agreements to include housing protections that would apply to both low income and market rate units in the LIHTC development.

NLIHC's proposed income averaging option would require at least 40% of the units in a project to be occupied by residents with incomes that average no more than 60% of AMI, with at least 30% of the units rent-restricted and occupied by households with income at or below 30% of AMI. No rent-restricted units would include households with income above 80% of AMI. For purposes of computing the average, any unit with an income limit that is less than 20% of AMI would be treated as having a 20% limit. Rents would be based on 30% of the income limit for that unit; for example, the rent at a 20% AMI unit would be 30% of 20% of AMI. NLIHC also recommends adding a 30% basis boost for properties that use NLIHC's proposed third option for income averaging. NLIHC's proposal will likely be most effective in markets where there is a significant need for affordable housing for households with income at 80% of AMI.

TIPS FOR LOCAL SUCCESS

LIHTCs are distributed based on a state's QAP. See the QAP entry in this *Advocates' Guide* for advocacy ideas for influencing how LIHTC is used in your state.

WHAT TO SAY TO LEGISLATORS

LIHTC is an important source of funding for affordable housing. Congress should act to protect the program and provide a means to target more units that are affordable to ELI residents paying no more than 30% of their income for rent and utilities.

FOR MORE INFORMATION

NLIHC, 202-662-1530, www.nlihc.org

Affordable Rental Housing A.C.T.I.O.N. Campaign, http://rentalhousingaction.org

HUD's database of LIHTC projects, updated through 2012, www.huduser.org/datasets/lihtc.html

List of QCTs and DDAs, www.huduser.org/datasets/qct.html

Novogradac, a consulting firm, lists the HFAs in all states, http://bit.ly/XoOL2b ■

Native American, Alaska Native, and Native Hawaiian Housing Programs

By Shawn Pensoneau, Director of Governmental Affairs, 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. NAHASDA has 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.

Enacted in 1996, NAHASDA provides assistance to Indian tribes to allow affordable housing-related activities for low income families residing on reservations and other tribal areas. The act, which became effective in October 1997, resulted in the largest change in the history of federal housing programs available to tribal housing entities, and the Act recognizes tribal sovereignty and self-determination. NAHASDA—last reauthorized in 2007 through 2013, remains the top legislative priority of the National American Indian Housing Council (NAIHC).

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, including housing. 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 U.S. Housing Act of 1937, 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, and we are looking forward to reauthorization in the coming months.

The face of housing in Native American communities is as diverse as the communities served located in more than 30 states. Overcrowding, poverty, unemployment, low household incomes, rapidly increasing population, and lack of infrastructure are just some of the challenges that vex American Indians, Alaska Natives, and native Hawaiians. The chronic problems associated with needs exceeding resources inspire creativity and unique leveraging of funding to address severe housing shortages.

According to the U.S. Census Bureau's 2006-2010 American Community Survey, of the approximately 142,000 housing units in tribal communities, 8.6% lack plumbing facilities, 7.5% lack kitchen facilities, and 18.9% lack telephone service (compared to national rates of less than 1%).

PROGRAM SUMMARY

NAHASDA fundamentally reformed how the federal government meets its trust responsibility and Native American housing: NAHASDA addresses the need for affordable homes in safe and healthy environments on Indian reservations, Alaska Native villages, and on native Hawaiian home lands.

NAHASDA enhances tribal capacity to address the substandard housing and infrastructure conditions in tribal communities by encouraging greater self-management of housing programs and by encouraging private sector financing to complement limited IHBG dollars. The amounts of annual IHBGs are based on a formula that considers need and the amount of existing housing stock. The grants are awarded to eligible Indian tribes or their tribally designated housing entities for a range of affordable housing activities that primarily benefit low income Indian families living on Indian reservations or in other Indian areas.

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 families whose income does not exceed 80% of the area median income are eligible for assistance.

The NAHASDA Reauthorization Act of 2008 had broad bipartisan 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 could go into effect, tribes and HUD had to complete a Negotiated Rulemaking Process. In 2010, a Negotiated Rulemaking Committee was formed and six sessions were held to discuss and negotiate a proposed rule. In 2011, the proposed rule was sent to tribes for comment and review before the regulations became effective in early 2013.

NATIVE HAWAIIANS

In 2000, NAHASDA was amended to create a separate title addressing the housing and related community development needs of native Hawaiians. Title VIII Housing Assistance for Native Hawaiians includes the 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 added a new Section 184A to the Housing and Community Development Act of 1992, authorizing the Native Hawaiian Housing Loan Guarantee program. The purpose of the Section 184A loan guarantee is to provide access to sources of private financing on native Hawaiian home lands. The program is designed to offer homeownership, property rehabilitation, and new construction opportunities for eligible native Hawaiian individuals and families wanting to own a home on Hawaiian home lands.

FUNDING

The IHBG program was funded at $700 million in FY10, $648 million in FY11, $650 million in FY12, $650 million in FY13, $650 million in FY14 and $650 million in FY15. The administration proposed $700 for FY16. Federal programs may experience funding cuts in the upcoming years that will add to the existing difficult environment on Capitol Hill.

FORECAST & WHAT TO SAY TO LEGISLATORS

NAHASDA Reauthorization. NAHASDA has been up for reauthorization since the end of FY13. NAHASDA programs are currently being administered without reauthorization and we strongly urge Congress to pass legislation to reauthorize these vital housing program dollars.

Support NAHASDA Reauthorization. The reauthorization of NAHASDA is a top priority for NAIHC which, beginning in 2012, embarked on a series of outreach sessions to discuss the fundamentals of the law and to identify, on a section-by-section basis, what has worked, what has not worked, and how the law should be amended to enhance its effectiveness. This comprehensive effort to solicit significant input from tribal leaders and housing professionals resulted in a solid legislative proposal that forms the basis for the reauthorization bills now pending in the U.S. House of Representatives and the U.S. Senate.

In January 2015, Representative Steve Pearce (R-NM) introduced H.R. 360, a bi-partisan bill that included 17 co-sponsors and passed the House in March 2015. This measure is pending in the Senate. Senate Committee on Indian Affairs Chairman John Barrasso (R-WY) introduced S. 710, a NAHASDA reauthorization bill in March of 2015. The bill was favorably reported by the Senate Committee on Indian Affairs in August 2015, and is pending on the Senate calendar.

In addition to multi-year reauthorizations of the IHBG, the NHHBG and related loan guarantee programs, there are very good provisions in each of these bills, including timelines for departmental decisions and approvals, use of NAHASDA funds to leverage other funds or to fulfill matching requirements, new authority to use Indian Health Service sanitation facilities funding when building HUD-assisted homes, a demonstration project to encourage private investment in tribal communities, a provision to create new opportunities for Indian Housing providers to serve Native American Veterans modeled on the HUD–Veterans Affairs Supportive Housing (HUD-VASH) program, and favorable amendments to the Brooke Amendment.

By enacting NAHASDA reauthorization in 2016, Indian Country will take a big step forward in promoting Indian self-determination and reforming the main federal statute governing how low-income housing assistance to Indian families and communities is administered. *NAIHC strongly urges Congress to pass NAHASDA reauthorization this year*.

Protecting and increasing funding for NAHASDA is an ongoing issue for advocates to be aware of, but of nearly equal importance is the act's implementation, which has been plagued by delay and lack of consultation with tribes.

Tribes across the country are striving for sustainability without federal subsidies to complement the values of sovereignty and self-determination. The federal government must fulfill its trust responsibility in supporting tribal development. NAHASDA and the Low Income Housing Tax Credit Program have created new and exciting opportunities for tribes to improve their communities. It is vital that the federal government work in partnership with tribal governments to improve housing and economic development conditions in tribal communities.

Resources for Tribal Housing Programs. Funding for tribal housing is the lifeblood of 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 to fully fund tribal housing and tribal housing-related programs, including the IHBG program, the Indian Community Development Block Grant program, the NHHBG program, and the Section 184, 184A, and Title VI Loan Guarantee programs.

Veterans Affairs Supportive Housing. The nation's largest supported permanent housing initiative combines HUD Housing Choice Vouchers with U.S. Department of Veterans Affairs case management services that promote and maintain recovery and housing stability. With NAHASDA Reauthorization, a permanent pilot program for tribal participation would be made possible. The FY15 HUD appropriations bill directed the HUD secretary to set aside a portion of VASH funds for a rental assistance and supportive housing demonstration for Native American veterans who are at risk of homelessness living on or near reservations or other Indian areas. Native Americans have historically had above average participation in the Armed Forces, resulting in high numbers of veterans in tribal communities. Substandard and overcrowded housing, as well as homelessness, remain a problem and can start to be addressed with the inclusion of tribal eligibility into the VASH program.

FOR MORE INFORMATION

NAIHC, 202-789-1754, www.naihc.net

HUD Office of Native American Programs, www.hud.gov/offices/pih/ih

DHHL, http://hawaii.gov/dhhl ■

The Affordable Housing Program and Community Investment Program of the Federal Home Loan Banks

By, David Jeffers, Executive Vice President of Policy and Public Affairs, Council of Federal Home Loan Banks

The Federal Home Loan Banks are 11 regional cooperative banks used by lending institutions to finance housing, community development, infrastructure, small business, and jobs in their communities. The Federal Home Loan Banks System was created by Congress in 1932. The Federal Home Loan Banks are regulated by the Federal Housing Finance Agency (FHFA), the successor to the Federal Housing Finance Board. FHFA was created in the Housing and Economic Recovery Act of 2008 (HERA). FHFA also regulates the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac). The Home Loan Banks are the largest single source of funds for community lending.

PROGRAM SUMMARIES

Federal Home Loan Banks administer two housing and economic development programs.

Affordable Housing Program (AHP). Federal Home Loan Banks must contribute 10% of their net income from the previous year to affordable housing through the AHP. The minimum annual combined contribution by the 11 Federal Home Loan Banks must total $100 million. 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 consists of two programs: a competitive application program and a homeowner set-aside program. Under the competitive application program, a Federal Home Loan Bank member submits an application on behalf of a project sponsor. Each Federal Home Loan Bank establishes a point system to score applications based on nine criteria required by regulation (12 CFR part 1291). AHP competitive awards are made during scheduled funding rounds each year, starting with the highest scoring application until the available money is distributed.

If rental housing is developed with AHP funds, at least 20% of the units must be reserved for and affordable to households with income below 50% of the area median income (AMI). Owner-occupied housing must be occupied by a household with income below 80% of AMI. AHP is a shallow-subsidy program; the Federal Housing Finance Agency reports that the average urban area subsidy in 2013 was $8,317 per unit.

Under the homeowner set-aside program, a Federal Home Loan Bank member applies for grant funds and disburses the funds directly to the homeowner. A Federal Home Loan Bank may set aside up to $4.5 million, or 35% of its annual HAP contribution, to assist low or moderate income households purchase or rehabilitate homes. At least one-third of a Federal Home Loan Bank's aggregate annual set-aside contribution must be allocated to first-time homebuyers. The maximum grant amount per household is $15,000.

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. 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.

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

The Federal Home Loan Banks have distributed more than $4.2 billion in Affordable Housing Program funds between 1990 and 2013. In 2013, the Banks used $254 million under the competitive program to assist 27,258 households, and $68 million under the set-aside program to assist 10,000 households. Close to 725,000 housing units were assisted using AHP funds between 1990 and 2013, including 428,000 units for very low income residents. In 2013, 74% of rental units and 53% of owner-occupied units served very low income households, those with income below 50% of AMI; of these, 21% of the rental units and 5% of the owner-occupied units assisted extremely low income households, those with income below 30% of AMI.

Community Investment Program (CIP). Each Home Loan Bank also operates a CIP that offers below-market rate loans to members for long-term financing of housing and economic development that benefits low and moderate income families and neighborhoods. CIP finances housing for households with income below 115% of AMI, including rental projects, owner-occupied housing, and manufactured housing communities. Economic development projects must be located in low and moderate income neighborhoods or benefit low and moderate income households. Under CIP, the Banks have lent nearly $74 billion for a variety of projects since the program's inception two decades ago, creating 797,000 housing units.

How the Federal Home Loan Bank System Works. The Federal Home Loan Banks, which are government sponsored enterprises (GSEs), are cooperatives that provide funding for housing through all market cycles. More than 7,500 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 system. The 11 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 members with liquidity. In fact, the Federal Home Loan Banks are the only source of credit market access for the majority of its 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 to 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 its 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 its 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 11 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.

During the financial crisis, the Federal Home Loan Banks continued to provide liquidity nationwide to members for housing and community credit needs through an extremely challenging period of economic stress. As other sources of liquidity disappeared, and before the coordinated response of the federal government, the System increased its lending to members in every part of the country by 58% between the second quarter of 2007 and the third quarter of 2008. Advances exceeded $1 trillion in the third quarter of 2008.

Member demand for advance borrowings continued to be lower as members' loans outstanding decreased while their deposit base continued to grow, both as a result of the economic contraction. As of the end of the third quarter of 2010, System advances outstanding totaled $500 billion. This was a decline from $631 billion in advances outstanding to start the year, and a decline from the high of $1 trillion in advances for the third quarter of 2008. However, one of the benefits of the System's regional, self-capitalizing, cooperative business model is the ability to safely expand and contract to meet member lending needs throughout various business cycles.

Federal Home Loan Banks are jointly and severally liable for their combined obligations. That means that if any individual Federal Home Loan Banks 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.

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.

FORECAST

In the wake of the nation's financial crisis, concerns over systemic risk remain on everyone's mind. 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 consider 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.

In any discussion about the future of housing finance, advocates should remember that:

- The regional, self-capitalizing Federal Home Loan Bank cooperative model is designed to protect against pursuing risky behavior.
- Federal Home Loan Bank advances to members are fully secured and follow strict underwriting standards.
- The Federal Home Loan Bank mortgage programs require participating lenders to share in the credit risks of their mortgage loans, thereby keeping "skin in the game."
- The Federal Home Loan Banks have fulfilled their role in the housing finance system without any Congressional appropriations or direct federal assistance.

WHAT TO SAY TO LEGISLATORS

The Federal Home Loan Banks have a number of programs and products that can help drive economic recovery. Their community lending programs can be utilized to help drive job growth at the local level. The system's AHP grants have remained a reliable and stable source of much-needed affordable housing funding, even as other sources of affordable housing funding have dried up.

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 Finance Agency, Affordable Housing Home Loan Banks, http://www.fhfa.gov/PolicyProgramsResearch/Programs/AffordableHousing/Pages/Affordable-Housing-Home-Loan-Banks.aspx ■

Self-Help Homeownership Opportunity Program

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

Administering agency: HUD's Office of Community Planning and Development Year program started: 1996

Number of persons/households served: More than 29,000

Population targeted: Households with incomes below 80% of the area median income

FY16 funding: $10 million

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.

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 home construction begins.

PROGRAM SUMMARY

SHOP is a competitive grant program run by HUD 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. 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 and the homes of others, although many families work far more than the required hours; in FY15, the requirement for each one-person household was reduced to 50 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 those funds work with families who have income 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 $27 million in FY11, $13.5 million in FY12, $13.5 million in FY13 (before sequestration was applied), and $10 million in FY14, FY15, and FY16.

FORECAST

SHOP, created in 1996, received steady support from Congress and the Clinton and George W. Bush Administrations. The Obama Administration's budget proposed no funding for the program in FY12 and FY13, and then proposed $10 million for FY14 and the same for FY15. The FY16 budget proposed to make SHOP a set-aside in the HOME program, but Congress chose to keep the programs separate. SHOP 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.

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 a minimum of $10 million per year. The program has many positive aspects:

- Self-help housing provides families a hand up. The families that 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 more than 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.

FOR MORE INFORMATION

Habitat for Humanity International, 404-962-3433, www.habitat.org

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

HUD, 202-402-2684, www.hud.gov/offices/cpd/affordablehousing/programs/shop ■

State and Local Housing Trust Funds

By Mary E. Brooks, Housing Trust Fund Project, Center for Community Change

State and local 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. Dedicated sources of funds, the key characteristic of housing trust funds, advance the way this country supports affordable housing by guaranteeing that revenues are available each year to support critical affordable housing needs.

HISTORY AND PURPOSE

Since the 1980s, state and local housing trust funds have employed the model of committing public funds to address communities' most critical affordable housing needs. With more than 770 housing trust funds in cities, counties, and states, those funds have become important elements in an overall housing policy, and are well-known for their flexibility, sustainability, and success in addressing critical housing needs. Forty-seven states have created state housing trust funds–some more than one.

ISSUE SUMMARY

Because state and local 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 state or local housing trust fund:

1. **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 or departments and may not find this an easy condition to accept. Although there are alternatives, such as a nonprofit or Community Development Financial Institution administering the fund, there are very few examples of such models. In the long-run, it is 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.
2. **Board.** One administrative characteristic of housing trust funds that can bring considerable expertise to the operation of the trust fund, along with keeping a connection to the community, is the creation of an appointed oversight or advisory 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 advisory, but it is preferable to delegate some authority to them, including at least advising, if not determining, which projects receive funding from the trust fund, overseeing policies, and evaluating and reporting on the performance of the fund.
3. **Programs.** The basic programmatic issues for housing trust funds should be defined in the ordinance or legislation that establishes the fund. Definition 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.

In order to ensure that a trust fund succeeds, several decisions must be made about how it is implemented, including identifying 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 and make awards through these initiatives. 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 agencies. Eligible activities are usually broadly defined, including new construction, rehabilitation, acquisition, emergency repairs, accessibility, first time homeownership, operating and maintenance costs, and many others. Rental assistance is provided by some housing trust funds. There are a few state and local housing trust funds that specifically serve the needs of the homeless population and define their activities accordingly.

Key Decisions to Make. Among the most important decisions to be made regarding implementation of the trust fund are defining the specific requirements proposals 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 (AMI), but many serve lower income households either entirely or in part by setting aside a portion of the funds to serve those populations in particular. Without setting aside funds to serve very low (50% of AMI) and extremely low income households (30% of AMI), these most critical needs are unlikely to be met, given that it is easier to create a development proposal serving higher incomes. It is important to give serious consideration to set-asides and other programmatic issues that enable funding for those with the most critical housing needs.

Another key concern is the long-term affordability requirements that must be met. Many state and local 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 to incorporate, including accessibility for people with disabilities, mixed income, green housing and energy-efficiency principles, transit-oriented housing, rural housing, and housing-related services requirements.

Revenue Sources. Identifying public revenue sources that can be committed to a housing trust fund is what makes creating these trust funds challenging. Different revenue sources are available to different types of jurisdictions, because each controls specific taxes and fees. Research must be done to identify appropriate funding sources.

The most common revenue source for a city housing trust fund is including a linkage fee program as part of the zoning ordinance. These are impact fees placed on non-residential developers to offset the impact the development's employees may have on the housing supply. Along with linkage fees, many jurisdictions also use inclusionary zoning in-lieu fees. 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 (including AirBnB). Revenues from tax increment districts are an increasingly popular revenue source for housing trust funds.

The most common revenue source for a county housing trust fund is a document recording fee, a fee paid upon filing various types of official documents with a state or local government. Other sources used by counties include sales taxes, developer fees, real estate transfer taxes, and real estate excise taxes.

State housing trust funds are most commonly funded by real estate transfer taxes. However, states have committed nearly two dozen different revenue sources to housing trust funds. Other options include interest from state-held funds (such as unclaimed property funds and budget stabilization funds), 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. Relying on elected officials to identify a potential revenue source to be dedicated is not typically a productive strategy, but suggesting alternatives for their consideration seems more acceptable. Some housing trust funds were created through specially designated task forces with responsibility for doing the background research and making recommendations on how best to fund and implement the proposed housing trust fund.

Necessary Research. Each state is unique in its treatment of taxes and fees. Research into what the state constitution and statutes permit with regard to dedicating public revenues to a specific purpose must be conducted. Research should determine what, if any, limitations are placed on specific revenue options, including any caps imposed on tax or fee rates, any limitations on the uses to which the revenue may be applied, any commitments already imposed on the revenues collected, among other questions. New ideas are constantly being explored, so it pays to be creative in searching for potential public revenue sources. Although an increase in a tax or fee is the most common way to create a housing trust fund, it is also possible to dedicate the growth in revenue from a tax or fee, or dedicate a portion of the existing revenue without imposing an increase.

As the search for revenue sources is undertaken, it is extremely important to identify a dollar goal for the amount of revenue sought each year for the housing trust fund. 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 to reach the goal.

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 will be proposed, such as a one-time appropriation, bond revenues, or private sources, but advocates must keep their sights on establishing an ordinance or legislation that will actually dedicate public funds over time. Several trust funds have been created with one-time initial funding, which can be used to demonstrate the impact of the trust fund as on-going dedicated public revenues are secured.

Reporting. Once a housing trust fund is established and becomes operational, it is critically important and beneficial for the administering agency, the oversight board, and/or housing and homeless advocates to report annually on the accomplishments of the fund. This helps ensure sustained, if not increased, funding, and improves the understanding and support for effective affordable housing programs. These reports typically not only show how the trust fund made advances in specific affordable housing or homeless objectives, but also highlight the impact these expenditures have in creating jobs, adding to the tax base, and extended economic benefits. Many such reports have included stories sharing the impact that having a safe affordable home has on individual families.

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 in place. States can enact legislation that opens a door for local housing trust funds by: providing matching funds to encourage and support local housing trust fund efforts; enabling cities or counties to utilize a specific revenue source for local housing trust funds; 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. Close to 75% of the funds that exist in the United States are in states where enabling legislation has encouraged cities and/or counties to advance local housing trust funds. These include communities in Massachusetts responding to the Community Preservation Act and localities in New Jersey complying with the Fair Housing Act. And this year, the Appellate Division of the New Jersey Superior Court ruled that Governor Chris Christie's Administration's attempt to transfer municipal housing trust funds to the state's general fund was unlawful. The court ruling protects more than 300 municipalities in New Jersey that have created local housing trust funds. Washington and Pennsylvania have legislation enabling counties to use document recording fee revenues for local funds And Iowa's state housing trust fund providing matching funds to local funds has generated funds in 27 locations throughout the state. Twelve states have passed some kind of legislation to encourage local housing trust funds.

FORECAST

During 2015, housing and homeless advocates succeeded in creating several new housing trust funds, including the first local housing trust fund in Mississippi (Jackson), and Nashville, Tennessee, being the first to win AirBnB tax revenues for its trust fund, followed by Portland, Oregon, and others. Victories also secured more than $400 million in new dedicated revenues or in re-instating funds for state and local housing funds. Pennsylvania advocates won new dedicated revenue for the state's housing trust fund and several others increased or renewed revenues for their funds, including Virginia; Connecticut; Florida; Washington, D.C.; Kalamazoo, Michigan; Boulder, Colorado; Portland, Maine; San Francisco, California; Minneapolis, Minnesota; and a creative partnership among Tompkins County, Ithaca, and Cornell University in New York. This is in addition to the millions of dollars that go into existing housing trust funds each year because they are dedicated. Advocates are deservedly proud of these victories.

With more than 770 such 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 homelessness, and demonstrated that decent affordable homes can be provided for everyone if communities are willing to commit the resources to do so. Creating a state or local housing trust fund is a proactive step that housing advocates can take to make systemic change in the housing world.

Today, there are easily 30 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 for existing housing trust funds. The housing trust fund model can be adapted in many ways to make it possible to dedicate public funding toward addressing critical housing needs. Trust funds have been created in most states and many small cities, rural counties, and large metropolitan areas. What it takes is commitment on the part of advocates.

TIPS FOR LOCAL SUCCESS

Although 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. Advocates face the challenge of making affordable housing enough of a priority that elected officials can make the right decision. Housing trust fund campaigns have made important contributions in reframing affordable housing as a policy priority that is integral to the success of every community. 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, the environment, and neighborhood quality. Personal stories and connections to real family experiences have given the issue a face that is far more powerful than statistics reflect. Campaigns have created effective communication strategies based on the value frame that everyone deserves a place to call home.

Housing trust fund campaigns have found numerous ways to boast about what housing programs can accomplish, pointing to thousands of remarkable and outstanding examples of good, well-managed, integrated affordable housing. There is no reason to be bashful about this. Housing advocates have an obligation to educate the public and elected officials about the new face of affordable housing. Rarely have housing trust funds been created without public pressure applied by 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 ongoing, 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.

Housing trust funds don't just happen, and their abundance is a reflection of how strong affordable housing/homeless advocacy has become. Campaigns have been waged by faith-based organizations, coalitions of nonprofit developers, state-wide housing advocacy groups, or a combination of these and many others. The experiences of those campaigns are as unique as they are uplifting and full of promise.

Although housing trust funds are numerous, securing adequate resources to build and maintain affordable homes can be a challenge. The advancing practice of engaging residents in housing trust fund campaigns is showing undeniable promise in building power to win resources. Roughly one million people live in apartments and houses with affordability requirements of some sort in California. Housing CA and the Housing Trust Fund Project developed the Residents United Network (RUN) to organize the potential political force of residents who live in affordable homes and their allies. RUN leaders are already changing housing and community policies to benefit their community through education, mobilization, civic engagement and community organizing. For another example, check out the website of the Coalition for Nonprofit Housing and Economic Development in Washington, D.C., (http://h4all.cnhed.org) which provides an interactive opportunity to understand how the organization's Housing For All Campaign led the District from cuts to investments in affordable housing.

The increase in winning voter approval for public revenues to support local housing trust funds underscores the growing public understanding and support for investing in affordable housing. Kalamazoo, Michigan, and San Francisco, California, witnessed two victorious campaigns in 2015. Bellingham, Washington; Maine; and Charlotte, North Carolina, voters have also approved funds for affordable housing funds. The recent declarations of homeless emergencies has also provided political strength to new campaign avenues with advances in Hawaii; Seattle, Washington; Portland, Oregon; San Francisco and Los Angeles, California; and other communities are taking note.

There are many other creative and successful examples of these trends in affordable housing/homeless advocacy. The power these strategies provide to advocating for the dedication of public funds to address critical housing needs is evident and speaks volumes about the potential for elevating the issue of funding affordable homes to the stature it deserves. With the implementation of the National Housing Trust Fund scheduled for 2016, advocates will be working carefully to ensure collaboration on what they have won locally and state-wide with the national fund.

FOR MORE INFORMATION

Housing Trust Fund Project of the Center for Community Change www.housingtrustfundproject.org ■

Veterans Affairs Supportive Housing Vouchers

By Baylee Crone, Executive Director, National Coalition for Homeless Veterans

Administering agency: HUD's Office of Public and Indian Housing (PIH), and the Department of Veterans Affairs (VA)

Year program started: Formally in 1992; most active since 2008

Number of persons/households served: over 100,000 veterans since 2008

Population targeted: Homeless veterans meeting VA health care eligibility, with a focus on chronic homelessness.

FY16 funding: $60 million in HUD-VASH vouchers (no case management funding in FY16)

See also: *Housing Choice Voucher Program, Veterans Housing, Homeless Assistance Programs, Interagency Council on Homelessness*

BRIEF INTRODUCTION

The HUD-VA Supportive Housing Program (HUD-VASH) combines Housing Choice Voucher rental assistance for homeless veterans with case management and clinical services provided by the VA. It is a key program in the goal of ending veteran homelessness.

Through FY16, HUD has awarded more than 86,000 HUD-VASH vouchers. Nationwide, more than 300 Public Housing Authorities (PHAs) have participated in the program. In recent years, Congress created a set-aside pilot program to encourage HUD-VASH vouchers to be used on tribal lands, thereby filling an important gap in our service delivery system.

The HUD-VASH program is jointly administered by the VA and PIH. Because the vouchers are allocated to local Public Housing Agencies (PHAs) with referrals from the nearest VA Medical Center (VAMC), program administration is largely on the community level. Administration of HUD-VASH is conducted by the PHA and clinical services are provided by the VAMC, or contracted VAMC case management provider.

HISTORY

HUD estimates that 47,725 veterans were still homeless as of January 2015. This number represents a 35 percent decline in veteran homelessness since 2010. Major declines in veteran homelessness have occurred among the unsheltered population, thanks in large part to the HUD-VASH program and national efforts to end chronic homelessness.

The Obama Administration announced in late 2009 that it was setting a goal of ending homelessness among veterans within five years. These efforts have gained traction through the implementation of the VA's Five Year Plan to end veteran homelessness, which wrapped up in December 2015, and the roll-out of the Federal Strategic Plan to Prevent and End Homelessness, which focuses on ending all homelessness, starting with veterans. HUD-VASH has been and will continue to be a critical tool for achieving an end to homelessness for veterans and sets the stage for ending homelessness for all populations.

Advocates originally identified approximately 60,000 chronically homeless veterans who were in need of the comprehensive services offered through a HUD-VASH voucher. These advocates encouraged Congress and the administration to set this as a target for the number of vouchers on the street. This target has since been revised upwards, as additional target populations beyond those veterans experiencing chronic homelessness, including homeless female veterans, homeless veterans with dependent children, and homeless veterans with significant disabling and co-occurring disabling conditions, have received assistance through HUD-VASH.

Congress began funding these special purpose vouchers in earnest in the 2008 Consolidated Appropriations Act (Public Law 110-161) with an allocation of $75 million for approximately 10,000 vouchers. Since FY08, Congress has allocated $75 million to HUD for approximately 10,000 new vouchers each year, with the exception of a $50 million award in FY11, a $60 million award in FY16, and a 0.2 percent drop in 2013 due to sequestration. As of the end of FY15, 78,133 vouchers had been distributed to local communities with 71,155 HUD-VASH vouchers in use.

PROGRAM SUMMARY

HUD-VASH is a cornerstone in efforts to end veteran homelessness, providing a particularly effective resource because it combines both housing and services into one resource. When Congress funds new HUD-VASH vouchers, HUD, in consultation with VA, awards blocks of vouchers to PHAs across the country based on geographic need. When vouchers become available, VA personnel determine which veterans are clinically eligible for the program before making referrals to local PHAs, which then must verify eligibility based on HUD regulations.

Veterans who receive HUD-VASH vouchers rent privately owned housing and generally contribute up to 30 percent of their income toward rent. VA case managers foster a therapeutic relationship with veterans and act as liaisons with landlords, PHAs and community-based service providers. In some instances, these case management services are contracted through service providers who have already established relationships with participating veterans and with local landlords.

By providing a stable environment with wrap-around services, veterans and their families are able to regain control of their lives and ultimately reintegrate into society. When a veteran no longer needs the program's case management support, these vouchers can become available for the next qualifying veteran.

Initially, the HUD-VASH program faced some roll-out challenges that have improved and been addressed in more recent years. The initial voucher allocation was not geared towards chronically homeless veterans, and voucher allocations in subsequent years were not exclusively targeted toward the 60,000 chronically homeless veterans with the highest need. According to the HUD Office of Inspector General, the HUD-VASH program faced challenges because of lack of suitable housing, lack of resources for move-in expenses, staffing challenges for PHAs and VAMCs, and challenges overcoming lengthy approval processes to get leases executed. In subsequent years, targeting of HUD-VASH to chronically homeless veterans improved dramatically, lease-up rates have improved, and the time it takes to lease up vouchers has dropped significantly across the country.

Project-based vouchers (PBV) are needed for services-enriched multifamily developments in areas with a large concentration of chronically homeless veterans and in high-cost, low-vacancy markets. PHAs may designate a portion of their total HUD-VASH allocation as project-based vouchers. HUD has established PBV set-asides to competitively award a total of more than 2,200 project-based HUD-VASH vouchers, most recently in 2014 under Notice PIH 2014-3.

Eligible Participants and Voucher Allocation

To be eligible for HUD-VASH, veterans must pass through two separate eligibility processes. Income targeting requirements do not necessarily apply to HUD-VASH vouchers, though PHAs will still be required to prohibit admission if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program.

To be eligible, a veteran must:

- Be VA health care eligible.
- Meet the definition of homelessness defined in the McKinney Homeless Assistance Act as amended by S. 896 The Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act of 2009.
- Be in need of case management services for serious mental illness, substance use disorder, or physical disability in order to obtain and sustain independent housing.

Veterans with high vulnerability are prioritized, but veterans must be able to complete activities of daily living and live independently in their community. Case management is a requirement of participation in HUD-VASH.

The allocation for HUD–VASH vouchers has been a collaborative, data-driven effort conducted by HUD's Offices of Community Planning and Development and PIH, and the VA. Three major data sources help drive local allocations, including: HUD's point-in-time data, performance data from both PHAs and VAMCs, and data from the VAMCs on their contacts with homeless veterans.

After determining which areas of the country have the highest number of homeless veterans, the VA Central Office identifies VA facilities in the corresponding communities. HUD then selects PHAs near to the identified VA facilities by considering the PHAs' administrative performance, and sends the PHAs invitations to apply for the vouchers. There is at least one site in each of the 50 states, in the District of Columbia, Puerto Rico and Guam.

FUNDING

HUD-VASH vouchers are funded by both the VA and HUD. On the HUD side, $60 million was provided for 8,000 new vouchers in FY16. Unfortunately, the VA received no additional funding for HUD-VASH case management services to match the HUD-VASH vouchers allocated to HUD in FY16. In FY08 through FY10, and FY12 through FY15, HUD was awarded $75 million for 10,000 vouchers, and VA was awarded case management dollars to match those vouchers. In FY11, $50 million was provided for approximately 7,500 vouchers. HUD-VASH voucher renewals are lumped into the general Section 8 tenant-based rental assistance account, and Congress has provided sufficient funding in recent years to renew all VASH vouchers.

FORECAST

HUD-VASH vouchers are an incredibly important resource in ending veteran homelessness. Congress should continue to provide adequate funding in the tenant-based Section 8 account to renew all existing HUD-VASH vouchers, and should continue to provide HUD-VASH vouchers to house all chronically homeless veterans.

VA and local service providers have identified additional priority groups for service through HUD-VASH. VA has set a target of 65 percent of HUD-VASH voucher recipients being chronically homeless, with the remaining 35 percent of vouchers being available for other vulnerable high priority groups including veterans with families, women, and Operation Enduring Freedom/Operation Iraqi Freedom homeless veterans. As we move to end all homelessness starting with veterans through the Federal Strategic Plan to Prevent and End Homelessness, Congress and the administration along with interested community partners and homeless advocates will need to reassess what resources are needed to end homelessness for both the chronically homeless as well as other homeless veterans.

TIPS FOR LOCAL SUCCESS

Continue working with the VA to increase referrals to the HUD-VASH program. Continue efforts to find consistent additional resources for move-in costs. Work with PHAs to support landlord outreach and engagement to improve lease-up rates and time. Encourage your PHA to apply for Extraordinary Administrative Fees, when available, to help with these sorts of outreach and engagement efforts. Evaluate the need for contracted case management in your area. Evaluate if, due to exceptionally expensive or tight rental markets, your local PHA should consider applying for Exception Payment Standards. Identify gaps in service and fill them with other Continuum of Care resources.

WHAT TO SAY TO LEGISLATORS

For those policymakers whom advocates have found difficult to approach for support on more broad affordable housing and homelessness issues, advocates may find success in discussing the need for resources to end veterans' homelessness.

Advocates should speak to Senators and Representatives, particularly if they are on the Appropriations or VA Committees, and urge them to provide $75 million for 10,000 new HUD-VASH vouchers to help end homelessness among veterans, while full-funding all existing vouchers through the regular Section 8 account. It is imperative that, at the very least, Congress provide the case management funding that was not appropriated during last year's cycle; as stated above, 8,000 vouchers were created last year with no matching VA Supportive Services dollars. The president's budget requested these funds in the VA section of his request.

Advocates should also encourage Congress to make HUD-VASH work more seamlessly with the battery of other veteran homelessness relief programs, including employment programs and bridge housing options. Currently, legislative vehicles for these fixes exist in both the House and Senate Veteran's Affairs Committees.

Data regarding the prevalence of homeless veterans is available in HUD's *Annual Homeless Assessment Report*, through the U.S. Interagency Council on Homelessness, or from the National Center on Homelessness Among Veterans.

FOR MORE INFORMATION

NLIHC, 202-662-1530, www.nlihc.org

National Coalition for Homeless Veterans, 202-546-1969, www.nchv.org

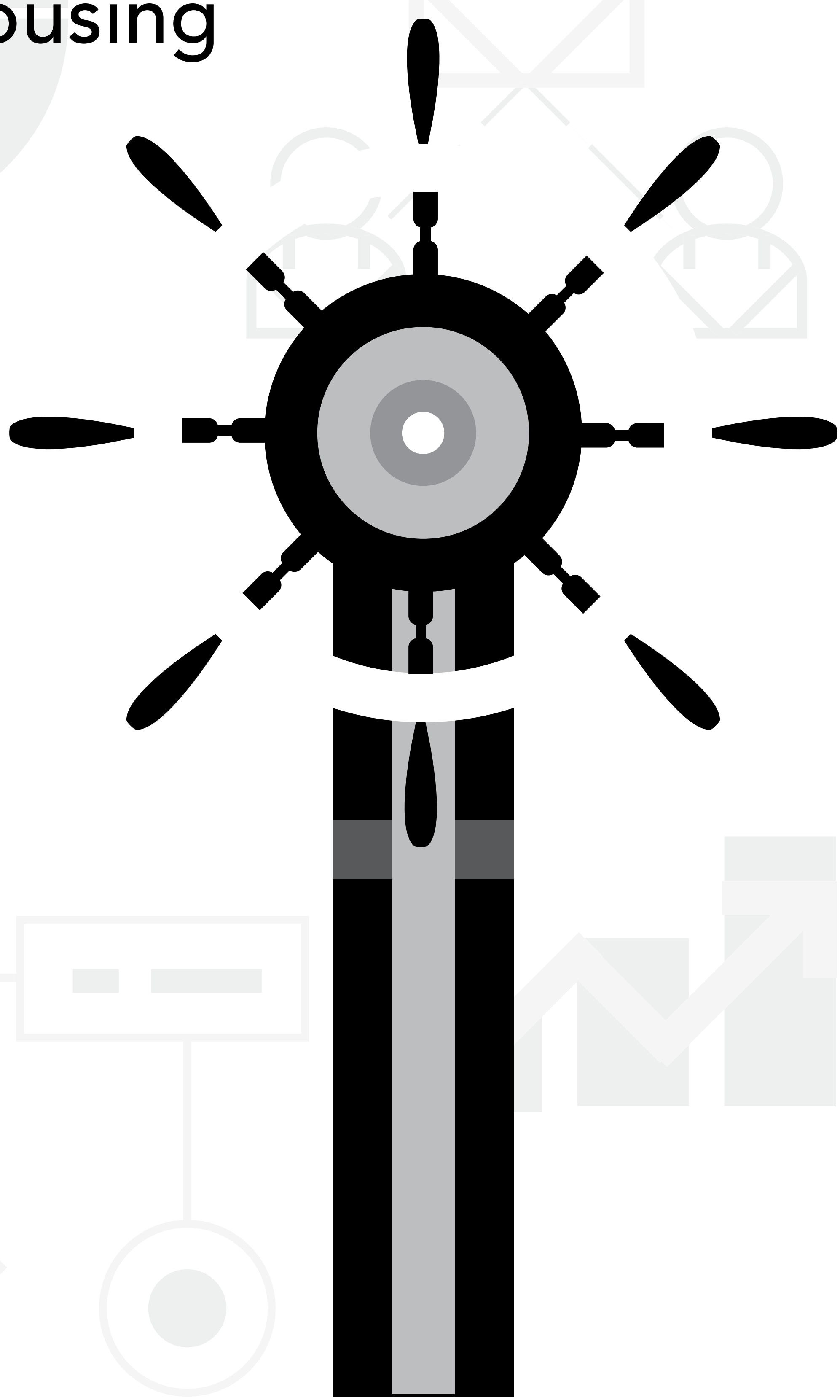
Corporation for Supportive Housing, 212-986-2966, www.csh.org

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

HUD's HUD-VASH Webpage: http://1.usa.gov/AgrU2z ■

Chapter 6:

Special Housing Issues



Housing Needs of Victims of Domestic Violence, Sexual Assault, Dating Violence, and Stalking

By Monica McLaughlin, Senior Public Policy Specialist, National Network to End Domestic Violence

Administering agencies: Department of Health and Human Services (HHS) for the Family Violence Prevention and Services Act (FVPSA); HUD, U.S. Department of Agriculture (USDA), Treasury Department, and Department of Justice (DOJ)/Office on Violence Against Women (OVW), for housing protections under the Violence Against Women Act (VAWA).

Year programs started: FVPSA, 1984; VAWA, 1994.

Number of persons/households served: More than one million victims each year.

Population targeted: Victims of domestic violence, sexual assault, dating violence, and stalking.

FY16 funding: VAWA Transitional Housing, $30 million; FVPSA, $150 million

Also see: *Homeless Assistance Programs, Continuum of Care Planning*

FVPSA, the VAWA, and the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act create federal protections and support lifesaving programs for victims of domestic violence, sexual assault, dating violence, and stalking.

HISTORY

FVPSA passed in 1984 and is administered by HHS. VAWA passed in 1994 and was reauthorized in 2000, 2005, and 2013. VAWA created the first federal law to encourage coordinated community responses to combat domestic and sexual violence. Various federal agencies are responsible for VAWA compliance; housing-related agencies are HUD, USDA, and the Treasury Department.

ISSUE SUMMARY

Domestic violence is consistently identified as a significant factor in homelessness. A staggering 92% of homeless women report having experienced severe physical or sexual violence 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. Domestic violence is often life-threatening; in the U.S. three women are killed each day by a former or current intimate partner. Advocates and survivors identify housing as a primary need of victims and a critical component in survivors' long-term safety and stability

Although safe housing can give a survivor a pathway to freedom, there are many barriers that prevent victims from maintaining or obtaining safe and affordable housing. Many survivors have faced economic abuse as part of the violence, meaning that they have not had access to the family finances, have been prohibited from working, and have had their credit scores destroyed by the abuser. Victims often face discrimination in accessing or maintaining housing based on the violent and criminal actions of perpetrators. Additionally, victims are limited in the locations and types of housing they can access because of their unique safety and confidentiality needs, and many housing/homelessness assistance programs have barriers that inadvertently exclude victims of violence.

Domestic violence programs do their best to serve those in need of emergency and transitional housing. Due to a lack of resources, however, every day thousands of abused adults and children are turned away from shelters and denied housing services because programs lack adequate resources and funding. The National Domestic Violence Census found that—in just one 24-hour period in 2015—5,778 requests for shelter and housing went unmet. Finally, victims face the same economic barriers that challenge so many individuals in this nation–such as unemployment, and the lack of affordable housing, living-wage jobs, transportation, safety nets, and child care options. As a result, many victims face the impossible choice between staying with or returning to their abusers, or becoming homeless because they cannot find or afford long-term permanent housing.

PROGRAM SUMMARIES

FVPSA and the VAWA transitional housing program are critical parts 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. FVPSA is administered by HHS. FVPSA created the first and only dedicated federal funding stream for community-based domestic violence programs and shelters. Approximately 1,600 emergency domestic violence shelters and programs across the country rely on FVPSA to sustain lifesaving support to victims trying to escape violence. The funds are 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.

Violence Against Women Act. VAWA includes many discretionary grant programs, including the Transitional Housing grant program administered by OVW. The program distributes grants to more than 225 entities annually across the country on a competitive basis, including to: states, units of local government, Indian Tribes, and other organizations such as domestic violence and sexual assault victim service providers or coalitions, other nonprofit and nongovernmental organizations, or community-based and culturally specific organizations. 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 in 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—originally passed in 1994 and reauthorized in 2000, 2005, and 2013—created the first federal law to encourage coordinated community responses to combat domestic and sexual violence. The 2005 VAWA reauthorization instituted landmark protections, including those that ensured that victims can access the criminal justice system without facing discrimination or jeopardizing their current or future housing; strengthened confidentiality protections for victims accessing housing and homelessness services; and maintained the transitional housing grant program. The 2013 VAWA reauthorization builds upon the strengths of these housing programs and protections with key improvements.

Victims often face unfair eviction and denial of housing benefits because of the violence and criminal actions of others. VAWA housing protections allow public housing agencies (PHAs) to prioritize victims for housing when their safety dictates, prohibit PHAs from denying housing or evicting a victim just because they experienced domestic violence, and clarify that Housing Choice Vouchers are portable for victims. The 2013 VAWA reauthorization protects victims of sexual assault, covers victims in all federally subsidized housing programs and delineates an emergency transfer policy process for victims who face continued threats or violence. The newly covered federally subsidized housing programs are: USDA Rural Development housing properties; Low Income Housing Tax Credit (LIHTC) properties; HUD's McKinney-Vento homeless assistance programs; the HOME Investment Partnerships program; the Section 221(d)(3) Below Market Interest Rate program; the Section 236 program; the Housing Opportunities for Persons with AIDS program; the Section 202 supportive housing for the elderly program; and, the Section 811 supportive housing for people with disabilities program.

Additionally, VAWA prohibits disclosure of personally identifying information or individual information collected in connection with services requested, utilized, or denied through grantees' and subgrantees' programs without the informed, written, reasonably time-limited consent of the survivor. Victim service providers are prohibited from entering personally or personally identifying information into the Homeless Management Information System or any shared databases.

VAWA housing protections are designed to allow victims to maintain or access safe housing, and yet the lack of consistent implementation has limited the effectiveness of these protections. Many of the housing provisions and protections under VAWA are not fully executed at the local level. Further guidance from HUD, USDA, and the Department of the Treasury (which oversees the LIHTC program) will help implement the new VAWA housing provisions. Since VAWA 2013 passed, HUD has issued a notice on the applicability of VAWA to HUD programs. This notice highlights the key changes made by this statute, lists the HUD programs now covered by this statute, and provides an overview of key provisions applicable to HUD programs. In April 2015, HUD issued a proposed rule, "Violence Against Women Reauthorization Act of 2013: Implementation in HUD Housing Programs."

Advocates submitted comprehensive and thorough comments on the proposed rule seeking clarity of policies to ensure uniform application across HUD's programs. Advocates continue to encourage HUD and the other administering agencies to emphasize the goal of maintaining victims' housing by strongly enforcing VAWA protections; ease the burden on victims to provide documentation; and, reduce other barriers that arise when victims are asserting their rights or simply trying to remain safe. VAWA protections should help victims obtain or maintain safe, affordable, and permanent housing. Advocates look forward to the final VAWA housing rule to help implement the lifesaving protections.

USDA also released an Administrative Notice (AN) 4747 (1944-N) on February 10, 2014, which included a Rural Development Model Emergency Transfer Plan.

The HEARTH Act and McKinney-Vento Homeless Assistance Programs. Domestic violence shelters and housing programs depend on HUD McKinney-Vento funding to operate and provide safe housing for survivors. HUD's interim rules on the Continuum of Care process and the Emergency Solutions Grants for McKinney-Vento homelessness programs include a number of changes to these programs. The interim rules propose allowing domestic violence and other victim service providers to opt out of the coordinated assessment system, citing safety concerns for victims. Advocates are waiting for the final rule for clarity on the requirements for victim services providers in terms of coordinated assessment and a number of other key concerns. Many advocates across the nation continue to be concerned that survivors lack access to safe and confidential emergency shelter, transitional housing and permanent housing options.

Recently, HUD, OVW, the Office for Victims of Crime, and the Family Violence Prevention and Services Office at HHS launched the Domestic Violence and Housing Technical Assistance Consortium (DVHTAC) to better address the critical housing needs of victims of domestic violence and their children. The Consortium aims to foster increased collaboration among domestic violence and homeless service providers and provide national training, technical assistance and resource development on domestic violence and housing. Individuals should work in their communities to ensure that coordinated assessment systems meet the needs of victims, maintain confidentiality, reduce trauma, and increase victims' access to housing resources and can reach out to the Consortium for help.

TIPS FOR LOCAL SUCCESS

Violence Against Women Act. 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 in local jurisdictions. Housing advocates should work in partnership with domestic violence advocates to: familiarize themselves with VAWA housing protections; improve advocacy for individuals; and, 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. Advocates should engage with current and newly covered housing programs to begin implementation of the new VAWA housing protections.

HEARTH. Because victims access both victim service programs and general housing and homelessness programs, coordinated assessment systems must:

- Be built on shared tools and standards, not shared databases or other structures that inherently expose victims to unnecessary danger.
- Meaningfully and significantly involve victim service providers in their design and implementation.
- Proactively address safety and privacy concerns,

including using assessment tools that are not invasive or traumatizing.

- Adhere to confidentiality and safety policies with regard to data collection, storage or disclosure and, physical locations.
- Allow direct, immediate access to safe housing for victims.

It is imperative that victim advocates are significantly involved in the design of such systems to ensure that victims' needs are considered and addressed.

Implementation of the HEARTH Act must be done in a way that recognizes and responds to victims' serious safety needs and their desperate need for housing. Issues around scoring, outcomes, confidentiality, data collection, and more have an impact on funding decisions and ultimately on victims' access to safe housing. Implementation and funding decisions must support the unique role that domestic violence service providers play in meeting victims' specific needs.

Advocates are encouraged to contact the DVHTAC to address specific needs around implementation of HEARTH.

FUNDING

Maintaining funding for FVPSA and VAWA programs is critical to ending domestic and sexual violence and homelessness. When adequately funded, these acts help to reduce the societal cost of domestic and sexual violence. In fact, by supporting critical services for victims, VAWA saved $12.6 billion in net averted social costs in its first six years alone. Despite their lifesaving potential and their efficacy, these programs are woefully underfunded and there is a serious gap caused by a lack of available resources. It is unacceptable that victims fleeing violence should be turned away from emergency shelters because the programs are full. Victims who must wait in emergency shelter for an available transitional housing unit remain unstable, while other victims in crisis cannot access shelter.

VAWA transitional housing received $30 million in FY16 and is authorized at $35 million; the President's budget proposed $30 million for FY17. Although authorized at $175 million, FVPSA was funded at $150 million in FY16, $25 million below its funding authorization. The President's budget proposed $151 million for FVPSA in FY17.

To realize the benefits of these programs, VAWA funding must be increased in the FY17 budget, with at least $35 million specifically for transitional housing. In addition, investments in FVPSA at $175 million will help ensure that emergency domestic violence shelter is available when victims flee. Congress has the opportunity to support the VAWA emergency transfer provision by allocating funding for VAWA vouchers in the FY17 Appropriation bill, which will help HUD fulfill the law, prevent further violence, and keep more victims safe.

WHAT TO SAY TO LEGISLATORS

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

For these federal laws and programs to realize their full potential in meeting victims' housing needs, program funding must be increased to its authorized level, new and existing VAWA housing protections must be fully implemented, and HEARTH Act implementation must address victims' needs.

Specifically, advocates should ask the House and Senate Appropriations Committees to maintain targeted investments in FVPSA and all VAWA programs, including:

- In the Commerce, Justice, Science Appropriations bill, $35 million for VAWA Transitional Housing.
- In the Labor, Health and Human Services Appropriations bill, $175 million for FVPSA/ domestic violence shelters.
- In the Transportation, Housing and Urban Development and Related Agencies bill, add $37.5 million to the tenant protection voucher account for up to 5,000 vouchers for VAWA emergency transfer vouchers.

FOR MORE INFORMATION

National Network to End Domestic Violence, 202-543-5566, www.nnedv.org/census

NNEDV Tools on Confidentiality, www.nnedv.org/tools

NNEDV Toolkit on Housing for Domestic Violence Survivors (includes comments on HUD interim rules), http://nnedv.org/resources/transitional-housing.html

DVHTAC Members: NNEDV; District Alliance for Safe Housing http://dashdc.org/;
National Resource Center on Domestic Violence www.VAWnet.org (search housing);
CSI, Inc. http://www.collaborative-solutions.net/

The HUD final rule on VAWA 2005 is on HUD's website http://1.usa.gov/XoHShh

The HUD proposed rule on VAWA is on HUD's website https://www.hudexchange.info/news/hud-publishes-new-proposed-rule-violence-against-women-reauthorization-act-of-2013-implementation-in-hud-housing-programs/

The HUD notice on the applicability of VAWA to HUD programs, issued August 6, 2013, http://1.usa.gov/1nnf45i

The USDA Rural Development Administrative Notice, http://www.rurdev.usda.gov/SupportDocuments/an4747.pdf

VAWA 2013 Resources, National Housing Law Project, http://nhlp.org/node/3440

510-251-9400, www.nhlp.org

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

Inclusionary Housing Policies

By Patrick Maier, Executive Director, Innovative Housing Institute

Inclusionary housing requires or provides incentives for the development of affordable housing as part of the development of market-rate housing. In most cases, this takes the form of a local ordinance or policy that requires all developments of a certain size (for example, 10 or more homes) to include some percentage of affordable housing. Because it is dependent on market-rate production of homes, there was little activity during the depths of the housing bust. Now that the housing market is emerging from the crisis, there is an increase in interest and inclusionary activity in stronger housing markets.

Inclusionary housing policy adoption is a matter of local and state self-determination. The authority to implement it stems from "police power," the capacity of the states to regulate behavior and enforce order for the betterment of the general welfare. It is typically administered on a local level through coordination between local housing departments and planning authorities.

HISTORY AND PURPOSE

Since the 1970s, more than 400 local governments and a number of states have implemented inclusionary housing programs resulting in the production and preservation of hundreds of thousands of affordable homes. Because of the relationship of these affordable homes to market-rate development, many of these homes have been built in very desirable locations near jobs and opportunity, and in affluent communities where federal and state housing subsidies have not typically been used. Because inclusionary programs typically rely on zoning incentives and development waivers, the creation of these homes has not required a new public funding source for the affordable housing. These incentives can take the form of: up-zoning, where a given piece of land is rezoned to allow for more development, thereby increasing its value; density bonuses that allow the developer to build more homes if affordable homes are also provided; and, development waivers, such as parking reductions, which make it easier or less expensive to build homes. A number of communities also offer specific financial contributions to help make the affordable homes possible, or to serve lower income households in the affordable homes.

PROGRAM SUMMARY

Most people are familiar with exclusive communities and neighborhoods. These are areas where the homes are very expensive, where there may be gates or guards to keep unwanted people out, and where there may be unspoken preferences as to who is able to live there. Inclusionary housing policy turns exclusivity on its head. It seeks to include all those who work in a community or who aspire to live there.

What is important to know is that inclusionary housing policy adoption is a matter of local and state self-determination. The ability to plan a community and decide what kind of community people want is usually a matter of local political decision-making when master plans are adopted, a new development is planned, or when rezoning occurs. This is where advocacy for inclusionary housing can make a difference.

Inclusionary housing programs contribute to the creation of mixed-income, diverse, and integrated communities by requiring developers to incorporate affordable homes within the context of a larger development. Sometimes, rather than build affordable homes as part of a market-rate development, developers are able to build or rehabilitate homes nearby, or to make financial contributions to an affordable housing development fund to be used within that same jurisdiction. Because active participation of the private sector developer is a key ingredient in the inclusionary program, program requirements often permit alternative methods of providing affordable homes.

Although some jurisdictions have voluntary inclusionary programs, the vast majority of jurisdictions require mandatory compliance. Most programs require that 10-20% of the homes developed be affordable. The homes provided may be either for sale or rental. Income eligibility varies widely, but most programs serve households with incomes that range from low to moderate income levels (50%-120% of area median income). Prices and rents are usually established by the program manager at a level affordable to households within this range.

In most jurisdictions, households interested in an inclusionary home apply and are qualified through the local program manager. Typically this is the local housing and community development agency, but sometimes this function is performed by a community land trust or other nonprofit. A few jurisdictions are able to serve extremely low income households by enabling purchase by housing agencies or nonprofits, which in turn can apply additional subsidies.

Maintaining the affordability of an inclusionary home throughout a substantial period of time is an important element of program management. Having the ability to resell or re-rent an affordable home to another qualified household maintains a stock of affordable housing in a community. Most jurisdictions require the homes to remain affordable for the long term—30 to 50 years is not uncommon, and some jurisdictions mandate affordability in perpetuity. Perpetual affordability requires a robust administrative function and continuous education and support to the households who are beneficiaries of the program.

FUNDING

One of the great advantages of inclusionary programs is that there is not a significant dollar cost for the creation of the affordable home. This is because inclusionary programs trade on the power of the market and provide incentives and regulatory waivers to builders and developers who produce market-oriented homes. The corollary is that inclusionary housing works best where the housing market is strong; that is, where private builders/ developers want to build because they believe there is strong market potential and that people will buy or rent the homes they build.

It is important to note, however, that program administration requires a set of skills that are sometimes not present in local government. In implementing and running a program, communities must be willing to invest resources in good staff who can handle the wide range of duties associated with a successful program. Funding for ongoing program administration is also important.

FORECAST

The national homeownership rate for the first quarter of 2015 fell below 64%, the lowest level in approximately two decades. [1] Homeownership rates fell for all age cohorts except those older than 65.

As noted by the *Wall Street Journal*, "For the first time U.S. builders last year sold slightly more homes priced above $400,000 than those below $200,000."[2] For younger households starting out in their careers and those that have not accrued the savings necessary to make a 10-20% down payment the doors to homeownership are mostly closed. "With fewer potential customers, builders have largely abandoned the entry-level market."[3] Many are still suffering from the most drawn-out and devastating housing slump since the Great Depression. However, new rental apartment construction is booming, nearing a level that it last reached in 1989[4]. Although the growth in construction of rental housing is good news for the overall economy, uneven income growth means those at the lower end of the income spectrum are often unable to afford the new rental housing that is being built.

One lesson from the housing bust is that low and moderate income households were not well-served by being encouraged to take on more mortgage debt than they could handle. To avoid repeating these mistakes, regulatory and administrative changes have been made to mortgage loan qualification that make it more difficult for low and moderate income families to purchase a home. Therefore, the ability to buy or rent a home in a good, safe community continues to be denied to many lower income households because of the effective income segregation and lack of affordable housing that continues in many parts of the country; the tightened mortgage eligibility requirements compound this problem. This is where an inclusionary policy offers a positive alternative–a modest home at a reasonable price in a good community.

As housing advocates review their policies in the

1 Joint Center for Housing Studies of Harvard University

2 Wall Street Journal *Two Tier Economy Reshapes Contours of U.S. Markets*, January 29, 2015

3 Ibid.

4 Ibid.

current environment, it is important to support and work to strengthen existing inclusionary policies around the country. Opponents of inclusionary policy are actively working to undermine and eliminate existing laws, claiming that housing affordability is a problem of the past. An important new resource is available to advocates of inclusionary housing: *Inclusionary Housing: Creating and Maintaining Equitable Communities* by Rick Jacobus, published by the Lincoln Institute for Land Policy. This is a comprehensive guide to the issues that must be considered in the design and adoption of an inclusionary policy, and it provides real world examples from around the U.S.

The national stage for inclusionary housing advocacy has been strengthening throughout the past year. New York Mayor, Bill de Blasio—in his State of the City Address on February 3, 2015—called for the provision of 200,000 affordable homes over the course of the coming decade: 80,000 from new construction, and 120,000 from the preservation of existing affordable homes. Strengthened mandatory inclusionary housing policies will account for the bulk of the 80,000 new unit goal. In Chicago, the Affordable Requirements Ordinance amendments have been adopted by the City Council. These changes increase inclusionary requirements for on-site provision of affordable homes, and substantially increases in-lieu fees that support other affordable housing, if developers do not build inclusionary homes on site.

These and other actions at the local government level signify a renewed recognition of the obligation of local governments to address pressing housing needs using the tools at their disposal, principally the regulation of land use, to garner affordability for their low and moderate income residents. In every case, these gains would not have been possible without strong public advocacy that demanded public action.

In an important 2015 decision that strengthens the legal underpinning of inclusionary housing, the California Supreme Court—in the case *CBIA vs City of San Jose*—supported the local inclusionary law unanimously. The California Building Industry Association challenged a San Jose ordinance that required inclusionary housing obligations from housing developers.

Advocates should know that inclusionary housing can serve very low and extremely low income households. This is possible by taking the affordable home created by the market-oriented developer and further subsidizing it by project basing vouchers or by using HOME funds or state and local housing trust funds. Those efforts result in a new home that is very affordable at significantly lower cost than creating it solely through the expenditure of public subsidies. And it is more likely to be in an opportunity-rich location. Most existing inclusionary housing programs do not take this next step to serve very low and extremely low income households, but they should be encouraged to do so, and low income housing advocates' knowledge of this possibility will expand the usefulness of the program.

Changing land use law and planning an inclusionary housing ordinance that will work in a community takes time and political strength. Coalitions should include all parts of the community: employers, unions, religious organizations, students, and those who provide essential services. In some states, the power to change local land use laws is restricted at the state level; successful coalitions would have to operate at the state level to gain authority for local adoption of inclusionary policies.

WHAT TO SAY TO LEGISLATORS

Your duty to Affirmatively Further Fair Housing can be addressed in part by adopting local inclusionary housing laws, and creating the program mechanisms that will ensure that low and very low income households benefit from the homes or contributions engendered by these laws.

FOR MORE INFORMATION

Innovative Housing Institute, 410-332-9912, www.inhousing.org

National Housing Conference and Center for Housing Policy, 202-466-2121, www.nhc.org ■

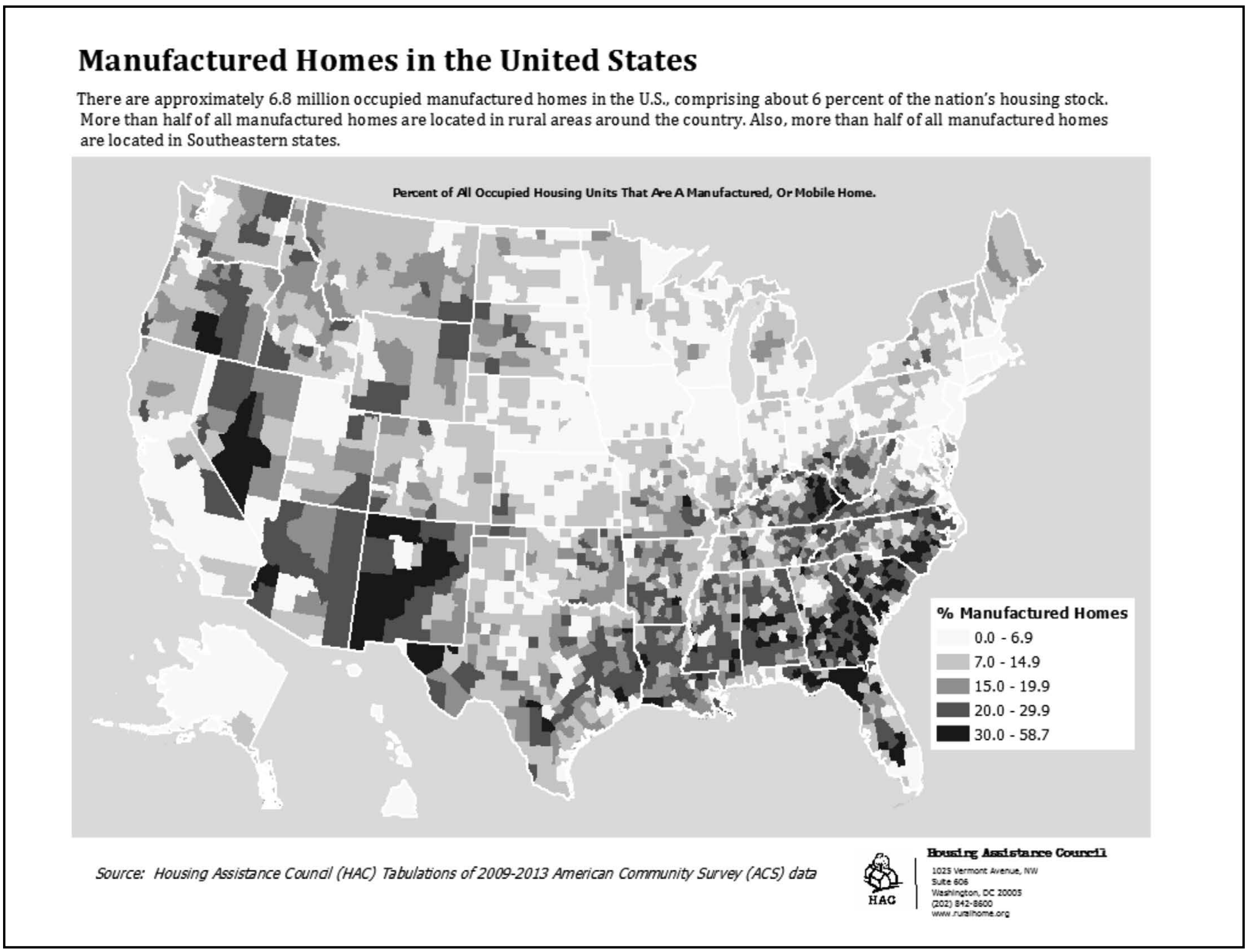
Manufactured Housing

By Lance George, Director of Research and Information, Housing Assistance Council

Manufactured homes–often referred to as mobile homes or trailers, are an overlooked and maligned component of our nation's housing stock. But manufactured homes are an important source of housing for millions of Americans, especially those with low incomes and in rural areas. Even as the physical quality of manufactured housing continues to progress, the basic delivery system of how these homes are sold, financed, and managed is still in need of improvement to ensure they are a viable and quality source of affordable housing.

ISSUE SUMMARY

There are approximately 6.8 million occupied manufactured homes in the U.S., comprising about 6%of the nation's housing stock. More than half of all manufactured homes are located in rural areas around the country. Also, more than half of all manufactured homes are located in southeastern states. Despite the fact that the demographics of manufactured housing are changing, lower-income households are still the primary residents of manufactured homes. The median annual income of households residing in manufactured housing is $28,374—nearly half the median income of households living in single family homes.[1] Modern manufactured homes evolved out of the automobile industry and recreational travel trailers, but manufactured homes produced today are comparable in quality and safety to conventionally constructed single-family homes.



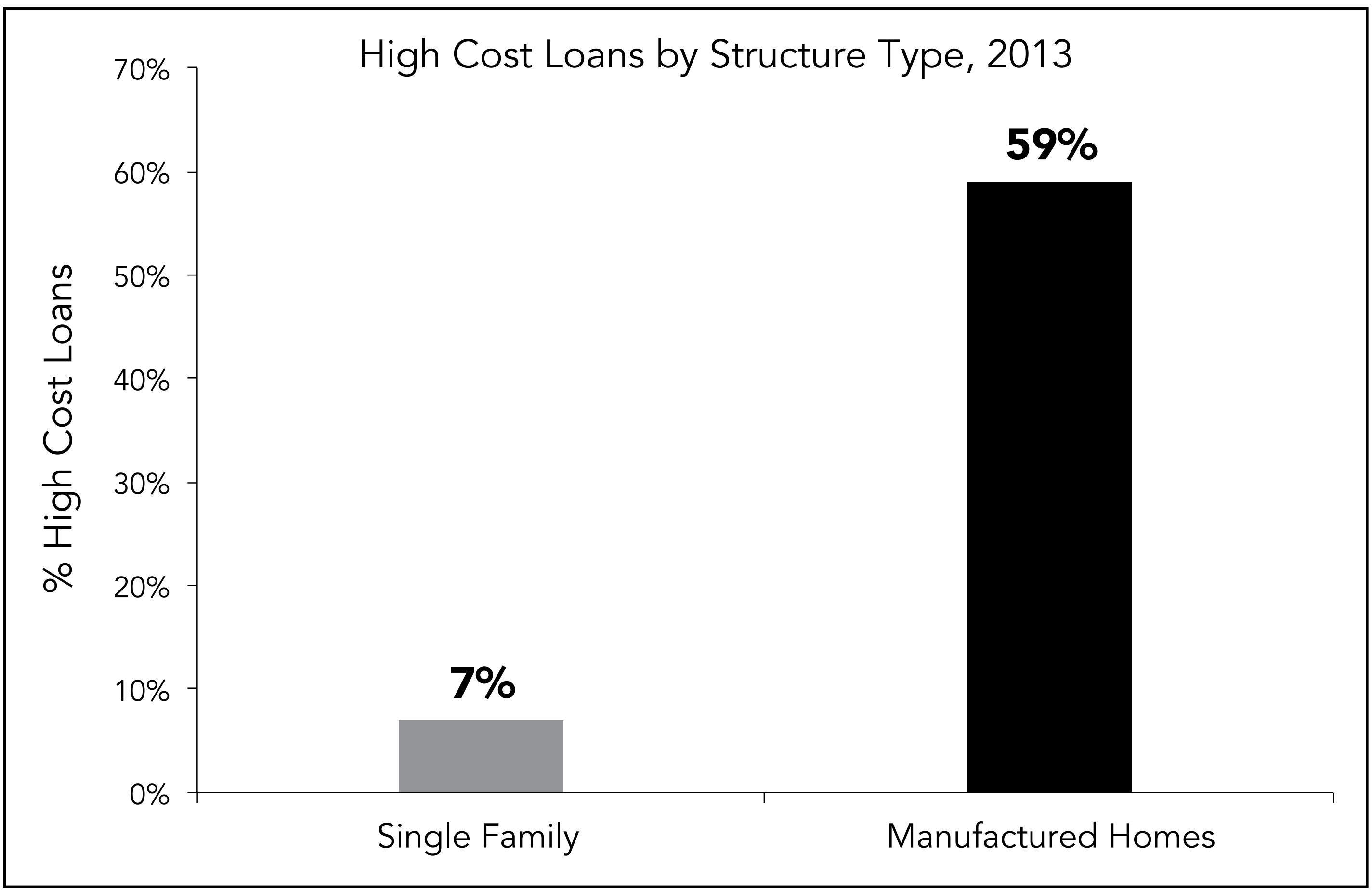
However, it is equally important to recognize the existing stock of older manufactured or 'mobile homes.' It is estimated that approximately one-fifth of currently occupied manufactured homes were built before 1980. These older units are likely to be smaller, less safe, and have fewer amenities and less investment potential than newer manufactured homes.

Affordability and convenience make manufactured homes a popular housing option. The average sales price of a newly manufactured home in 2014 was $65,300 (excluding land costs) compared to an average of $282,800 for a newly constructed single family home.[2 3] Although the purchase price of manufactured homes can be relatively affordable, financing them is not. The majority of manufactured homes are still financed with personal property, or "chattel," loans.[4] With shorter terms and higher interest rates, personal property loans are generally less beneficial for consumers than conventional mortgage financing. Roughly three-quarters of manufactured home loans in 2014 were classified as "high cost" (having a substantially high interest rate) which is more than six times the level of high cost lending for newly constructed single family structures.[5] Manufactured homes are typically sold at retail sales centers. In some cases, dealers resort to high-pressure sales tactics, trapping consumers into unaffordable loans.[6]

WHAT ADVOCATES SHOULD KNOW

The HUD Code. An important 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) regulating the construction of manufactured homes and commonly referred to as the 'HUD code.' 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.

Manufactured Housing Consensus Committee. The Manufactured Housing Improvement Act of 2000 established a Consensus Committee to



Source: HAC Tabulations of 2013 Home Mortgage Disclosure Act Data amend, revise, and develop manufactured housing safety standards and enforce regulations. The Manufactured Housing Consensus Committee, appointed by the HUD secretary, is composed of 21 voting members representing 3 interest categories with 7 representing producers of manufactured housing, 7 representing users of manufactured housing, and 7 representing other interest groups or public officials.

Federal Resources for Affordable Manufactured Housing. Manufactured housing is largely financed and funded in the private marketplace. However, there are several existing federal resources that support the development, financing, and rehabilitation of affordable manufactured housing, such as HUD-HOME, USDA Rural Development, and Weatherization funds.

Manufactured Housing "Done Right." Once shunned by nonprofit housing developers, manufactured homes are now making inroads into affordable housing projects and mindsets. Much of this progress is attributable to a small but innovative group of advocates who challenged assumptions and conventions about developing and preserving manufactured housing. Across the nation, several organizations and initiatives are utilizing manufactured homes to provide and maintain affordable housing. These efforts avoid the pitfalls of traditional dealer-based manufactured housing purchase and finance, and investor ownership of communities.

LEGISLATIVE AND REGULATORY ACTIONS

The Preserving Access to Manufactured Housing Act of 2015. The Act amends the Dodd-Frank Wall Street Reform and Consumer Protection Act to revise the exclusion from the meaning of "mortgage originator," and amends the Truth in Lending Act to revise the definition of "high cost mortgage." The Bill (H.R. 650) passed the House of Representatives on April 4, 2015. A companion bill (S. 682) was introduced in the Senate on April 16, 2015. Housing and consumer advocates generally oppose this legislation because of its proposed reductions to important consumer protections.

Duty to Serve. The Housing and Economic Recovery Act of 2008 (HERA) mandates that Fannie Mae and Freddie Mac (the GSEs) have 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 are tasked with increasing mortgage investments and improving the distribution of capital available for mortgage financing in these markets. The Federal Housing Finance Agency (FHFA) recently re-issued a proposed rule on the duty to serve requirements. Under the proposed rule, FHFA will only consider loans for manufactured homes as part of the GSE's duty to serve requirement if they are located on real property. The Duty to Serve rule also extends credit to GSEs for activity in manufactured home communities and community preservation.

The Dodd-Frank Wall Street Reform and Consumer Protection Act (PL 111-203) included several provisions that enhance consumer protections for purchasers of manufactured homes. Dodd-Frank revised the Truth in Lending Act to establish specific protections for mortgage loans, origination activities, and high-cost lending. Dodd-Frank also directs the newly created Bureau of Consumer Financial Protection (CFPB) to supervise manufactured housing finance activities.

SAFE Act. A component of HERA, the Secure and Fair Enforcement of Mortgage Licensing (SAFE) Act was implemented to reduce fraud and improve consumer protections by establishing minimum standards for the licensing of mortgage loan originators.

HUD's Title I Manufactured Home Loan Insurance program. HUD's Title I program insures mortgage loans made by private lending institutions to finance the purchase of a new or used manufactured home. Title I loan limits increased from $48,000 to $69,678, and are indexed annually.

The Uniform Manufactured Housing Act was passed by the Uniform Law Commission in 2012. This model legislation provides a more uniform system for converting manufactured homes from personal to real property. The act provides a framework for states to develop a system where a new manufactured home can be considered real property when located on land controlled by the homeowner.

WHAT TO SAY TO LEGISLATORS

Advocates should speak to lawmakers with the message that:

- 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 consistent with real property or standard mortgage loans.
- Legislation should be enacted that limits predatory lending practices involving manufactured homes.
- Policies and programs should be enacted to facilitate manufactured housing community preservation, such as protection from community sales, closures, and rent increases. Residents should be properly notified, and given right of first refusal on the sale of a community.
- Improved data collection for manufactured homes should be incorporated into publically available data resources such as the Home Mortgage Disclosure Act, The American Community Survey, and the American Housing Survey. Manufactured home data should indicate property status (personal property or real property) and location information indicating whether the unit is located in a manufactured home community, or on a scattered site lot. The inclusion of these updated and enhanced manufactured home data would provide a much more complete assessment of manufactured housing.

FOR MORE INFORMATION

The Housing Assistance Council (HAC), 202-824-8600

HAC Moving Home Report http://www.ruralhome.org/storage/documents/movinghome.pdf

Rural Data Portal http://www.ruraldataportal.org/

Manufactured Homes by County (Interactive Map) http://bit.ly/1KDssyX

High Cost Manufactured Home Loans by County (Interactive Map) http://bit.ly/14QHVLk

CFED I'M HOME, 202-409-9788 http://cfed.org/programs/innovations_manufactured_homes/

Consumer Financial Protection Bureau, http://www.consumerfinance.gov/newsroom/cfpb-finds-majority-of-manufactured-housing-borrowers-have-expensive-loans/

ROC USA, 603-856-0246, http://www.rocusa.org/

Consumers Union, 512-477-4431, http://consumersunion.org/wp-content/uploads/2013/04/MfgHomes.pdf

AARP, 888-687-2277, http://assets.aarp.org/rgcenter/consume/d18138_housing.pdf

National Consumer Law Center, 202-452-6352, http://www.nclc.org/issues/manufactured-housing.html

National Manufactured Home Owners Association, http://www.mhoaa.us/ ■

ENDNOTES

1 HAC Tabulations of 2013 American Housing Survey (AHS) public use file data.

2 U.S. Census Bureau, U.S. Department of Commerce. Manufactured Homes Survey. http://www.census.gov/construction/mhs/pdf/stavg14.pdf

3 U.S. Census Bureau, U.S. Department of Commerce. Characteristics of New Housing. http://www.census.gov/construction/chars/pdf/soldpricerange.pdf

4 Consumer Financial Protection Bureau. Manufactured Housing Consumer-Finance in the United States. Washington DC. September 2014. http://files.consumerfinance.gov/f/201409_cfpb_report_manufactured-housing.pdf

5 Housing Assistance Council Tabulations of 2014 Home Mortgage Disclosure Act Data.

6 Kathy Mitchell, et al. In Over Our Heads: Predatory Lending and Fraud in Manufactured Housing. Consumers Union Southwest Regional Office Public Policy Series, Vol. 5, No. 1. Austin, TX: February 2002. http://www.consumersunion.org/pdf/mh/over/report.pdf

Olmstead Implementation

By Kevin Martone, Executive Director, Technical Assistance Collaborative

INTRODUCTION

On June 22, 1999, the U.S. Supreme Court issued its decision in Olmstead v. LC, a lawsuit against the State of Georgia which questioned the state's continued confinement of two individuals with disabilities in a state institution after it had been determined that they were ready to return to the community. The Court described Georgia's actions as "unjustified isolation" and determined that Georgia had violated these individuals' rights under the Americans with Disabilities Act (ADA). Because of the Olmstead decision, many states are now in the process of: (1) implementing "Olmstead Plans" that expand community based supports, including new integrated permanent supportive housing opportunities; (2) implementing Olmstead-related Settlement Agreements that require thousands of new integrated permanent supportive housing opportunities to be created in conjunction with the expansion of community-based services and supports; or 3) implementing other related activities, such as Medicaid reform, that will increase the ability of individuals to succeed in integrated, community-based settings.

ADMINISTRATION

The U.S. Department of Justice (DOJ) is the federal agency charged with enforcing the ADA and Olmstead compliance. Other federal agencies, including the Departments of Housing and Urban Development (HUD) and Health and Human Services (HHS), have funding, regulatory and enforcement roles related to the ADA and Olmstead. Protection and Advocacy (P&A) agencies in each state are federally authorized and also have legal, administrative and other appropriate remedies to protect and advocate for the rights of individuals with disabilities.

HISTORY

In its 1999 decision in Olmstead v L.C., the Supreme Court found that the institutionalization of persons with disabilities who were ready to return to the community was a violation of Title II of the Americans with Disabilities Act (ADA). In its decision, the court found that indiscriminate institutional placement of persons who can handle and benefit from community settings perpetuates unwarranted assumptions that persons so isolated are incapable or unworthy of participating in community life. The court also found that confinement in an institution severely diminishes everyday life activities, including "family relations, social contacts, work options, economic independence, educational advancement, and cultural enrichment."

The court was careful to say that the responsibility of states to provide health care in the community was "not boundless." States were not required to close institutions, nor were they to use homeless shelters as community placements. The court said that compliance with the ADA could be achieved if a state could demonstrate that it had a "comprehensive and effectively working plan" for assisting people living in "restrictive settings," including a waiting list that moved at a "reasonable pace not controlled by the state's endeavors to keep its institutions fully populated."

Historically, 'community integration' was 'achieved' by moving people out of large, state run institutions into community settings — deinstitutionalization. But, in the past decade, there has been increasing scrutiny that certain types of large, congregate residential settings in the community are restrictive, have characteristics of an institutional nature, and are inconsistent with the intent of the ADA and Olmstead. These type of facilities are known by different names in states (e.g., adult care homes, residential care facilities, boarding homes, assisted living), but have similar characteristics, including a large number of residents primarily with disabilities, insufficient or inadequate services, restrictions on personal affairs, and housing that is contingent upon compliance with services. Some states, including North Carolina, Illinois, and New York, have been sued for overreliance on such facilities, and are now implementing settlement agreements with DOJ and/or state P&A agencies to correct for these issues. Recent Olmstead Settlement

Agreements, for example in New Hampshire and Delaware, also cover people with mental illness who are at-risk of institutionalization, such as those who are homeless or have insufficient services to support integrated community living. Advocacy groups and potential litigants are now also examining the lack of integrated employment opportunities in an Olmstead context. For example, settlement agreements now exist in Rhode Island and Oregon regarding persons with intellectual and developmental disabilities unnecessarily segregated in sheltered workshops and related day activity service programs.[1]

SUMMARY

On its Olmstead website[2], DOJ defines the most integrated setting as:

"a setting that enables individuals with disabilities to interact with non-disabled persons to the fullest extent possible. Integrated settings are those that provide individuals with disabilities opportunities to live, work, and receive services in the greater community, like individuals without disabilities. Integrated settings are located in mainstream society; offer access to community activities and opportunities at times, frequencies and with persons of an individual's choosing; afford individuals choice in their daily life activities; and, provide individuals with disabilities the opportunity to interact with non-disabled persons to the fullest extent possible. Evidence-based practices that provide scattered-site housing with supportive services are examples of integrated settings. By contrast, segregated settings often have qualities of an institutional nature. Segregated settings include, but are not limited to:

1. congregate settings populated exclusively or primarily with individuals with disabilities;
2. congregate settings characterized by regimentation in daily activities, lack of privacy or autonomy, policies limiting visitors, or limits on individuals' ability to engage freely in community activities and to manage their own activities of daily living; or
3. settings that provide for daytime activities primarily with other individuals with disabilities."

States with Olmstead litigation or Settlement Agreements, as well as states trying to comply with Olmstead through proactive strategies, are intently focused on expanding access to integrated permanent supportive housing opportunities for people with significant and long-term disabilities. Olmstead-related Settlement Agreements in Illinois, Georgia, North Carolina, Virginia, New Jersey, Delaware and New Hampshire could result in 30,000-40,000 new permanent supportive housing opportunities and the likelihood of future litigation in other states would increase these estimates.

Housing affordability is a critical issue for states working to comply with ADA requirements because most people with disabilities living in restrictive settings qualify for federal Supplemental Security Income (SSI) payments that average 20% of median income nationally. As federal housing assistance is so difficult to obtain, several states (including Georgia, Mississippi, New Jersey, and North Carolina) have created or expanded state-funded rental subsidies directly related to their Olmstead efforts. These state rental subsidies are typically designed as "bridge" subsidies to help people until a permanent HUD subsidy can be obtained.

In June of 2013, HUD issued Olmstead guidance to provide information on Olmstead, to clarify how HUD programs can assist state and local Olmstead efforts, and to encourage housing providers to support Olmstead implementation by increasing integrated housing opportunities for people with disabilities.[3] HUD's guidance emphasizes that people with disabilities should have choice and self-determination in housing and states that "HUD is committed to offering individuals with disabilities housing options that enable them to make meaningful choices about housing, health care, and long-term services and supports so they can participate fully in community life."

HUD also advises that "For communities that have historically relied heavily on institutional settings or housing built exclusively and primarily for individuals with disabilities, the need for additional integrated housing options scattered through the community becomes more acute." HUD 504

1 http://www.justice.gov/opa/pr/department-justice-reaches-landmark-americans-disabilities-act-settlement-agreement-rhode

2 http://www.ada.gov/olmstead/q&a_olmstead.htm

3 http://portal.hud.gov/hudportal/HUD?src=/press/press_releases_media_advisories/2013/HUDNo.13-086

regulations require that HUD and HUD's grantees/housing providers administer their programs and activities in the most integrated setting appropriate to the needs of individuals covered by the ADA. HUD's guidance does not change the requirements for any existing HUD program, but points out that requests for disability-specific tenant selection "remedial" preferences may be approved by HUD's Office of General Counsel (OGC) if they are related to Olmstead implementation.

FORECAST

Several states will continue to address Olmstead in 2016 as a result of proactive planning and implementation, investigations or settlement agreements, or other indirect reform activities that will support individuals in integrated community-based settings. However, while state budgets are generally in a better position since the recession to support Olmstead efforts, a lack of resources at the federal level will continue to challenge the ability of states to comply with Olmstead.

In February 2016, CMS, HUD and SAMHSA began implementation of technical assistance (TA) to states through the Innovation Accelerator Program (IAP) for community integration.[4] This TA is intended to support the efforts of over 30 states to increase the capacity of states to use Medicaid to pay for housing-related services[5] for vulnerable populations and to increase access to integrated supportive housing by strengthening relationships between Medicaid and other state services and housing agencies.

Also in February 2016, the United States Interagency Council on Homelessness (USICH) issued a brief on the alignment of Olmstead and homelessness.[6] USICH highlights the importance of aligning policy and practices as a means to maximize access to supportive housing resources rather than fragmented approaches that address supportive housing for disability and homeless groups separately.

Implementation of the HUD Section 811 Project Rental Assistance (PRA) Program is now underway, and states with awards will continue making new units available in 2016 in integrated multifamily developments (see article in this Guide). States are also planning how to use the National Housing Trust Fund (NHTF) allocations to support the availability of rental housing for extremely-low-income (ELI) households. The enabling statute requires that at least 90 percent of funds from that program be directed to the production, preservation, rehabilitation, and operation of rental housing, primarily for ELI households; this presents a new opportunity for states to create integrated housing opportunities.

In addition, state Medicaid agencies continue to address the high costs of serving persons with disabilities in institutional settings by designing Medicaid programs to serve people in home and community based settings. The Centers for Medicare and Medicaid Services (CMS) final rule published in January 2014 regarding home and community based services (HCBS), seeks to ensure that Medicaid HCBS funds are used to reimburse services provided to individuals in integrated settings.[7] States have submitted transition plans to CMS to ensure compliance with the final rule, and are in various stages of implementation.[8] Only persons living in settings as defined in the rule will be eligible for HCBS funded services. The definition[9] requires that the setting meet certain qualifications, including that it:

- is integrated in and supports full access to the greater community;
- is selected by the individual from among setting options;
- ensures individual rights of privacy, dignity and respect, and freedom from coercion and restraint;
- optimizes autonomy and independence in making life choices; and

4 https://www.medicaid.gov/state-resource-center/innovation-accelerator-program/community-integration-ltss/ci-ltss.html

5 Housing-related services are services designed to support successful tenancy in an integrated housing setting. Medicaid is statutorily prohibited from paying for actual housing costs such as capital and ongoing rental assistance.

6 https://www.usich.gov/resources/uploads/asset_library/Olmstead_Brief_02_2016_Final.pdf

7 The HCBS Rule, including its *settings* requirement, applies to Medicaid 1915(c), 1915(i), 1915(k) authorities only.

8 https://www.medicaid.gov/medicaid-chip-program-information/by-topics/long-term-services-and-supports/home-and-community-based-services/statewide-transition-plans.html

9 Final Rule and definition can be found at http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Support/Home-and-Community-Based-Services/Home-and-Community-Based-Services.html

- facilitates choice regarding services and who provides them.

The final rule also includes additional requirements for provider-owned or controlled home and community-based residential settings. These requirements include:

- The individual has a lease or other legally enforceable agreement providing similar protections;
- The individual has privacy in their unit including lockable doors, choice of roommates and freedom to furnish or decorate the unit;
- The individual controls his/her own schedule including access to food at any time;
- The individual can have visitors at any time; and
- The setting is physically accessible.

The final rule excludes certain settings as permissible settings for the provision of Medicaid home and community-based services. These excluded settings include nursing facilities, institutions for mental disease, intermediate care facilities for individuals with intellectual disabilities, and hospitals. The final rule also identifies other settings that are presumed to have institutional qualities, and do not meet the threshold for Medicaid HCBS. These settings include those in a publicly or privately-owned facility that provides inpatient treatment; on the grounds of, or immediately adjacent to, a public institution; or that have the effect of isolating individuals receiving Medicaid-funded HCBS from the broader community of individuals not receiving Medicaid-funded HCBS. If states seek to include such settings in Medicaid HCBS programs, a determination will be made through heightened scrutiny, based on information presented by the state demonstrating that the setting is home and community-based and does not have the qualities of an institution.

WHAT TO SAY TO LEGISLATORS

Advocates should approach Members of Congress with the message that the extremely low income of people with the most significant and long-term disabilities who rely on SSI, combined with the scarcity of affordable housing and services, is one reason why states have difficulty supporting individuals in integrated, community-based settings. It is important to communicate to Members of Congress that the housing and service needs for persons who are living in institutions or are at-risk of institutionalization, such as those who are chronically homeless, are similar and do not conflict with each other. In addition to needing housing assistance, people living in restrictive settings covered by Olmstead, including people with mental illness, people with intellectual or developmental disabilities, and people with physical or sensory disabilities, need access to comprehensive long-term health care services. Increased federal support is needed to expand integrated permanent supportive housing options, to reduce reliance on expensive institutional care, and prevent and end homelessness among people with disabilities. Resources to produce and preserve affordable housing for the lowest income people, like those provided by Section 811 PRA and the National Housing Trust Fund, will make it possible for states to respond to the Olmstead decision.

FOR MORE INFORMATION

Technical Assistance Collaborative (TAC)
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Protecting Tenants at Foreclosure

By Linda Couch,
Senior Vice President for Policy, NLIHC

Administering agency: The Protecting Tenants at Foreclosure Act (PTFA) is self-executing; no agency is responsible for administering the act.

Year program started: 2009

Year program sunset: 2014

Population targeted: Renters

With the expiration of federal protections on December 31, 2014, state and local law now comprise the only protections for renters facing foreclosure.

As the foreclosure crisis took 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.

Before the enactment of PTFA in May 2009, in most states it was legal for tenants to be required to move on only a few days' notice. Under the PTFA, most tenants had the right to remain in their home for the remainder of their lease, or at least 90 days.

Efforts from Representative Keith Ellison (D-MN) (H.R. 1354) and Senator Richard Blumenthal (D-CT) (S. 730) to remove the 2014 sunset date and make the law permanent met with Republican opposition and the law was not extended. The bills would also have added a private right of action to the law as an enforcement mechanism.

In addition to these stand-alone bills to restore and make permanent the PTFA, Senate Committee on Banking, Housing, and Urban Affairs Ranking Member Sherrod Brown (D-OH) and House Committee on Financial Services Ranking Member Maxine Waters (D-CA) have also introduced S. 1491 and H.R. 2642, the "Community Lender Regulatory Relief and Consumer Protection Act of 2015," in their respective chambers. Among the bills' provisions is one that would restore PTFA and make it permanent.

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 U.S. 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 NLIHC concludes that, since these properties often contain more than one unit, and many owner-occupied properties also house renters, roughly 40% of the families facing eviction as a result of the foreclosure crisis are renters. 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. Analysis from NLIHC shows that for four states in New England, the census tracts with the lowest percentage of white individuals and the highest percentage of households that are under the poverty line have the highest foreclosure rates. Multifamily foreclosures, which more often than not impact at least some renters, also occur in these high-poverty, high-minority census tracts.

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 & Poverty (NLCHP) and NLIHC issued a joint report on the foreclosure and eviction laws in each state and the District of Columbia.

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 PTFA (Public Law 111-22, division A, title VII). The PTFA was extended and clarified in the Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111-203, section 1484). The law expired on December 31, 2014.

ISSUE SUMMARY

The PTFA required 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 was defined as one in which: the tenant is neither the mortgagor, nor the spouse, parent, or child of the mortgagor; 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 was purchased by someone who will occupy the property, then that purchaser can terminate the lease on 90 days' notice, even when the tenant has a lease that extends beyond 90 days after foreclosure.

Under PTFA, tenants with Section 8 housing choice voucher assistance had additional protections, which allowed them to retain their Section 8 lease, and required the successor in interest to assume the housing assistance payment contract associated with that lease.

The PTFA applied to all foreclosures on all residential properties; traditional one-unit single family homes were covered, as were multi-unit properties. The law applied 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, were 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 could 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 who purchased the property at foreclosure. Notices of the pending foreclosure, although desirable, did not serve as the 90-day notice required by the PTFA.

The PTFA applied in all states, but did not override more protective state laws. The PTFA specifically provided 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 now comprise the only protections for renters facing foreclosure.

FORECAST

Advocates, led by the National Housing Law Project (NHLP), NLCHP, and NLIHC, will continue to work with PTFA champions in Congress, Senator Blumenthal and Representative Ellison, to resume and extend PTFA protections in 2016.

TIPS FOR LOCAL SUCCESS

State and local laws are critical to protecting renters facing foreclosures with the expiration of the PTFA. NHLP has compiled state and local PTFA-like protections. Passing such protections in more states and localities will require working with a variety of housing stakeholders, including banks and real estate professionals. See NHLP's chart, at http://nhlp.org/node/1341

WHAT TO SAY TO LEGISLATORS

Urge lawmakers to support, resume, and extend PTFA protections for renters facing foreclosure.

FOR MORE INFORMATION

NLIHC, 202-662-1530, www.nlihc.org

Renters in Foreclosure: A Fresh Look at an Ongoing Problem, from NLIHC, http://nlihc.org/library/other/periodic/rif2012

See NHLP's chart of state and local laws, http://nhlp.org/node/1341

NLCHP, http://www.nlchp.org/ ■

Housing Access for People with Criminal Records

By Elayne Weiss, Policy Analyst, NLIHC

The United States incarcerates its citizens at a shockingly high rate and holds the title of world's largest jailer. The FBI estimates that as many as one in three Americans has a criminal record. But finally—after years of prisoners, mostly non-violent drug offenders, receiving overly harsh mandatory minimum sentences—lawmakers and criminal justice reform advocates are making progress in the decarceration of prison inmates across the country. In 2014, the U.S. prison population experienced a decrease—the second largest decline in the number of inmates in more than 35 years.[1] However, as more former prisoners return to their communities, there is a growing concern about how they will fare upon reentry.

Resources, especially affordable housing, are already scarce in the low income communities where formerly incarcerated persons typically return. Indeed, there is currently a shortage of 7.2 million affordable rental units that are available to extremely low income households. Because of their criminal records, former inmates face additional barriers in accessing affordable housing, potentially placing them at risk of housing instability, homelessness, and ultimately recidivism. One study, for example, has shown that returning inmates without stable housing were twice more likely to recidivate than those living in stable housing. Public housing authorities (PHAs) and owners of federally-assisted housing have broad discretion in screening out applicants with criminal records or precluding ex-offenders from rejoining their families, which studies have shown, most plan to do. Unless HUD and Congress work to reduce these barriers by providing additional guidance and housing resources, large-scale decarceration efforts are likely to result in an even greater unmet demand for housing.

LEGISLATIVE BACKGROUND

In the past few decades, Congress has passed legislation that included increasingly robust crime and drug enforcement policies in public housing. To reduce drug-related crime and promote the safety and well-being of public housing residents, Congress created policies that increased penalties related to certain activities and gave broad discretion to PHAs to evaluate potential and current residents. These policies also broadened resident accountability to include the behavior and actions of a wider range of individuals, including minors and social acquaintances, and increased the oversight and penalties for PHAs that failed to make progress in implementing strategies to lower crime and drug use.

The Anti-Drug Abuse Act of 1988 required PHAs to include a provision in their lease agreements that would allow them to evict tenants who used drugs or behaved in a way that threatened the safety of other tenants.[2] Ten years later, Congress passed the Quality Housing and Work Responsibility Act of 1998, which allowed PHAs to exclude applicants with criminal records and use their discretion in determining whether an applicant was a potential safety risk to current residents.[3] Additionally, the Cranston-Gonzalez National Affordable Housing Act of 1990 created a mandatory three-year ban on readmitting tenants who had previously been evicted for engaging in drug-related criminal activity.[4] PHAs were given the option to increase the ban's time length beyond the initial three years. The Housing Opportunity Program Extension Act of 1996 (HOPEA) increased PHA's ability to evict tenants and allowed them to request applicants' criminal records from the National Crime Information Center and local police departments.[5] Moreover, HOPEA gave PHAs the ability to reject applicants they believed to be abusing drugs or alcohol or who had a history of drug or alcohol use that could potentially pose a risk to the health and safety of current residents.

1 E. Ann Carson, U.S. Dep't of Justice, Prisoners in 2014, available at http://www.bjs.gov/content/pub/pdf/p14.pdf.

2 Pub. L. No. 100-690, 102 Stat. 4181, 4300 (1988).

3 Pub. L. No. 105-276, 112 Stat. 2461, 2518 (1998).

4 Pub. L. No. 101-625, 104 Stat. 4079, 4180 (1990).

5 Pub. L. No. 104-120, 110 Stat. 834, 836 (1996).

The U.S. Supreme Court has also weighed in on a PHA's ability to evict tenants. In U.S. Department of Housing and Urban Development v. Rucker, the Court unanimously ruled that PHAs could evict an entire household due to the criminal activity of a household member or guest even if there was no specific proof that the tenant whose name was on the lease knew about the activity[6].

MANDATORY SCREENING POLICIES

Although PHAs have broad discretion in evaluating current and prospective tenants, there are several federal admissions policies that all PHAs and project-owners are required to follow. However, these policies merely act as a floor that many PHAs supplement with additional screening policies. Under federal law and regulation, PHAs and project owners must impose a permanent admission ban in two situations: (1) when a household includes a person who is required to register as a sex offender for life,[7] or (2) when a household member has ever been convicted of manufacturing methamphetamine on federally assisted property.[8]

PHAs and project owners are also required to prohibit admitting a household for three years if a household member has been evicted from federally assisted housing for drug-related criminal activity. However, the PHA or project owner has discretion to admit the household if it is determined that the member successfully completed drug rehabilitation or the circumstances leading to the eviction no longer exist (e.g., the incarceration or death of the person who committed the drug-related criminal activity). Additionally, households must be denied admission if a member is currently engaged in illegal drug use or alcohol abuse. Moreover, PHAs and project owners must prohibit admitting households where the PHA or property owner has reason to believe that a household member's past history or current abuse of illegal drugs or alcohol "may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents."[9]

Those policies, along with whatever additional screening criteria a PHA or project owner may develop, are contained in the housing provider's written admissions policy. Depending on the program, these written policies are referred to as: admission and continued occupancy policies for public housing, administrative plans for the Housing Choice Voucher program, or tenant selection plans for project-based Section 8 developments.

ISSUES

Because much of HUD's guidance on evaluating current and potential tenants is advisory and not mandatory, PHAs and project owners across the country have developed their own criteria, creating additional barriers for ex-offenders and raising fair housing concerns.

The Fair Housing Act of 1968 (FHA) prohibits housing discrimination on the basis of race, color, religion, sex, familial status, national origin or disabilitythe "protected classes" of people. In addition to banning intentional discrimination, the FHA bars policies and practices that have a disparate impact (i.e., that do not have a stated intent to discriminate but that have the effect of discriminating against the FHA's protected classes. Because people of color disproportionately make up the U.S. prison population, admissions policies that automatically exclude people with criminal records, rather than being narrowly-tailored, would have a disparate impact. Furthermore, such blanket exclusions or unreasonable screening criteria interferes with PHAs and project owners' duty to affirmatively further fair housing.

One issue that continues to prevent ex-offenders from accessing affordable housing arises from PHAs and project-owners using unreasonable lookback periods into applicants' criminal records. Federal law instructs housing providers to look back in an applicant's history of criminal activity that occurred during a "reasonable time." However, neither the statute nor HUD has explicitly defined what constitutes a reasonable time; instead, HUD has provided suggested time limits and best practices on this issue. Because of this lack of formal guidance, a large number of housing providers have established admissions policies that have no time limits on using a person's criminal history in evaluating their application for admission. Although HUD expects housing providers to define a

6 535 U.S. 125 (2002).

7 42 U.S.C. § 1437(f)(1) (2015); 24 C.F.R. §§ 960.204, 982.553(a)(2) (2012).

8 42 U.S.C. § 13663(a) (2015); 24 C.F.R. §§ 960.204, 982.553(a)(1)(ii)(C) (2012).

9 42 U.S.C § 13661(b)(1) (2015); 24 C.F.R. §§ 960.204, 982.553(a)(ii)(B) (2012).

"reasonable time" in their admissions, some neglect to do so or leave it open ended, and, as a result, discourage ex-offenders from applying. Others impose lifetime bans or use overly long lookback periods for particular crimes. Even though HUD has suggested reasonable look back periods for certain crimes (e.g., five years for serious crimes), housing providers routinely look further back into a person's criminal history, sometimes as long as 20 years. Meanwhile, HUD has long held that permanent bans contradict federal policy and in 2010, advised project owners to modify their admissions policies that prohibited certain ex-offenders. Moreover, housing providers often neglect to include what events in a lookback period trigger denial (e.g., the criminal activity itself, a conviction, or release from incarceration), again making it difficult for ex-offenders to determine their eligibility. Until recently, just a criminal arrest could be the triggering event, even if it didn't lead to a subsequent conviction.

In addition, many housing providers utilize overly broad categories of criminal activity that reach beyond HUD's three general categories: drug-related criminal activity; violent crime activity; and other criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or anyone residing in the immediate vicinity. By casting such a wide net over almost any felony, which can include shoplifting and jaywalking, housing providers screen out potential tenants to the point that anyone with a criminal record need not apply. Housing providers are increasingly turning to private tenant screening companies to review applicants' criminal records and make recommendations whether to admit or deny. However, these recommendations are usually based on a crude check list and prevents applicants from knowing what criminal record was used to deny their admission.

Another issue that arises during the screening process is that too often PHAs and project owners ignore or don't provide mechanisms for applicants to present mitigating circumstances to show they pose no risk to the community and will be good tenants. Currently, PHAs are required by federal law to consider mitigating circumstances during their admissions process, in particular, the time, nature and extent of the applicant's conduct, including the seriousness of the offense. PHAs can also take into consideration actions that indicate future good conduct, such as whether an applicant has successfully completed a drug rehabilitation program. However, PHAs often fail to educate applicants of their right to present evidence, or choose to ignore mitigating circumstances when considering an application. For the Housing Choice Voucher Program and Section 8 project based properties, HUD merely encourages housing providers to consider mitigating circumstances, rather than requiring them to do so. Some housing providers are reluctant to adopt such a policy, arguing that its subjective nature makes it too hard to apply uniformly, putting them at risk of violating the FHA. In actuality, adopting a one-size-fits-all policy that is not narrowly tailored and fails to consider mitigating circumstances may violate the FHA if it has a disparate impact on a protected class of people, including racial minorities.

Ex-offenders attempting to reunite with their families living in federally subsidized housing are sometimes barred from doing so or are not permitted to be added to the household's lease. Although HUD has no prohibition on adding ex-offenders to a lease, it is widely believed that PHAs and project owners are not permitted to do so. By refusing to add ex-offenders to the lease, housing providers place these individuals at risk of losing their housing if something were to happen to the head of household.

Finally, people with criminal records who have managed to secure a Housing Choice Voucher can run into trouble when needing to port their voucher to another jurisdiction. When a household moves from one jurisdiction to another, the receiving PHA can rescreen the household utilizing a more stringent criteria than the one used by the initial PHA. If the receiving PHA determines the household does not meet its criteria, it will try to terminate its assistance. This practice of rescreening prevent ex-offenders and their families from being able to move to new areas that offer greater opportunities. In 2015, HUD published a final rule on voucher portability that reiterated PHAs ability to rescreen families, stating, "[R]eceiving PHAs should be allowed to apply their own screening standards consistently among families in their program and for families moving into their jurisdiction under portability. However, it is important that moving families be informed that they are subject to screening based on the receiving PHA's criteria, and that the receiving PHA's screening criteria may be different than that of the initial PHA."[10]

ADMINISTRATION EFFORTS TO ADDRESS CRIMINAL RECORDS AND HOUSING

The Obama Administration first demonstrated its new position on helping ex-offenders have access to housing in 2011, when then HUD Secretary Shaun Donovan issued a letter to PHA executive directors stating, "As President Obama recently made clear, this is an Administration that believes in the importance of second chances–the people who have paid their debt to society deserve the opportunity to become productive citizens and caring parents, to set the past aside and embrace the future. Part of that support means helping ex-offenders gain access to one of the most fundamental building blocks of a stable life–a place to live."[11] Secretary Donovan further encouraged the PHAs to allow former inmates, when appropriate, to live with their families in public housing or the Housing Choice Voucher program, and asked that when PHAs screened for criminal records, they "consider all relevant information, including factors which indicate a reasonable probability of favorable future conduct." A year later, Secretary Donovan sent a similar letter to owners and agents of HUD-assisted properties.[12]

In 2013, the U.S. Interagency Council on Homelessness (USICH) published a guidebook for PHAs that includes best practices and policies that can be used to increase access to housing. In the guidebook, USICH notes the relationship between incarceration and homelessness, "as difficulties in reintegrating into the community increase the risk of homelessness for released prisoners, and homelessness increased the risk of re-incarceration." [13] Like Secretary Donovan, USICH encourage PHAS to consider individual factors when screening potential tenants with criminal records in order to remove barriers to housing assistance.

In November 2015, President Barack Obama announced new actions to promote the rehabilitation and reintegration for formerly-incarcerated inmates. The administration's criminal justice reform efforts will include new pilot efforts dedicated to housing people coming out of prison.

President Obama announced a new $8.7 million demonstration program to address homelessness and reduce recidivism rates. According to the White House, "The Pay for Success (PFS) Permanent Supportive Housing Demonstration will test cost-effective ways to help persons cycling between the criminal justice and homeless service systems, while making new Permanent Supportive housing available for the reentry population."

The president also announced that HUD would provide $1.75 million to aid eligible public housing residents under the age of 25 to expunge or seal their criminal records under the new Juvenile Reentry Assistance Program. The National Bar Association has committed 4,000 hours of pro bono legal services to support the program.

In conjunction with the president's announcement, HUD released new guidance to PHAs and owners of HUD-assisted housing that officially recognizes the responsibility of PHAs and project-owners to make sure that having a criminal record does not automatically disqualify a person from living in federally subsidized housing.[14] The guidance clarifies the use of arrest records to determine who can live in their properties. According to the guidance, an individual's arrest record cannot be used as evidence that he or she has committed a crime. The guidance states, "[T]he fact that there has been an arrest for a crime is not a basis for the requisite determination that the relevant individual engaged in criminal activity warranting denial of admission, termination of assistance or eviction."

10 Housing Choice Voucher Program: Streamlining the Portability Process, 80 Fed. Reg. 50,564, 50,568 (Aug. 20, 2015), available at http://portal.hud.gov/hudportal/documents/huddoc?id=PortabilityRule.pdf.

11 Letter from Shaun Donovan, Sec'y of Housing and Urban Dev., & Sandra B. Henriquez, Assistant Sec'y for Public Housing and Indian Housing, to PHA Executive Director (June 17, 2011), https://www.usich.gov/resources/uploads/asset_library/Rentry_letter_from_Donovan_to_PHAs_6-17-11.pdf.

12 Letter from Shaun Donovan, Sec'y of Housing and Urban Dev., & Carol J. Galante, Acting Assistant Sec'y for Housing to Owners and Agents (Mar. 14, 2012), http://nhlp.org/files/HUD%20Letter%203.14.12.pdf.

13 U.S. Interagency Council on Homelessness, PHA Guidebook to Ending Homelessness 23 (2013) https://www.usich.gov/resources/uploads/asset_library/PHA_Guidebook_Final.pdf.

14 U.S. Dep't of Hous. & Urban Dev, Notice PIH 2015-19 (Nov. 2, 2015), available at http://portal.hud.gov/hudportal/documents/huddoc?id=PIH2015-19.pdf.

The guidance also makes clear that HUD does not require PHAs and project owners to adopt or enforce "one strike" policies that deny admission to anyone with a criminal record or that require families to be automatically evicted any time a household member engages in criminal activity in violation of the lease. However it does not preclude PHAs and owners from utilizing such a policy. Instead, the guidance urges PHAs and owners to exercise discretion before making such a decision and to consider all relevant circumstances, including the seriousness of the crime and the effect an eviction of an entire household would have on family members not involved in the criminal activity.

Additionally, the guidance reminds PHAs and property owners of the due process rights of tenants and applicants applying for housing assistance. Federal law requires that PHAs provide public housing and Section 8 applicants with notification about, and the opportunity to dispute the accuracy and relevance of, any criminal record before the PHA or owner denies admission or assistance. Public housing and Section 8 applicants also have the right to request informal review hearings after their applications have been denied. PHAs and property owners may terminate a person's assistance only through judicial action, or in the case of voucher holders, through an administrative grievance hearing. PHAs and owners must ensure that their policies and procedures for screening, evicting, or terminating assistance comply with all applicable civil rights laws.

Even though the guidance is a step in the right direction, it does not directly address several critical issues including the Fair Housing Act's requirements on housing providers who screen on the basis of criminal records, and the need for specific guidance on how far back housing providers can inquire into an applicant's criminal history.

FORECAST

Criminal justice reform has become an increasingly bipartisan issue in recent years, and Congress could agree on legislation in 2016. Both President Barack Obama and Senate Majority Leader Mitch McConnell have highlighted criminal justice reform as a priority for this year. However, Leader McConnell has not committed to bringing legislation to the floor that could pose election-year risks. Meanwhile, several Republican senators have expressed opposition to the bill, which could influence Leader McConnell's decision. Senator John Cornyn (R-Texas), the Senate Majority Whip and member of the Judiciary Committee, expressed optimism that Republicans in Congress would be able to work with the president on the issue, but believes senators have "more work to do" before legislation is ready for a floor vote. In the House, Speaker Ryan said GOP members will craft a criminal justice reform plan in the first half of 2016. Goals include reducing mandatory-minimum sentences for drug offenders and helping prisoners integrate successfully into their communities to reduce recidivism rates.

Both the House and Senate have introduced criminal justice reform bills, but none have received a vote on the floor of either chamber. Last October, the Senate Judiciary Committee passed a comprehensive criminal justice reform package, known as the Sentencing Reform and Corrections Act of 2015 (S. 2123), while the House Judiciary Committee took a different approach by considering several bills that each touch on different issues within criminal justice reform. The committee has already approved a few of these bills, including the Second Chance Reauthorization Act of 2015 (H.R. 3406), aimed at reducing recidivism rates. Both S. 2123 and H.R. 3406 include some language around housing; yet, neither includes a comprehensive plan to meet the housing needs or reduce barriers for returning prisoners, which Congress must address to ensure ex-offenders do not become homeless or recidivate.

HOW YOU CAN TAKE ACTION

Urge your legislators:

Ensure criminal justice reform efforts include a comprehensive plan that addresses the housing needs of ex-offenders.

Support legislation that reduces housing barriers for ex-offenders.

Support legislation that increases housing resources for extremely low income households, including the Common Sense Housing Investment Act (H.R. 1662), which would raise almost $200 billion to produce new affordable rental units, and thus ease competition for housing.

Urge HUD to:

Provide additional guidance to PHAs and project owners that is more prescriptive in establishing reasonable lookback periods and the consideration of mitigating circumstances.

Issue guidance explaining how PHAs and property owners can violate the Fair Housing Act through overly broad screening policies and the failure to consider mitigating circumstances.

Enforce policies that ensure applicants are not subject to unreasonable lookback periods.

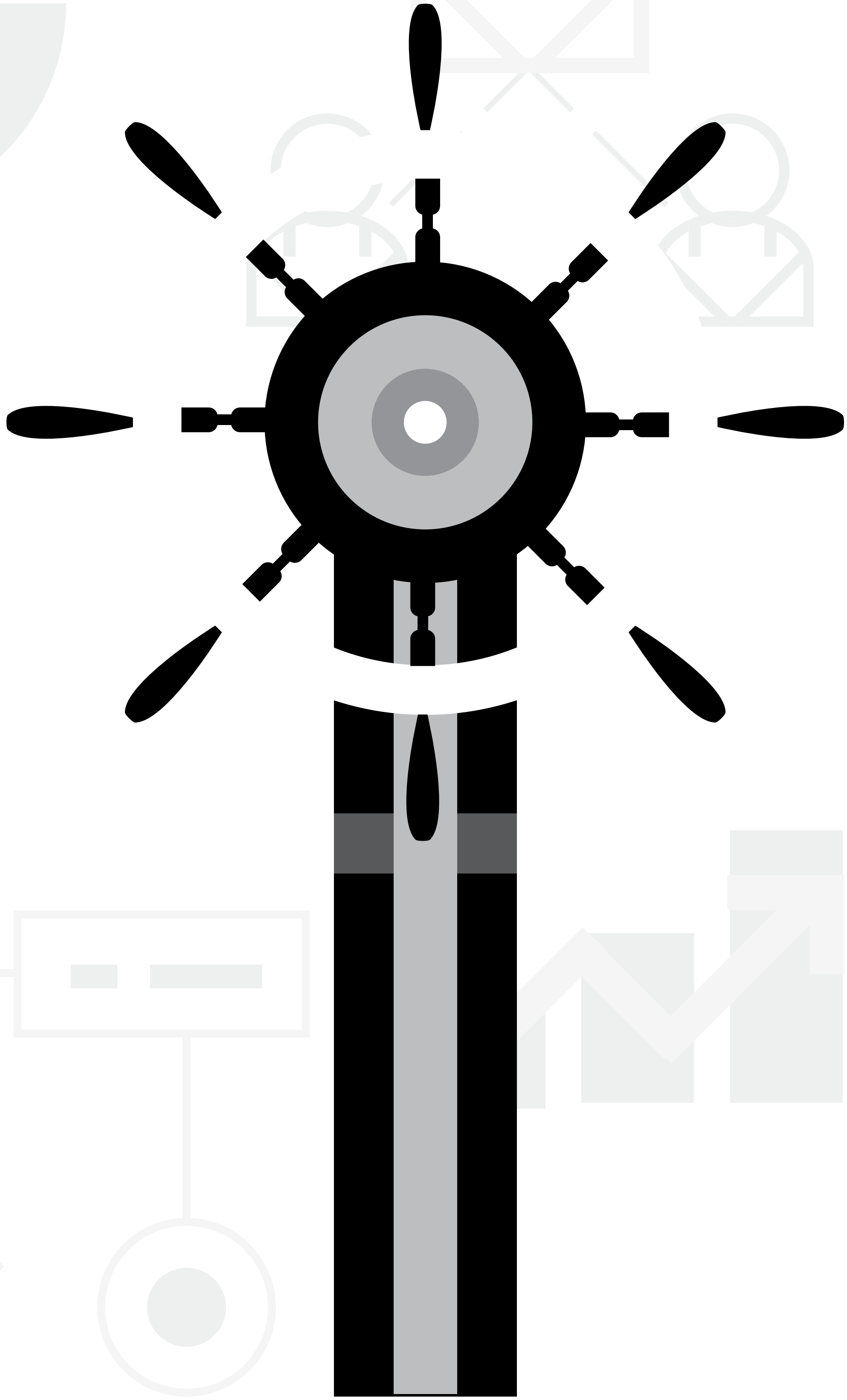
Take a more affirmative stance against “one strike” policies and other policies that deny housing to people with criminal records.

FOR MORE INFORMATION

Sargent Shriver National Center on Poverty Law, http://www.povertylaw.org/ ■

Chapter 7:

Housing Tools



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Disparate Impact

By Jamie Crook, of Relman, Dane & Colfax

In the winter of 2015, housing providers, fair housing organizations, banks, and local governments, among others, were all intensely focused on the Supreme Court, which was considering the case *Texas Department of Housing and Community Affairs v. Inclusive Communities Project* (hereinafter "*Inclusive Communities*"). The Supreme Court took that case in order to decide whether disparate impact is a valid theory of liability under the federal Fair Housing Act.[1]

Disparate impact is best understood as a method for proving housing discrimination without having to show that the discrimination was intentional. Under disparate impact theory, most courts, as well as HUD, use a "burden shifting" test. First, the plaintiff must show that the challenged conduct, policy, or practice disproportionately harms members of a group that is protected by the Fair Housing Act.[2] For example, a plaintiff could show that a city zoning ordinance that excludes mobile homes disproportionately harms Latinos because in that jurisdiction, Latinos are overrepresented among mobile home occupants.

Second, the defendant may seek to prove that the challenged practice is justified by a legitimate, non-discriminatory purpose. In our hypothetical, the city might try to prove that it passed the ordinance to ensure a minimum level of habitability for all housing in the jurisdiction.

At the final stage of the analysis, the plaintiff may prove that despite any legitimate, non-discriminatory purposes, the jurisdiction could achieve that goal in a way that has a less discriminatory impact on Latinos. For example, the plaintiff might show that the city could achieve its habitability goals by enacting and enforcing specific codes for the maintenance of mobile home parks, rather than banning such housing altogether.

The burden-shifting proof framework ensures that courts apply the disparate impact standard in a pragmatic, fact-specific way, thereby reconciling the two goals: (1) ferreting out conduct that unjustifiably discriminates by harming a protected class, and (2) allowing housing providers, lenders, local governments, and other potential defendants to pursue legitimate business and governmental goals. In fact, a quantitative survey of disparate impact cases over the past four decades found that disparate impact plaintiffs only rarely prevail,[3] indicating that the availability of disparate impact liability is not an obstacle to legitimate planning or business objectives.

In Inclusive Communities, a civil rights organization claimed that the State of Texas's methodology for allocating Low Income Housing Tax Credits lead to increased racial segregation in Dallas. Dozens of friend-of-the-court briefs submitted to the Court on the plaintiff's side argued that preserving the disparate impact standard was consistent with the statutory text and congressional intent and was critical to fulfill and further the broad mandate of the federal Fair Housing Act. On the state's side, dozens of such briefs argued the contrary, saying that a defendant should not be held liable without evidence of discriminatory intent, because allowing liability to turn on discriminatory effect alone would chill reasonable underwriting practices, local zoning decisions, city planning efforts, etc.

The majority opinion, by Justice Kennedy, addresses both themes. First, the Court recognized that disparate impact is a necessary tool for combatting ongoing, systemic discrimination of the type that motivated passage of the Fair Housing Act in the first place, such as exclusionary zoning. The Court found that "[m]*uch progress remains to be made in our Nation's continuing struggle against racial isolation" and that the Fair Housing Act has an important "continuing role in moving the Nation toward a more integrated society" by helping to combat, among other things,* "discriminatory ordinances barring the construction of certain types of housing units."[4] Thus, recognizing disparate impact liability enables "plaintiffs to counteract unconscious prejudices and disguised animus that escape easy classification as disparate treatment," and "prevent segregated housing patterns that might otherwise result from covert and illicit stereotyping."[5]

Second, the Court emphasized that the disparate impact standard has been and remains properly limited "to give housing authorities and private developers leeway to state and explain the valid interest served by their policies. . . . [H]ousing authorities and private developers [must] be allowed to maintain a policy if they can prove it is necessary to achieve a valid interest. . . . The FHA does not decree a particular vision of urban development; and it does not put housing authorities and private developers in a double bind of liability, subject to suit whether they choose to rejuvenate a city core or to promote new low-income housing in suburban communities."[6]

The *Inclusive Communities* decision thus continues a long tradition of allowing disparate impact liability under the Fair Housing Act while ensuring that the theory does not serve as a trap for housing providers or governments that are pursuing legitimate, housing-related objectives, so long as those legitimate objectives could not be achieved with less harmful impact on protected classes.[7]

As discussed in *Inclusive Communities*, courts have historically applied disparate impact liability under the Fair Housing Act in "heartland" cases targeting "zoning laws and other housing restrictions that function unfairly to exclude minorities from certain neighborhoods without any sufficient justification."[8] But this pragmatic and flexible standard has also been used to challenge myriad other housing-related practices that have discriminatory effects, such as subsidized housing waitlist preferences,[9] community redevelopment,[10] redlining and predatory lending,[11] mobile home registration requirements,[12] and condominium association rules restricting the presence of children,[13] to give just a few examples. Courts have also applied the disparate impact standard to conduct that, while facially neutral, would have the effect of perpetuating existing patterns of residential segregation.[14]

The *Inclusive Communities* decision confirms that going forward, disparate impact will remain an important tool for combatting practices that may not be motivated by bias but which nonetheless disproportionately harm protected groups.

One such example is redevelopment or urban renewal efforts. As cities throughout the country experience a massive resettlement of the urban cores,[15] they are rapidly seeking to redevelop formerly blighted areas. Because long-time residents of these areas are disproportionately African American and Latino, redevelopment can have a disparate impact if it causes displacement. In a case that settled before *Inclusive Communities*, a group of African-American and Latino residents of a blighted neighborhood in Mount Holly, N.J., challenged a redevelopment plan using a disparate impact theory.[16] The plaintiffs argued that the proposed redevelopment would displace them; indeed, their statistical evidence showed that that the negative impact would overwhelmingly affect African Americans and Latinos, who were also significantly less likely to be able to afford replacement housing in the community.[17] The plaintiffs got a favorable decision from the Court of Appeals, and the case subsequently settled in a fashion that permitted most of the families to move into newly constructed units in the same neighborhood. Now that the *Inclusive Communities* decision has resolved that plaintiffs can challenge this type of conduct using disparate impact, one can expect similar cases to be brought in areas facing rapid gentrification.[18]

We can also expect disparate impact challenges to "disorderly conduct" or "chronic nuisance" ordinances, which subject landlords to fines and other penalties based on (among other things), police activity at their properties. Because these ordinances are drafted broadly, they have often been applied to include police responses to domestic violence incidents. Such ordinances will often force landlords to take steps to evict affected tenants following a triggering number of police responses at the property, under threat of hefty fines or other penalties.[19] These laws can have a clear disparate impact on women, who make up the very large majority of domestic violence victims.

One plaintiff who had experienced extreme and life-threatening domestic violence and had been threatened with eviction after the police were called to her apartment three times sued the Borough of Norristown, Penn., which had applied its disorderly conduct ordinance to compel her landlord to evict her.[20] The plaintiff argued, among other things, that the Norristown ordinance violated the Fair Housing Act because it adversely affected and penalized victims of domestic violence, who are disproportionately women.

Although the Norristown case ultimately settled,[21] it provides an important model that should be studied and applied by fair housing practitioners. Hundreds of jurisdictions across the country have similar nuisance laws, some of which may have a chilling effect by discouraging victims from calling the police in an event of domestic violence for fear of losing housing.[22] To the extent such laws lead to evictions of tenants affected by domestic violence, they will also create a risk of increased homelessness for domestic violence victims and their children.[23] The availability of the disparate impact standard will allow plaintiffs to bring successful challenges if they can present evidence of a discriminatory effect on women or families with children, without having to also present frequently difficult or impossible-to-obtain evidence of bias. ■

ENDNOTES

1 135 S. Ct. 2507 (2015).

2 24 C.F.R. § 100.500(a). The federal Fair Housing Act prohibits discrimination based on race, color, religion, national origin, sex, handicap, and familial status. Some state and local fair housing laws prohibit discrimination based on additional classifications, for example source of income or sexual orientation.

3 Stacy E. Seicshnaydre, Is Disparate Impact Having Any Impact? An Appellate Analysis of Forty Years of Disparate Impact Claims Under the Fair Housing Act, 63 Am. U. L. Rev. 357, 363 (2013).

4 *Inclusive Cmtys.*, *supra* note 1, 135 S. Ct. at 2525-26.

5 *Id.* at 2523.

6 *Id.* at 2522-23.

7 A similar balancing is achieved in HUD's 2013 disparate impact rule, *codified at* 24 C.F.R. § 100.500.

8 *Inclusive Communities*, *supra* note 1, 135 S. Ct. at 2522 (citing *Huntington Branch NAACP v. Town of Huntington*, 844 F.2d 926 (2d Cir. 1988) (holding that town's zoning restrictions against multifamily housing had an unlawful adverse racial impact and perpetuated segregation); *United States v. City of Black Jack*, 508 F.2d 1179 (8th Cir. 1974); *Greater New Orleans Fair Hous. Action Ctr. v. Saint Bernard Parish*, 641 F. Supp. 2d 563 (E.D. La. 2009))).

9 *See, e.g.*, *Langlois v. Abington Hous. Auth.*, 207 F.3d 43, 49 (1st Cir. 2000).

10 *See, e.g.*, *Mount Holly Gardens Citizens in Action Inc. v. Twp. of Mount Holly*, 658 F.3d 375 (3d Cir. 2011), *cert granted*, 133 S. Ct. 2824 (2013); *cert dismissed*, No. 11-1507, 2013 WL 6050174 (U.S. Nov. 15, 2013).

11 *See, e.g.*, Compl. for Declaratory and Inj. Relief and Damages, *Mayor of Balt. v. Wells Fargo, N.A.*, No. 08-062 (D. Md. Jan. 8, 2008); *Ramirez v. GreenPoint Mortg. Funding Inc.*, 633 F. Supp. 2d 922 (N.D. Cal. 2008).

12 *See Cent. Ala. Fair Hous. Ctr. v. Magee*, 835 F. Supp. 2d 1165 (M.D. Ala. 2011), *vacated as moot*, No. 11-16114, 2013 WL 2372302 (11th Cir. May 17, 2013).

13 *See, e.g.*, *Hous. Opportunities Project for Excellence Inc. v. Key Colony No. 4 Condominium Assoc.*, 510 F. Supp. 2d 1003 (S.D. Fla. 2007).

14 *See, e.g.*, *Huntington Branch*, *supra* note 8.

15 Leigh Gallagher, "The End of the Suburbs," July 31, 2013, *Time*, *available at* http://ideas.time.com/2013/07/31/the-end-of-the-suburbs/ ; William H. Frey, "Demographic Reversal: Cities Thrive, Suburbs Sputter," June 29, 2012, Brookings Institute, *available at* http://www.brookings.edu/research/opinions/2012/06/29-cities-suburbs-frey

16 *Mount Holly*, *supra* note 10.

17 *Id.* at 382-83.

18 Such cases may be brought against private developers as well as governmental entities. In the recently filed case *Crossroads Residents Organized for Stable and Secure ResiDencieS et al. v. MSP Crossroads Apartments LLC et al.*, No. 0:16-cv-00233 (D. Minn.), the plaintiffs, mostly low-income tenants, challenge a private housing provider's plan to "reposition the complex in the market in order to appeal to and house a different [young professional] tenant demographic population." *See* Compl. (Doc. 1), ¶ 1; *id.* ¶¶ 49-59, 68-71 (disparate impact allegations).

19 Matthew Desmond & Nicol Valdez, "Unpolicing the Urban Poor: Consequences of Third-Party Policing for Inner-City Women," *American Sociological Review* 78:117-141 (2013), *available at* http://scholar.harvard.edu/files/mdesmond/files/desmond.valdez.unpolicing.asr__0.pdf?m=1360100394'; Emily Werth, *The Cost of Being "Crime Free": Legal and Practical Consequences of Crime Free Rental Housing and Nuisance Property Ordinances* (2013), Shriver Center, *available at* http://povertylaw.org/sites/default/files/files/housing-justice/cost-of-being-crime-free.pdf.

20 *Briggs v. Borough of Norristown*, Compl. (Doc. 1), No. 2:13-cv-2191 (E.D. Pa. 2013).

21 *See* https://www.aclu.org/cases/briggs-v-borough-norristown-et-al (last updated Sept. 18, 2014).

22 *See Briggs*, *supra* note 20, Compl. ¶¶ 55–60, 68–75, 87–102; *Markham v. City of Surprise, AZ*, Compl. (Doc. 1), No. 2:15-cv-01696 (D. Az. 2015); Annamarya Scaccia, *How Domestic Violence Survivors Get Evicted from their Homes After Calling the Police*, RH Reality Check (June 4, 2013, 2:16 PM), http://www.rhrealitycheck.org/article/2013/06/04/norristown-ordinance-and-impact-on-domestic-violence-victims-2/, *archived at* http://perma.cc/05nZHmFoPQd.

23 Nationwide, one in five homeless women cites domestic violence as the primary cause of her homelessness, demonstrating a strong correlation between domestic violence and homelessness. *See* Scaccia, *supra* note 22 (citing a study by the National Law Center on Homelessness and Poverty).

Affirmatively Furthering Fair Housing: For Jurisdictions Required to Comply in 2016 (and maybe 2017) with the July 2015 Affirmatively Furthering Fair Housing Rule

By Ed Gramlich, Senior Advisor, NLIHC

Administering agency: HUD's Office of Fair Housing and Equal Opportunity (FHEO)

Year started: 1968

Population targeted: The Fair Housing Act's protected classes—race, color, religion, sex, national origin, disability and familial status (in other words, households with children).

Also see: *Consolidated Planning Process, Public Housing Agency Plan*

This article describes the affirmatively furthering fair housing (AFFH) rule and Assessment of Fair Housing (AFH) process introduced by the new July 16, 2015 rule. This new rule and process is being implemented on a staggered basis. Only 22 CDBG entitlement jurisdictions will be using this new rule and process in 2016 (the list is here http://nlihc.org/sites/default/files/Hud-Jurisdictions_2016.pdf). Another 105 CDBG entitlement jurisdictions will have to begin in 2017 (the list is here http://nlihc.org/sites/default/files/Hud-Jurisdictions_2017.pdf). All other CDBG entitlement jurisdictions, states, and public housing agencies will continue to use the pre-existing Analysis of Impediments (AI) process (see the following Advocates' Guide article, 7.1.b.)

HISTORY

Title VIII of the Civil Rights Act of 1968 (the Fair Housing Act) requires jurisdictions receiving federal funds for housing and urban development activities to AFFH. The Fair Housing Act not only makes it unlawful for jurisdictions to discriminate; the law also requires jurisdictions to take actions that can undo historic patterns of segregation and other types of discrimination, as well as to take actions to promote fair housing choice and to foster inclusive communities. The protected classes of the Fair Housing Act are race, color, national origin, religion, sex, disability, or familial status.

The laws that establish the Community Development Block Grant (CDBG) program, the Comprehensive Housing Affordability Strategy [(CHAS), the statutory basis of the Consolidated Plan], the HOME Investments Partnership program, and the PHA Plan each require jurisdictions to certify in writing that they are AFFH. States must assure that units of local government receiving CDBG or HOME funds comply

On July 16, 2015, HUD published the long-awaited final rule implementing the Fair Housing Act of 1968's obligation for HUD to administer its programs in a way that affirmatively furthers fair housing. HUD began planning for an AFFH rule in 2009 by meeting with a broad spectrum of stakeholders, mindful of vehement opposition that erupted in 1998, which ultimately doomed HUD's effort to publish a rule then. On July 19, 2013, HUD published a proposed AFFH rule. On September 26, 2014, HUD published a proposed Fair Housing Assessment Tool to help guide the AFFH planning process. A final Fair Housing Assessment Tool was published on December 31, 2015.

SUMMARY

The opening text of the final rule declares that the purpose of the AFFH rule is to provide "program participants" [cities, counties, states, and public housing agencies (PHAs)] "with an effective planning approach to aid them in taking meaningful actions to overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities that are free from discrimination."

In the preamble, HUD stresses that the new AFFH approach does not mandate specific outcomes; rather, it establishes basic parameters to help guide public sector housing and community development planning and investment decisions. The rule encourages a more engaged and data-driven approach to assessing fair housing and planning actions. The rule establishes a standardized fair housing assessment and planning process to give jurisdictions and PHAs a more effective means to affirmatively further the purposes of the Fair Housing Act.

The Need for the AFFH Rule

Although AFFH has been law since 1968, meaningful regulations to provide jurisdictions and PHAs with guidance on how to comply had not existed. The 1974 law creating CDBG required jurisdictions to certify that they would AFFH. Eventually, that certification was defined in CDBG regulations (and later in ConPlan regulations) to mean that the executive of a jurisdiction affirmed that the jurisdiction had an AI to fair housing choice, that the jurisdiction would take appropriate actions to overcome the effects of the impediments, and that the jurisdiction would keep records of its actions.

That pre-existing system was not effective, as noted by the General Accounting Office. There were numerous limitations of the pre-existing AFFH system, beginning with the absence of regulatory guidance. (HUD published a booklet in 1996, but that booklet did not have the authority of regulation, policy notice, or policy memorandum.) Consequently, there was no authoritative source to suggest what might constitute impediments to fair housing choice, nor was there guidance to indicate what actions to overcome impediments might be adequate. Without guidance, many jurisdictions did not take meaningful actions to overcome impediments to fair housing. A classic abuse on the part of some jurisdictions was to assert that they were taking actions to overcome impediments to fair housing by placing fair housing posters around public places during Fair Housing Month. Without guidance and because public participation was not required in the preparation of an AI, many wholly inadequate AIs were drafted. Although other AIs were quite extensive, they seemed destined to sit on a shelf in case HUD asked to see them. (AIs were not submitted to HUD for review.) In addition, AIs were not directly linked to a jurisdiction's ConPlan or a PHA's 5-Year PHA Plan. AIs also had no prescribed schedule for renewal; consequently, many were not updated in a timely fashion.

How the New AFH System Differs From the Pre-existing AI System

The key differences the new rule establishes, compared to the pre-existing AI system include:

1. The AFH replaces the AI. There was no formal guidance for preparing an AI. The new rule provides a standardized framework for program participants to use to identify and examine what HUD is calling "fair housing issues" and the underlying "contributing factors" that cause the fair housing issues.
2. HUD will provide each program participant with data covering not only the local jurisdiction, but also the surrounding region. Program participants must consider this data when assessing fair housing.
3. HUD will now receive and review AFHs; HUD did not receive or review AIs.
4. The fair housing goals and priorities that program participants set in the AFH will be incorporated into their ConPlans and PHA Plans.
5. Public participation is required in the development of the AFH.
6. The AFH must be submitted every five years in sync with a new ConPlan or PHA Plan.

When Will the New AFFH System Begin?

Most program participants will not be required to use the new AFFH system until 2019. Until a program participant is required to submit an AFH, it must continue to follow the current AI process (see following *Advocates' Guide* article 7.1.b).

HUD Supports a Balanced Approach to AFFH

In the final rule, HUD clarifies that it supports a balanced approach to AFFH.

> "Strategies and actions must affirmatively further fair housing and may include, but are not limited to, enhancing mobility strategies and encouraging development of new affordable housing in areas of opportunity, as well as place-based strategies to encourage community revitalization, including preservation of existing affordable housing, including HUD-assisted housing."

At several places in the preamble to the final rule, HUD stresses that the final rule supports a balanced approach to AFFH. For example:

> "The concept of affirmatively furthering fair housing embodies a balanced approach in which additional affordable housing is developed in areas of opportunity with an insufficient supply of affordable housing; racially or ethnically concentrated areas of poverty are transformed into areas of opportunity that continue to contain affordable housing as a result of preservation and revitalization efforts; and the mobility of low-income residents from low-opportunity areas to high-opportunity areas is encouraged and supported as a realistic, available part of fair housing choice."

> "HUD's rule recognizes the role of place-based strategies, including economic development to improve conditions in high poverty neighborhoods, as well as preservation of the existing affordable housing stock, including HUD-assisted housing, to help respond to the overwhelming need for affordable housing. Examples of such strategies include investments that will improve conditions and thereby reduce disparities in access to opportunity between impacted neighborhoods and the rest of the city or efforts to maintain and preserve the existing affordable rental housing stock, including HUD-assisted housing, to address a jurisdiction's fair housing issues."

WHAT DOES IT MEAN TO "AFFIRMATIVELY FURTHER FAIR HOUSING"?

There is a new AFFH definition:

"Affirmatively furthering fair housing means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics."

"Specifically it means taking meaningful actions that:

1. Address significant disparities in housing needs and in access to community opportunity.
2. Replacing segregated living patterns with truly integrated and balanced living patterns.
3. Transforming racially and ethnically concentrated areas of poverty into areas of opportunity.
4. Fostering and maintaining compliance with civil rights and fair housing laws."

What Are "Meaningful Actions"?

Meaningful actions are "significant actions that are designed and can be reasonably expected to achieve a material positive change that affirmatively furthers fair housing by, for example, increasing fair housing choice or decreasing disparities in access to opportunity."

What Does It Mean to "Certify"?

Jurisdictions submitting ConPlans and PHAs submitting PHA Plans have always had to certify (pledge) that they are affirmatively furthering fair housing choice. The final rule amends the old definitions of certifying AFFH compliance to mean that program participants will:

- Take meaningful actions to further the goals in the AFH; and,
- Not take any action that is materially inconsistent with its obligation to AFFH.
- PHAs must also address fair housing issues and contributing factors in their programs.

FIRST, A FEW DEFINITIONS OF OTHERWISE SIMPLE WORDS

Fair Housing Choice

Fair housing choice means people have enough information about realistic housing options to live where they choose without unlawful discrimination and other barriers. For people with disabilities, it also means accessible housing in the most integrated setting appropriate to the person's needs, including disability-related services needed to live in the housing.

Fair Housing "Issue"

This definition is important. The term is used throughout the new rule. Fair housing issue means a condition that restricts choice or access to opportunity, including:

1. Ongoing local or regional segregation, or lack of integration.
2. Racial or ethnic concentrations of poverty.

3. Significant disparities in access to opportunity.
4. Disproportionate housing needs based on the “protected classes” of race, color, national origin, religion, sex, familial status, or disability.

A fair housing issue also includes evidence of illegal discrimination or violations of civil rights laws, regulations, or guidance.

Fair Housing “Contributing Factor”

This definition is important. The term is used throughout the new rule. Fair housing contributing factor means something that creates, contributes to, perpetuates, or increases the severity of one or more fair housing “issues.”

Definitions for the Four Fair Housing Issues

- **Integration** means that there is not a high concentration of people of a particular protected class in an area subject to analysis required by the Assessment Tool, such as a census tract or neighborhood, compared to the broader geographic area.
- **Segregation** means that there is a high concentration of people of a particular protected class in an area subject to analysis required by the Assessment Tool, such as a census tract or neighborhood, compared to the broader geographic area.
- **Racially or Ethnically Concentrated Area of Poverty (R/ECAP)** means a geographic area with significant concentrations of poverty and minority populations. The rule does not define “significant” or give metrics. However, the mapping system provided by HUD outlines R/ECAPs on maps and indicates them on data tables.
- **Significant disparities in access to opportunities** means substantial and measurable differences in access to education, transportation, economic, and other important opportunities in a community, based on protected class related to housing.
- **Disproportionate housing need** refers to a significant disparity in the proportion of a protected class experiencing a category of housing need, compared to the proportion of any other relevant groups or the total population experiencing that category of housing need in the geographic area. Categories of housing need are:
  - Cost burden and severe cost burden (paying more than 30% and 50% of income. respectively, for rent/mortgage and utility costs).
  - Overcrowded housing (more than one person per room).
  - Substandard housing conditions.

Assessment Tool

The Assessment Tool refers to forms or templates provided by HUD that must be used to conduct and submit an AFH. The Assessment Tool consists of a series of questions designed to help program participants identify racially and ethnically concentrated areas of poverty, patterns of integration and segregation, disparities in access to opportunity, and disproportionate housing needs. The Assessment Tool gives more detailed definitions of these than the rule does. HUD states that the Assessment Tool questions are intended to enable program participants to perform meaningful assessments of fair housing issues and contributing factors, and to set meaningful fair housing goals and priorities. The Assessment Tool provides more detailed examples of fair housing issues and contributing factors.

WHAT IS AN ASSESSMENT OF FAIR HOUSING?

An AFH is an analysis of fair housing data—such as fair housing “issues” and “contributing factors,” and an identification of fair housing priorities and goals, all of which are submitted to HUD using the Assessment Tool. The purpose of the AFH is to identify goals to AFFH and to inform fair housing strategies in the ConPlan, Annual ConPlan Action Plan, PHA Plan, and other community plans regarding transportation, education, or the environment. The introduction to the AFH in the regulation states that in order to develop a successful AFFH strategy, it is necessary to assess the factors that cause, increase, contribute to, or maintain fair housing problems such as segregation, racially or ethnically concentrated areas of poverty, significant disparities in access to opportunity, and disproportionate housing needs.

CONTENT OF AN AFH

Program participants must conduct an AFH using the HUD-prescribed Assessment Tool. The rule sets out a structure for the AFH, unlike the AI it replaces, requiring the AFH to:

1. **Analyze data and other information**, such as HUD-provided data, other local data, and local knowledge—including information gained from community participation. The purpose of this analysis is to identify—across the protected classes, both within the jurisdiction and region—the "fair housing issues" of integration and segregation patterns and trends, racially or ethnically concentrated areas of poverty, significant disparities in access to opportunity, and disproportionate housing needs.
2. **Assess fair housing issues** by using the Assessment Tool and the data analysis of step #1 to identify "contributing factors" for segregation, racially or ethnically concentrated areas of poverty, disparities in access to opportunity, and disproportionate housing needs.
3. **Identify fair housing priorities and goals** based on the identified "fair housing issues" and "contributing factors" of steps #1 and #2. The AFH must:
    a. Identify and discuss the fair housing issues.
    b. Identify significant contributing factors, assign a priority to them, and justify the priorities.
    c. Set goals for overcoming the effects of the prioritized contributing factors. For each goal:
        i. Identify one or more contributing factors that the goal is designed to address.
        ii. Describe how the goal relates to overcoming the contributing factor(s) and related fair housing issue(s).
        iii. Identify the metrics and milestones for determining what fair housing results will be achieved.
4. **Summarize the Public Participation**, including a summary of efforts to broaden participation in developing the AFH, public comments received in writing and/or orally at public hearings, unaccepted comments, and the reasons why they were declined.
5. **Review Progress** by summarizing (after the first AFH) the progress achieved in meeting the goals and related metrics and milestones of the previous AFH and identifying any barriers that prevented achieving those goals.

LINKAGE BETWEEN THE AFH AND THE CONPLAN OR PHA PLAN

Strategies and actions to implement the fair housing goals and priorities in an AFH must be included in a program participant's 5-Year ConPlan, Annual ConPlan Action Plan, or 5-Year PHA Plan. However, the AFH does not have to include the strategies and actions. If a program participant does not have a HUD-accepted AFH, HUD will not approve its ConPlan or PHA Plan.

ConPlan or PHA Plan strategies and actions must AFFH. Strategies and actions may include (but are not limited to) enhancing mobility, encouraging development of new affordable housing in areas of opportunity, encouraging community revitalization through place-based strategies, and preserving existing affordable housing.

Activities to affirmatively further fair housing may include:

- Developing affordable housing in areas of high opportunity.
- Removing barriers to developing affordable housing in areas of high opportunity.
- Revitalizing or stabilizing neighborhoods through targeted investments.
- Preserving or rehabilitating existing affordable housing.
- Promoting greater housing choice within or outside of areas of concentrated poverty.
- Promoting greater access to areas of high opportunity.
- Improving community assets, such as quality schools, employment, and transportation.

The ConPlan regulations were modified to require the Strategic Plan portion of the ConPlan to describe how a program participant's ConPlan priorities and specific objectives will AFFH by having strategies and actions consistent with the goals and "other elements" identified in the AFH. Annual Action Plans that are submitted in between 5-Year ConPlans must describe the actions the program participant plans to take during the upcoming year to address fair housing goals.

HUD REVIEW OF THE AFH

The AFH (unlike the AI) must be submitted to HUD for review and "acceptance." HUD will determine whether the AFH has a fair housing analysis, assessment, and goals. HUD may choose not to "accept" an AFH, or a part of an AFH, if:

- The AFH is "inconsistent" with fair housing or civil rights laws, examples of which include:
  - The analysis of fair housing issues, fair housing contributing factors, goals, or priorities in the AFH would result in policies or practices that would discriminate.
  - The AFH does not identify policies or practices as fair housing contributing factors even though they result in excluding protected class people from areas of opportunity.
- The AFH is "substantially incomplete," examples of which include an AFH that:
  - Was developed without the required community participation or required consultation with other entities.
  - Fails to satisfy a required element of this regulation, examples of which include:
    - ❏ An AFH with priorities or goals materially inconsistent with the data and other evidence.
    - ❏ An AFH that has priorities or goals not designed to overcome the effects of contributing factors and related fair housing issues.

The AFH will be considered "accepted" by HUD within 60 calendar days. HUD "acceptance" does not mean a program participant is meeting its obligation to AFFH; rather, it means that, for purposes of administering HUD funds (such as CDBG), the program participant has provided the elements required in an AFH. If HUD does not "accept" an AFH, HUD must provide specific reasons and describe actions that must be taken to gain "acceptance." Program participants have 45 days to revise and resubmit an AFH. A revised AFH will be considered "accepted" after 30 calendar days, unless HUD does not "accept" the revised version.

PUBLIC PARTICIPATION IN THE AFH PROCESS

To ensure that the AFH is informed by meaningful community participation, the rule requires program participants to give the public reasonable opportunities for involvement in both the development of the AFH and its incorporation into the ConPlan, PHA Plan, and other planning documents. The public participation provisions of the ConPlan and PHA Plan regulations must be followed in the process of developing the AFH.

Program participants "should" use communications means designed to reach the broadest audience. Examples in the rule include publishing a summary of each document in one or more newspapers; making copies of each document available on the program participant's official website; and, making copies of each document available at libraries, government offices, and public places.

The AFFH rule amended the ConPlan public participation regulations to include the AFH

Encouraging Public Participation in the Development of the AFH

The AFFH rule adds to the ConPlan rule, requiring jurisdictions to:

- Provide for and encourage residents to participate in the development of the AFH and any revisions to the AFH.
- Encourage participation by the Continuum of Care, local and regional institutions, and other organizations (including community-based organizations) in the process of developing and implementing the AFH.
- Encourage participation by public housing residents, Resident Advisory Boards, resident councils, and other low income residents of a targeted revitalization area where a development is located, regarding developing and implementing the AFH.
- Describe procedures for assessing residents' language needs, including any need for translation of notices and other vital documents. At a minimum, jurisdictions must take reasonable steps to provide language assistance to ensure meaningful access to participation by people with limited English proficiency.

Make Data, the Proposed and Final AFH, and Records Available to the Public

The AFFH rule adds to the ConPlan rule, requiring jurisdictions to:

- Make available to the public as soon as practical [but] "**after** the start of the public participation process," the HUD-provided data and any supplemental information the jurisdiction intends to use in preparing the AFH.

- Publish the proposed AFH in a manner that gives the public a reasonable opportunity to examine it and submit comments. The public participation plan must indicate how the proposed AFH will be published. Publishing may be met by:
  - Summarizing the AFH in one or more newspapers of general circulation. The summary must include a list of places where copies of the entire AFH may be examined.
  - Making copies available on the jurisdiction's official website, and at libraries, government offices, and other public places.
- The jurisdiction must provide a reasonable number of free copies of the proposed AFH to those who request it.
- The HUD-accepted AFH and any revisions must be available to the public—including in forms accessible to people with disabilities—when requested.
- The public must be able to have reasonable and timely access to records from the last five years that relate to the AFH.

Public Review and Comment During the Development of the AFH and the ConPlan

The AFFH rule adds to the ConPlan rule, requiring jurisdictions to:

- Have at least one public hearing during the development of the AFH.
- Have at least one public hearing before the proposed AFH is published for comment, in order to obtain public comments about AFH-related data and AFFH in the jurisdiction's housing and community development programs.
- Provide the public at least 30 days to comment on the proposed AFH.
- Consider public comments submitted in writing, or orally at public hearings, when preparing the final AFH. A summary of the comments must be attached to the final AFH, and an explanation of reasons for not accepting comments must be attached to the final AFH.
- Have at least one public hearing before a proposed ConPlan is published for comment in order to obtain public comments about AFFH concerns.
- One of the two required public hearings about the ConPlan must address a program participant's proposed strategies and actions for AFFH consistent with the AFH.
- Respond to written complaints from the public about the AFH or any revisions to it. The response must be in writing, meaningful, and provided within 15 working days.

A Few Additional Key Public Participation Features of the ConPlan Regulations

- Jurisdictions must take appropriate actions to encourage participation by people of color, people who do not speak English, and people with disabilities. Localities must also encourage participation by residents of public and assisted housing.
- Access to information must be reasonable and timely. For local jurisdictions (not states) the public must have "reasonable and timely" access to local meetings (such as Advisory Committee meetings, City Council subcommittee meetings, etc.).
- There must be "adequate" public notice of and access to upcoming hearings. Publishing small print notices in the newspaper a few days before the hearing is not adequate notice. Two weeks' notice is adequate. Hearings must be held at times convenient to people who are likely to be affected. Hearings must be held in places easy for lower income people to get to.

CONSULTATION WITH OTHER ENTITIES AND THE AFH PROCESS

The AFFH rule also amends the ConPlan regulations' consultation requirements to include the AFH. When preparing the AFH and then the ConPlan, jurisdictions are required to consult with community and regionally-based (or state-based) organizations, including:

- Organizations that represent protected class members.
- Organizations that enforce fair housing laws (including participants in the Fair Housing Assistance Program.
- Fair housing organizations and nonprofits receiving funding under the Fair Housing Initiative Program.
- Other public and private fair housing service agencies.

- Adjacent governments, including agencies with metro-wide planning and transportation responsibilities, particularly for problems that go beyond a single jurisdiction.
- Entities previously listed in the ConPlan regulations, such as public and private agencies that provide assisted housing, health services, and social services.
- PHAs, not only about the AFH, but also about proposed strategies and actions for AFFH in the ConPlan.
- Consultation must be with any organizations that have relevant knowledge or data to inform the AFH, and that are independent and representative.
- Consultation "should" occur with organizations that have the capacity to engage with data informing the AFH, and are independent and representative.
- Consultation must occur at various points in the fair housing planning process, at least in the development of both the AFH and the ConPlan.
- Consultation regarding the ConPlan must specifically seek input about how the AFH goals inform the priorities and objectives of the ConPlan.

HUD ENCOURAGES JOINT AND REGIONAL AFHS

HUD encourages program participants to collaborate to submit a joint AFH or a regional AFH. A joint AFH involves two or more program participants submitting a single AFH. A regional AFH involves at least two program participants that must submit a ConPlan. Collaborating program participants do not have to be adjacent to each other, and they may cross state lines, as long as they are in the same Core Based Statistical Area. One of the program participants must be designated as the lead entity. All program participants are accountable for the analysis and any joint goals and priorities. Collaborating program participants must include their individual analysis, goals, and priorities in the collaborative AFH, and are accountable for them. A joint or regional AFH does not relieve each program participant from its obligation to analyze and address local and regional fair housing issues and contributing factors, and to set priorities and goals for its geographic area to overcome the effects of contributing factors and related fair housing issues. Collaborating program participants must have a plan for public participation that includes residents and others in each of the jurisdictions.

TIMING OF THE AFH

Most program participants will not be required to use the new AFFH system until 2019. Until a program participant is required to submit an AFH, it must continue to follow the current AI process, the Analysis of Impediments to fair housing choice process. (See the following *Advocates' Guide* article, 7.1.b)

There are five categories of due dates for the initial AFH. In each case, the first AFH must be submitted to HUD 270 calendar days before the start of the program participant's program year in which a new 5-Year ConPlan or 5-Year PHA Plan is due.

1. CDBG entitlement jurisdictions receiving $500,000 or more in FY15 and that are required to have a new 5-Year ConPlan on or after January 1, 2017, must submit an initial AFH 270 calendar days before that new ConPlan is due. There are 22 such jurisdictions (http://nlihc.org/sites/default/files/Hud-Jurisdictions_2016.pdf).
2. CDBG entitlement jurisdictions receiving $500,000 or less in FY15 and that are required to have a new 5-Year ConPlan on or after January 1, 2018, must submit an initial AFH 270 calendar days before that new ConPlan is due. There are 105 entitlement jurisdictions with either more or less than $500,000 expected to have to submit a new 5-Year ConPlan on or after January 1, 2018 (http://nlihc.org/sites/default/files/Hud-Jurisdictions_2017.pdf)
3. States required to have a new 5-Year ConPlan on or after January 1, 2018, must submit an initial AFH 270 calendar days before that new ConPlan is due. Six states will start then, (http://nlihc.org/sites/default/files/Hud-Jurisdictions_2017.pdf).
4. Public Housing Agencies (PHAs) with more than 550 public housing units and vouchers, combined, ("non-qualified PHAs") must submit an AFH 270 calendar days before a new 5-Year PHA Plan is due on or after January 1, 2018.
5. PHAs with fewer than 550 public housing units and vouchers, combined ("qualified PHAs")

must submit an AFH 270 calendar days before a new 5-Year PHA Plan is due on or after January 1, 2019.

After the first AFH, all program participants must submit a new AFH 195 calendar days before the start of the first year of their next 5-Year ConPlan or 5-Year PHA Plan. All program participants must submit an AFH at least every 5 years.

REVISING THE ASSESSMENT OF FAIR HOUSING

An AFH must be revised if there is a "material change," which is a change that affects the information the AFH is based on so that the analysis, fair housing contributing factors, or priorities and goals do not reflect the current situation. Examples include a presidentially declared disaster, major demographic changes, new significant contributing factors, or significant civil rights findings. HUD may also require a revision if it detects a significant change. A revised AFH must be submitted within 12 months of the onset of the material change. For presidentially declared disasters, the revised AFH is due two years after the date the disaster is declared.

A revised AFH might not require submitting an entirely new AFH. It only needs to focus on the material change and any new fair housing issues and contributing factors. It must include appropriate adjustments to the analysis, assessments, priorities, or goals.

A jurisdiction's ConPlan-required "Citizen Participation Plan" and a PHA's definition of a significant amendment must specify the criteria that will be used for determining when substantial (ConPlan) or significant (PHA Plan) revisions to the AFH are appropriate. When there are revisions to the AFH, the ConPlan and PHA Plan public or resident participation regulations pertaining to substantial/significant amendments must be followed. Completed revisions must be made public and submitted to HUD, following the ConPlan or PHA Plan regulations

RECORDKEEPING

ConPlan participants and PHAs preparing their own AFHs must have and keep records, including:

- The information that formed the development of the AFH.
- Records demonstrating compliance with the consultation and community participation requirements, including: the names of the organizations involved in the development of the AFH, written public comments, summaries or transcripts of public meetings or hearings, public notices, other correspondence, distribution lists, surveys, interviews, etc.
- Records demonstrating actions taken to AFFH.

The records must be made available to HUD. The AFFH rule does not state that these records are to be made available to the public as well. However, the ConPlan regulations require ConPlan jurisdictions to provide the public with reasonable and timely access to information and records relating to the jurisdiction's AFH.

FOCUS ON PUBLIC HOUSING AGENCIES

The new AFFH rule offers PHAs three ways to meet the obligation to AFFH:

1. A PHA may work with a local or state government in preparing an AFH. If a PHA serves residents of two or more jurisdictions, the PHA may choose the jurisdiction that most closely aligns to its PHA Plan activities.
2. A PHA may work with one or more other PHAs in the planning, resident participation, and preparation of an AFH. One of the PHAs must be designated the lead agency.
3. A PHA may conduct its own AFH.

A PHA must certify that it will AFFH. This means the PHA will take meaningful actions to further the goals identified in the AFH, take no action that is materially inconsistent with its obligation to AFFH, and address fair housing issues and contributing factors.

A PHA is obligated to AFFH in its operating policies, procedures, and capital activities. A PHA's admission and occupancy policies for public housing and vouchers must comply with the PHA's plans to AFFH. A PHA's policies should be designed to reduce the concentration of tenants by race, national origin, and disability. Any affirmative steps or incentives a PHA plans to take must be stated in the admission policy. PHA policies should include affirmative steps to overcome the effects of discrimination and the effects of conditions that resulted in limiting participation because of race, national origin, disability, or other protected class. Affirmative steps may include:

- Marketing.
- Tenant selection and assignment policies that lead to desegregation.
- Providing additional supportive services and amenities (for example, supportive services that enable someone with a disability to transfer from an institutional setting into the community).
- Coordinating with agencies serving people with disabilities to provide additional community-based housing opportunities.
- Connecting people with disabilities to supportive services to enable them to transfer from an institutional setting into the community.

HUD may challenge a certification if a PHA fails to meet the requirements in the AFFH regulations, fails to take meaningful actions to further the goals of its AFH, or takes action that is materially inconsistent with AFFH.

A PHA's certification is in compliance if it meets the above requirements and it:

- Examines its programs.
- Identifies any fair housing issues and contributing factors in those programs.
- Specifies actions and strategies designed to address contributing factors, related fair housing issues, and goals in its AFH.
- Works with the local governments to implement those local governments' efforts to AFFH that require the PHA's involvement.
- Operates its programs in a manner consistent with local jurisdictions' ConPlans.

FORECAST

HUD is working closely with the 22 jurisdictions required to implement the new AFFH rule in 2016 and will probably begin working with the 105 jurisdictions required to comply in 2017. Assessment Tools designed for states and PHAs are likely to emerge for comment.

TIPS FOR LOCAL SUCCESS

- All advocates should become familiar with the new AFFH rule and the Assessment Tool. For advocates whose jurisdictions are implementing the new rule in 2016, and for those in jurisdictions that will implement the rule in 2017, it is critical to be actively engaged with your jurisdictions in the development of the AFH. Don't wait to be contacted; take the initiative. Provide data that you are aware of that helps identify fair housing issues and contributing factors; for example, research conducted by local universities or think tanks and records of social service agencies. Beyond quantifiable information, offer "local knowledge," for example experiences of protected class members that reveal fair housing issues or contributing factors—experiences such as displacement due to economic forces or landlords refusing to rent to households with children. Check NLIHC's AFFH webpage and HUD's webpage periodically for new information. For advocates in jurisdictions or PHAs that will not be required to submit an AFH until 2019 or later, work to convince your jurisdiction or PHA to begin using some or all of the new rule's guidance and the Assessment Tool even before being required to do so.

WHAT TO SAY TO LEGISLATORS

- Be prepared to tell your Congressional delegation to oppose any attempts to prevent HUD from implementing the new rule. Remind them that HUD stresses that the new AFFH approach does not mandate specific outcomes; rather, it establishes basic parameters to help guide public sector housing and community development planning and investment decisions. The rule encourages a more engaged and data-driven approach to assessing fair housing and planning actions. The rule establishes a standardized fair housing assessment and planning process to give jurisdictions and PHAs a more effective means to affirmatively further the purposes of the Fair Housing Act.

FOR MORE INFORMATION

NLIHC, 202-662-1530, http://nlihc.org/issues/affh

HUD Affirmatively Furthering Fair Housing webpage, https://www.hudexchange.info/programs/affh

HUD Office of Fair Housing and Equal Opportunity, http://1.usa.gov/VFQ4Nk ■

Affirmatively Furthering Fair Housing: For Jurisdictions and Public Housing Agencies Not Yet Required to Comply with the July 2015 Affirmatively Furthering Fair Housing Rule

By Ed Gramlich, Senior Advisor, NHLIC

Administering agency: HUD's Office of Fair Housing and Equal Opportunity (FHEO)

Year started: 1968

Population targeted: The Fair Housing Act's protected classes—race, color, religion, sex, national origin, disability, and familial status (in other words, households with children).

Also see: *Consolidated Planning Process, Public Housing Agency Plan*

This article describes the pre-existing Analysis of Impediments (AI) process. See the previous *Advocates' Guide* article 7.1.a regarding the July 16, 2015 rule.

Most cities, counties, states, and public housing agencies (PHAs)—all of which HUD is now calling program participants—will not have to comply with the July 16, 2015, Affirmatively Furthering Fair Housing (AFFH) rule until 2019. Until then, program participants must continue to comply with the pre-existing minimal rules associated with the AI to fair housing choice. However, program participants may begin using the new rule if they so choose. A list of program participants and an estimate of when they are required to comply with the July 2015 rule is on NLIHC's AFFH webpage, at http://nlihc.org/issues/affh/afh_dates. Check HUD's AFFH webpage to determine whether an official HUD list is available, https://www.hudexchange.info/programs/affh.

States and local governments must certify that they are affirmatively furthering fair housing (AFFH) in their Consolidated Plans (ConPlans) and Public Housing Agency Plans (PHA Plans). In order to comply, these jurisdictions must have an AI.

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 that establish the Community Development Block Grant (CDBG) program, the Comprehensive Housing Affordability Strategy (CHAS, the statutory basis of the Consolidated Plan), and the PHA Plan all require jurisdictions to certify in writing that they are affirmatively furthering fair housing. States must assure that units of local government receiving CDBG or HOME funds comply. Further, HUD's 1996 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

Affirmatively furthering fair housing is defined in CDBG and ConPlan regulations as:

- Having an AI to Fair Housing Choice.
- Taking appropriate actions to overcome the effects of impediments.
- Keeping records reflecting the analysis and showing actions taken.

The regulations for public housing and vouchers are similar.

Analysis of Impediments. 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 in fact 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 development policies that discourage properties with more than two bedrooms, inadequate multilingual marketing, zoning that limits group homes, and insufficient public transportation to areas with affordable housing.

AIs are their own separate documents, the contents of which are not prescribed by HUD. There is no specific term for a PHA's AI. AIs must be available to the public. HUD's *Fair Housing Planning Guide* defines an AI 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, disability, and familial status (in other words, households with children).
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, disabilities and family types.
- 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 that will have an AI varies from locality to locality. Generally, the office that manages the Consolidated Planning (ConPlan) process program should be able to provide a copy, and the public housing agency (PHA) should have a copy of its own analysis. In addition, advocates can contact the FHEO staff at their HUD Regional Office.

AIs are not submitted to HUD and they are not a formal piece of 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; in addition, 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. Examples of barriers to affordable housing in that law include tax policies and building fees.

Timeframe. According to the *Fair Housing Planning Guide*, AIs must be updated on the same timeframe as the ConPlan updates. So, theoretically, if a jurisdiction has to come up with a new ConPlan every five years, then it should also revise its AI on a five-year cycle in time to inform revisions to the ConPlan. 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," and that "each jurisdiction should maintain its AI and update the AI annually where necessary." That policy memorandum also implies that jurisdictions that do not make appropriate revisions to update their AIs could face problems. Because much can change before a five-year ConPlan update, advocates might want to be sure that their jurisdiction's AI is up-to-date and reflects all impediments.

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. In order to get CDBG, HOME, or public housing money, jurisdictions must certify that they are affirmatively furthering fair housing before the start of the CDBG, HOME, or public housing program year. 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 block receipt of CDBG and HOME dollars) if a certification is inaccurate. The September 2, 2004, policy memorandum gives examples of an inaccurate certification:

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." 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 FHEO Regional Office.

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

In the Annual Performance Report related to the ConPlan, called the CAPER, a jurisdiction must describe the actions taken in the past year to overcome the effects of impediments in the CAPER template report CR-35.

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 FHEO Regional 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 the 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. HOME regulations require similar data reporting.
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. This is not reported in the CAPER template.
4. A February 9, 2007, joint memorandum from the Assistant Secretaries for HUD's FHEO and Office of Community Planning and Development (CPD), which administers CDBG and HOME, suggests that a jurisdiction keep for the record:
    1. copies of local fair housing laws and ordinances,
    2. the full history of the development of its AI,
    3. options available for overcoming impediments,
    4. a list of those consulted,
    5. actions taken and planned, and
    6. 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.

The CAPER template report CR-10 requires a description of the race and ethnicity of families and persons assisted.

- For CDBG, local jurisdictions must maintain data on the extent to which each racial and ethnic groups and single-headed households (by gender of household head) have applied for, participated in, or benefited from, any program or activity funded in whole or in part by CDBG funds. States must maintain records for CDBG-funded projects that include data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the program.
- HOME grantees are required to maintain equal opportunity and fair housing documentation, including data on the extent to which each racial and ethnic group and single-headed households (by gender of household head) have applied for, participated in, or benefited from, any program or activity funded in whole or in part with HOME funds.

DEVELOPMENTS IN RECENT YEARS

Since 2009, the administration has significantly increased its AFFH enforcement activity, much of it quietly behind the scenes and some of it openly. HUD has challenged Westchester County, N.Y.; the State of Texas; Houston, Texas; Dallas, Texas; Marin County, Calif.; Joliet, Ill.; Sussex County, Del.; and Dubuque, Iowa.

FORECAST

HUD is not likely to undertake energetic fair housing enforcement activities in the coming year.

FOR MORE INFORMATION

NLIHC, 202-662-1530, http://nlihc.org/issues/affh

HUD Office of Fair Housing and Equal Opportunity, http://1.usa.gov/VFQ4Nk

HUD Affirmatively Furthering Fair Housing webpage, https://www.hudexchange.info/programs/affh

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, http://portal.hud.gov/hudportal/documents/huddoc?id=19790_200510.pdf

September 2, 2004, Memorandum from HUD's CPD, www.hud.gov/offices/fheo/library/finaljointletter.pdf.

February 9, 2007, Joint Memorandum from Assistant Secretaries for CPD and FHEO, http://portal.hud.gov/hudportal/documents/huddoc?id=fairhousing-cdbg.pdf ■

The Community Reinvestment Act

By Josh Silver, National Community Reinvestment Coalition

The Community Reinvestment Act (CRA) of 1977 established continuing and affirmative responsibilities for banks to meet the credit needs of low- and moderate-income (LMI) neighborhoods in a manner consistent with safety and soundness. Congress has considered updating this critical law to strengthen CRA as applied to banks, and expand CRA to non-bank financial institutions. The federal bank regulatory agencies have made some recent revisions to the CRA regulations, and continue to consider others.

HISTORY AND PURPOSE

Congress passed CRA in 1977 at a time when many banks and other financial institutions would routinely "redline" low-income or minority communities, refusing to invest in them or to extend credit to their residents. Since its enactment, CRA has expanded access to banking services and increased the flow of private capital into marginalized communities.

PROGRAM AND ADMINISTRATION SUMMARY

Three bank regulatory agencies ensure that banks comply with CRA: the Federal Reserve Board, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation. These three agencies are charged with evaluating the extent to which banks are meeting local credit needs. This takes the form of a periodic CRA examination of a bank, during which the bank is given a rating for their performance.

Under CRA, large banks with assets exceeding $1 billion are evaluated with three tests that measure performance in LMI communities:

The lending test evaluates a bank's record of meeting credit needs of its assessment area(s) through home mortgage, small business, and small farm lending, as well as financing of community development projects such as the construction of rental units.

The investment test evaluates the number and responsiveness of investments, including Low Income Housing Tax Credits and equity investments in small businesses.

The service test evaluates the availability of bank branches, basic banking services, and community development services in low and moderate-income communities.

Banks with less than $1 billion in assets are evaluated primarily on lending, with mid-sized banks also receiving an examination of their community development performance. Exams for smaller institutions occur every two to five years, depending on the bank's asset size and previous performance.

CRA exams give one of four ratings: outstanding, satisfactory, needs-to-improve, or substantial noncompliance. The last two ratings are considered failing ratings. In a particular assessment area, 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 since ratings influence banks' public relations and business strategies.

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. Although denials are rare, federal agencies occasionally approve a merger application subject to specific conditions around improving CRA and fair lending performance.

RESULTS

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

For example, BBVA Compass recently became the largest bank to receive a "needs-to-improve" rating, following numerous community groups commenting on the exam. As a result, BBVA Compass has made a commitment to invest $11 billion in LMI communities, which will include $2.1 billion in mortgage lending in LMI communities, $6.2 billion in loans to small businesses, and $1.8 billion in community development lending.

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. Studies found that only 6% of all high-cost loans were issued by banks during the years leading up to the Great Recession and financial crisis. CRA exams encourage safe and sound lending by penalizing banks for illegal and abusive loans, and awarding banks for counseling and foreclosure prevention.

RECENT REGULATORY AND LEGISLATIVE ACTIVITY

In September 2014, the three federal regulatory agencies released a joint set of proposed updates to the CRA Questions and Answer document, known as the "Q&A." The document provides guidance to banks and their regulators on the real-world applications of CRA. The proposed updates, which were open to public comment, proposed a number of changes, most notably:

Weakening the emphasis on bank branches as the primary way of providing service to LMI communities and placing additional weight on the role of online banking and other alternative service delivery methods. The proposal also encourages banks to provide consumer usage data to the regulatory agencies on these alternative delivery methods.

Encouraging the use of alternative credit histories, such as rental or utility payments, for borrowers with thin credit files.

Although portions of the updates, such as encouraging usage of alternative credit histories, are positive, the de-emphasis on branch banking lowers the incentive for banks to operate branches in LMI neighborhoods, where technological alternatives are less accessible. Additionally, the updated Q&A did not address the pressing issue of reforming assessment areas, which determine the geographies where banks are evaluated on their CRA performance, to ensure that banks are being held accountable for all areas where they do business.

On the legislative front, the most recent action to strengthen CRA occurred during the 111th Congress, Representatives Gutierrez, Maxine Waters (D-CA), Al Green (D-TX), and Eddie Bernice Johnson introduced H.R. 6334, the American Community Investment Reform Act of 2010. H.R. 6334 would have applied CRA to a variety of non-bank institutions including independent mortgage companies, mortgage company affiliates of banks, and securities firms. Applying CRA to a large segment of the financial industry would increase responsible lending and investing in communities by hundreds of billions of dollars, while discouraging unsafe and unsound lending, which CRA penalizes.

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. The federal agencies post lists on their websites every quarter of upcoming CRA exams. Additionally, organizations should establish and expand upon dialogues with CRA officers at banks in their service areas to see how banks can increase their support of affordable housing.

WHAT TO SAY TO LEGISLATORS

Legislative efforts to weaken CRA may arise at any time. Your member should:

Oppose bills that would weaken or repeal CRA. Representative Jeb Hensarling (R-TX), Chairman of the House Financial Services Committee, introduced a bill in the 111th Congress that would repeal CRA. Expect similar bills in the future from opponents of CRA.

Support any proposed bills that update and strengthen CRA, especially expanding it to apply to mortgage companies, investment banks and insurance companies.

WHAT TO SAY TO REGULATORS

In 2014, the federal bank regulatory agencies proposed modest changes to CRA exams. Tell the regulatory agencies that bank branches remain vitally important in LMI communities and that CRA exams must continue to vigorously scrutinize access to branches for these communities. Also, the regulators should provide improved guidance to banks and the public regarding specific plans banks must submit to federal agencies regarding how they will demonstrate that proposed mergers will benefit the public. A demonstration of the public benefits of proposed mergers is required by law, but this requirement has not been enforced consistently by the agencies. Additional changes to regulatory guidance are possible in 2016, and NCRC will keep community organizations informed of any developments and will prepare sample comments if the agencies request any comments on proposed changes to examination procedures or guidance.

FOR MORE INFORMATION

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

For CRA exam results, www.ffiec.gov ■

Consolidated Planning Process

By Ed Gramlich, Senior Advisor, NLIHC

Administering agency: HUD's Office of Community Planning and Development (CPD)

Year Program Started: 1990 as Comprehensive Affordability Strategy, and significantly modified in 1994 as the Consolidated Plan.

Also see: *Public Housing Agency Plan, The National Housing Trust Fund*

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

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 state and 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 Strategic Plan), one application document (the Annual Action Plan), one set of performance reports, and the Consolidated Annual Performance and Evaluation Report (CAPER), which includes CDBG's Grantee Performance Report (GPR).

SUMMARY

Jurisdictions develop ConPlans at least once every five years in the form of the long-term Strategic Plan, and must update them annually with the Annual Action Plan. The regulations are at 24 CFR Part 91.

The Seven Key ConPlan Elements

Housing and Community Development Needs: The ConPlan must estimate housing needs for the upcoming five years. It must also describe "priority non-housing community development needs." According to the regulations, the needs in the ConPlan should reflect the public participation process and the ideas of social service agencies, must be based on U.S. Census data, and "shall be based on any other reliable source." NLIHC's Out of Reach and Congressional District Housing Profiles are excellent sources of data.

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).
- Tenure type (whether the household rents or owns).
- Family type, including large families (5 or more people), individuals, and elderly households.
- A summary of the number of people who have a housing cost burden (pay more than 30% of their income for rent and utilities) or severe cost burden (pay more than 50% of their income for rent and utilities), live in very poor quality housing, or live in overcrowded housing. Each of these characteristics must be presented by income category and tenure type.

The ConPlan must estimate the housing needs of:

- Victims of domestic violence;

- Persons with disabilities;
- Persons with HIV/AIDS and their families; and,
- Persons who were formerly homeless and receiving rapid re-housing assistance about to expire.

The ConPlan must estimate:

- The need for public housing and Housing Choice Vouchers (Section 8), referring to waiting lists for those programs.
- The supportive housing needs of people who are elderly, have physical or mental disabilities, have addiction problems, are living with HIV/AIDS, or are public housing residents.
- The number of housing units containing lead-based paint hazards occupied by low income households.
- The needs of any racial or ethnic group if their needs are 10% greater than all people in the same income category.

The ConPlan must describe the nature and extent of homelessness, addressing:

- The number of homeless people on any given night; the number who experience homelessness each year; and the number of days people are homeless.
- The nature and extent of homelessness by racial and ethnic group.
- The characteristics and needs of people, especially extremely low income people, who are housed, but who are threatened with homelessness.

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 the condition and cost of housing. It must also have an inventory of facilities and services for homeless people, with categories for permanent housing, permanent supportive housing, transitional housing, and emergency shelters. A description of facilities and services for people who are not homeless but require supportive housing must be included, along with a description of programs ensuring that people returning from mental and physical health institutions receive supportive housing.

Localities (not states) have additional requirements:

- A description of the housing stock available to people with disabilities, HIV/AIDS, or special needs.
- An estimate of the number of vacant or abandoned buildings, with an indication of whether they can be rehabilitated.
- A narrative or map describing areas where low income people and different races and ethnic groups are concentrated.
- A list of public housing developments and the number of units in them, along with a description of their condition and revitalization needs.
- A description of the number of units assisted with other federal (e.g., Project-Based Section 8), state, or local funds, including the income levels and types of families they serve.
- An assessment of whether any units are expected to be lost, such as through Section 8 contract expiration.

Strategic Plan: This long-term plan must be done at least every five years. It must indicate general priorities for allocating CPD money geographically and among different activities and needs. ("CPD money" is used here to refer to each of the four block grant programs administered by CPD, which are subject to the ConPlan.) The Strategic Plan must describe the rationale for the fund allocation priorities given to each category of priority needs among the different income categories. Needs may refer to types of activities, such as rental rehabilitation, as well as to demographic groups, such as extremely low income households. Although the regulations do not specifically require it, past HUD guidance has required jurisdictions to assign to each priority need a relative priority of high, medium, or low. Since August 2012, HUD has only required priority assignments of high or low priority. The ConPlan must identify proposed accomplishments in measurable terms and estimate a timetable for achieving them.

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 need for public housing will be met.

Priority homeless needs must be shown. The Strategic Plan must also describe strategies for reducing and ending homelessness by: helping people to avoid becoming homeless; reaching out to homeless people to determine their needs; addressing needs for emergency shelter and transitional housing; and, by helping homeless people make the transition to permanent housing.

For people with special needs who are not homeless, the Strategic Plan must summarize the priority housing and supportive service needs of people who are elderly or have disabilities (mental, physical, or developmental), alcohol or drug addiction, or HIV/AIDS, or who are public housing residents.

For jurisdictions receiving CDBG funds, the Strategic Plan must summarize non-housing community development needs, such as day care services, health centers, parks, roads, and commercial development.

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.

Lead-based Paint: The Strategic Plan must outline actions to find and reduce lead paint hazards.

Fair Housing: Each year the jurisdiction must certify that it is affirmatively furthering fair housing (AFFH). For most jurisdictions in 2016, 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 1996 Fair Housing Planning Guide says an AI "must be completed/updated in accordance with timeframes for the Consolidated Plan," a September 2004 memorandum says that each jurisdiction "should maintain its AI and update the AI annually where necessary." See Affirmatively Furthering Fair Housing articles.

On July 16, 2015, HUD issued new AFFH regulations intended to improve jurisdictions' obligation to AFFH. These regulations replace the AI with an Assessment of Fair Housing (AFH) that spells out specific fair housing issues that jurisdictions must identify, prioritize, and take proactive steps to address. The AHF would have to be approved by HUD before a ConPlan is approved so that a jurisdiction could receive CPD and other HUD funds. The new AFFH rule establishes a clearer and more direct incorporation of fair housing strategies and actions to inform the ConPlan process. Most jurisdictions will not have to comply with the new AFFH rule until 2019. See *Affirmatively Furthering Fair Housing articles.*

Annual Action Plan: The Annual Action Plan must describe all the federal resources reasonably expected to be available, including those in addition to CDBG, HOME, ESG, and HOPWA, such as Low Income Housing Tax Credits (LIHTCs), Continuum of Care funds, and Housing Choice Vouchers. The Action Plan must also indicate other private and local and state resources expected to be available. 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.

Local jurisdictions' Action Plans must describe the activities the jurisdiction will carry out in the upcoming year. State Action Plans must describe their method for distributing funds to local governments and nonprofits, or the activities the state will undertake itself. The Action Plan must also describe the reasons for making these allocation priorities. Descriptions of uses of CDBG must include enough detail about each activity, including location, that people can determine the degree to which they could be affected. States must describe the criteria used to select CDBG 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.).

There must be an estimate of the number and type of households expected to benefit from the use of CPD funds (this does not apply to states). In addition, based on any funds available to the jurisdiction, the Action Plan must specify one-year goals for the number of non-homeless, homeless, and special needs households to be provided affordable housing through new construction, rehabilitation, acquisition, and rental assistance

The Annual Action Plan must indicate the activities that will be carried out in the upcoming year to reduce homelessness by: preventing homelessness, especially for those with incomes below 30% of AMI; meeting emergency shelter and transitional housing needs; 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

1. **Identify Needs:** The CDBG and CHAS laws require a public hearing to gather the public's ideas about housing and community development needs. HUD's regulations require this hearing to take place before a proposed ConPlan 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 available 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 a jurisdiction: did not follow the public participation requirements, did not "satisfy all of the required elements," or provided an inaccurate certification (for example, HUD finds that a jurisdiction's certification that it took appropriate actions to overcome impediments to fair housing is not accurate).

4. **The Annual Performance Report:** In this report a jurisdiction shows what it did during the past year 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 race and ethnicity as well as by income category, including incomes below 30% of AMI. For CDBG-assisted activities, the performance report must describe the assisted activities and explain how they relate to the ConPlan priorities, giving special attention to the highest priority activities. The Annual Performance Report must describe the actions taken to AFFH.

   There are several public participation features related to the Annual Performance Report. There must be reasonable notice that a report is completed, 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 reporting requirements of the four block grant programs have been merged into a set of computer-based records called the CAPER for local jurisdictions and called the Performance and Evaluation Report (PER) for states. These performance reports only offer a general, aggregate picture of what a jurisdiction accomplished. Although no longer a part of the CAPER, local jurisdictions receiving CDBG must still complete a GPR, which also goes by the term "IDIS Report C04PR03." The GPR should provide detailed information about each activity funded by CDBG. Although many jurisdictions do not make the GPR known to the public, it must be provided if requested.

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 indicate 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 the participation of all of its citizens, including minorities and non-English speaking persons, as well as persons with disabilities. 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 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 city 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," according to the regulations, 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 with limited English proficiency, the public 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 funding.

Rollout of New ConPlan Template and Mapping Tools

On May 7, 2012, CPD issued CPD-12-009 describing a new electronic template that must be used for any new ConPlan Strategic Plan submitted after November 15, 2012. For those ConPlans, their subsequent Annual Action Plans and CAPERs must also be submitted electronically using the template. The new electronic template is tied into CPD's management information system, known as IDIS.

The template is a combination of data tables and narratives that set, for the first time, a baseline of HUD's expectations for the type and amount of information required. Jurisdictions can customize their templates by adding additional text, data, or images from other sources. The data tables required by the regulations pertaining to housing and homelessness needs and the housing market are automatically pre-populated with the required data; however, jurisdictions may substitute better data if they have it. Some of the data includes the five-year American Community Survey data from the Census Bureau, special Census CHAS tabulations, public housing resident characteristics from HUD's *Picture of Subsidized Housing*, and business and employment data from Census.

Some jurisdictions' ConPlans are posted on the HUD website. Advocates will benefit from reviewing the ConPlan Desk Guide containing the components of the template because it outlines the regulatory requirements that jurisdictions must follow, and because it helps advocates know what the various template tables should look like. Unfortunately, advocates cannot use the template to electronically create their own alternative ConPlan because only jurisdictions have access to IDIS. Nevertheless, the Desk Guide provides advocates an outline of what jurisdictions must submit that advocates can use to manually fashion their own ideal ConPlan to promote prior to the public participation process.

CPD also has a mapping tool that allows both grantees and members of the public to access a large amount of data in a user-friendly, web-based format. Jurisdictions are not required to use the maps. Users can search, query, and display information on the map that will help them identify trends and needs in their communities. Some of the features available on the mapping program include the capacity to show where CDBG and HOME activities have been provided, and where public housing and private, HUD-assisted housing and LIHTC housing is located. It is also possible to see housing, economic, and demographic characteristics of an area down to the census tract level. The web-based software enables advocates to draw custom geographies, such as neighborhood boundaries, which might not fit neatly into census tracts.

THE CONPLAN AND THE NATIONAL HOUSING TRUST FUND

The National Housing Trust Fund (NHTF) statute requires states to prepare an Allocation Plan each year showing how the state will allot the NHTF dollars it will receive in the upcoming year. Each state must distribute its NHTF dollars throughout the state according to the state's assessment of priority housing needs as identified in its approved ConPlan.

NHTF advocates should determine which state agency is responsible for the ConPlan. It might not be the same agency that receives and administers the NHTF. Advocates should inform the ConPlan agency (and the NHTF state agency if it is different) that they are interested in participating in the process for planning where and how NHTF money will be used.

Although the NHTF statute requires public participation in the development of the NHTF Allocation Plan, the NHTF interim rule does not explicitly declare that, in order to receive NHTF money, states must develop their Allocation Plans using the ConPlan public participation rules. It merely requires states to submit a ConPlan following the ConPlan rule, which does have public participation requirements.

Action around the NHTF Allocation Plan begins at the state level, and could then flow to the local level if a state decides to allocate some or all of the NHTF to local subgrantees. The state NHTF Allocation Plan will be tied to a state's ConPlan, and then perhaps a local government's NHTF Allocation Plan will be tied to the locality's ConPlan.

For advocates only accustomed to ConPlan advocacy at the local level because a locality gets CDBG and HOME directly from HUD, the state NHTF process will be an important new experience. To better ensure that NHTF dollars are used properly, it will be necessary for advocates to learn how to influence their state ConPlan.

The interim NHTF rule requires states receiving NHTF dollars to submit a performance report according to the ConPlan regulations. The NHTF performance report must describe NHTF program accomplishments, and the extent to which the state complied with its approved NHTF Allocation Plan and all of the requirements of the NHTF rule. NLIHC will monitor how HUD addresses performance reporting through changes to the ConPlan template.

FORECAST

The ConPlan will take on significant new importance in 2016 because HUD published the interim NHTF rule, triggering states' drafting of NHTF Allocation Plans to implement the NHTF. In addition, HUD published the final AFFH rule, which more firmly ties AFFH to the ConPlan process.

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 needs are identified and assigned the level of priority they deserve. With the mapping tool, advocates can add information and data that the jurisdiction might not include, such as data from studies conducted by local universities. Advocates can also devise an alternative plan using the mapping tool to draw neighborhood boundaries that more realistically reflect community dynamics. 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 the high priority needs of low income people.

FOR MORE INFORMATION

NLIHC, 202-662-1530, www.nlihc.org

HUD Consolidated Plan on HUD Exchange https://www.hudexchange.info/programs/consolidated-plan

ConPlan template Desk Guide, https://www.hudexchange.info/resource/2641/econ-planning-suite-desk-guide-idis-conplan-action-plan-caper-per

ConPlan mapping tool, http://egis.hud.gov/cpdmaps and CPD Maps Desk Guide, https://www.hudexchange.info/resource/3818/guide-to-the-data-driven-planning-toolkit-in-cpd-maps

End of year reporting, https://www.hudexchange.info/programs/idis/idis-reporting, and

https://www.hudexchange.info/resource/3312/hud-memo-caper-for-entitlement-grantees-for-1997-program-year ■

Continuum of Care Planning

By Anna Blasco,
Technical Assistance Specialist,
National Alliance to End Homelessness

Administering agency: HUD's Office of Special Needs Assistance Programs within the Office of Community Planning and Development

Year program started: 1994

Population targeted: Homeless people

Also see: *McKinney-Vento Homeless Assistance Programs*, *Ten-Year Plans to End Homelessness*, *Federal Surplus Property to Address Homelessness*.

The Continuum of Care (CoC) planning process is used by communities to apply for funding from HUD's CoC program. Through the CoC planning process, government agencies, service providers, advocates, and other stakeholders evaluate the needs of homeless people in the community, assess the performance of existing activities, and prioritize activities going forward. The CoC process was introduced by HUD in the mid-1990s. It was codified into law by Congress through the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act of 2009.

HISTORY AND PURPOSE

The CoC process was developed by HUD in 1994 to coordinate the distribution of several competitive homeless assistance programs. Prior to the CoC process, organizations applied individually for funding from several homeless assistance programs. As a result, there was little coordination between these programs or between different organizations receiving funding in the same community. The CoC process was established to promote coordination within communities and between programs. It was also designed to bring together a broader collection of stakeholders such as public agencies, the faith and business communities, and mainstream service providers. Guidelines for the CoC planning process were included in annual Notices of Funding Availability (NOFAs). HUD regularly modifies the process.

On May 20, 2009, President Barack Obama signed the HEARTH Act (Public Law 111-22), providing Congressional authorization of the CoC process. Regulations governing the CoC program were published in the summer of 2012.

SUMMARY

The term Continuum of Care is used many different ways and can refer to the planning process, the collection of stakeholders involved in the planning process, the geographic area covered by the CoC, or the actual grant received from HUD.

The CoC planning process is typically organized by either a local government agency or a community-based nonprofit. The geography covered by a CoC can vary, covering an entire city, state, or a collection of counties. The goal of the CoC process is to create a systemic response to homelessness. The CoC process involves compiling information about homelessness in the community, including information about homeless populations and inventories of homeless assistance resources. This information is used to develop a list of priorities for funding, which helps determine how much funding a community will receive and for what projects.

In recent years, HUD has incentivized coordination between CoCs and various entities including Consolidated Plan jurisdictions, public housing authorities, Housing Opportunities for Persons with AIDS, Temporary Assistance for Needy Families, Runaway and Homeless Youth, Head Start programs, and other programs.

The HEARTH Act reauthorized the housing title of the McKinney-Vento Act. HUD began issuing regulations in 2011, with the release of interim regulations on the Emergency Solutions Grant and the Homeless Management Information Systems, along with a final regulation on the definition of homelessness. Regulations on the CoC program were published in the summer of 2012. Key changes made by the HEARTH Act include changes to outcome measures, funding incentives, eligibility for assistance, matching requirements, rural assistance, and administrative funding.

HUD's annual homeless assistance NOFA has typically been issued late in the calendar year, with an application deadline later in winter. Approximately $1.89 billion was made available in the most recent application, released in September and which CoCs submitted in late November 2015. CoCs could also create new permanent supportive housing or rapid re-housing bonus projects. Although the available amount of funding was expected to be sufficient to fund eligible renewal projects, applicants had to prioritize projects, including renewal projects, into two tiers. This NOFA included a strong preference for performance and effective practices that Congress originally included in the HEARTH Act. Depending on the strength of a community's CoC and of individual projects, a high-performing community could increase its capacity by as much as 15 percent through the addition of new projects; a low-performing community, on the other hand, could lose as much as 15 percent in low-performing projects that are defunded.

FORECAST

The HEARTH Act placed more of the responsibility for measuring outcomes and overseeing performance on the leaders of local CoCs. HUD's emphasis on performance on outcome measures is likely to increase. Demonstrating reductions in homelessness and effectiveness of programs in particular will continue to be emphasized.

TIPS FOR LOCAL SUCCESS

The CoC planning process is intended to focus on the needs of homeless people in the community and should focus on the most effective strategies for reducing homelessness. Yet the process often ends up serving the needs of incumbent providers, even when they are ineffective, and people who are perceived to be more deserving of assistance, rather than those who are in greatest need. Similarly, accessing mainstream resources, which are supposed to be generally available for low income people, is often difficult for people experiencing homelessness. For example, there are often numerous barriers for homeless people to access employment services, housing assistance, cash assistance, and treatment services.

Advocates play a crucial role in ensuring that the CoC process serves people who most need assistance and expands access to mainstream resources. For CoCs to be most effective, it is important that all key stakeholders have a seat at the table. In many communities, the needs of children, veterans, people with disabilities, youth, and domestic violence survivors are not always adequately represented. Advocates should work to ensure that they are part of the CoC process. By joining their local CoC, advocates can shape a community's priorities in addressing homelessness for current and emerging populations.

Critically, all stakeholders should participate in data collection efforts whenever appropriate, and ensure that programs are achieving good outcomes. Information about the CoC process and the local CoC coordinator can be found at HUD's Homelessness Resource Exchange website.

FOR MORE INFORMATION

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

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

National Law Center on Homelessness & Poverty, 202-638-2535, www.nlchp.org

HUD Homelessness Resource Exchange, https://www.hudexchange.info ■

Public Housing Agency Plan

By Ed Gramlich, Senior Advisor, National Low Income Housing Coalition

Administering agency: HUD's Office of Public and Indian Housing

Year Program Started: 1998

See also: *Resident Participation in Federally Subsidized Housing*

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). There is a 5-Year Plan with Annual Plan updates. The PHA Plan was meant to ensure local accountability through resident and community participation. However, various administrative and legislative efforts have weakened PHA Plans.

ADMINISTRATION

PHA Plans are administered by local public housing agencies (PHAs), with oversight by HUD's Office of Public and Indian Housing (PIH). PHA Plan regulations are at 24 CFR Part 903, Subpart B.

HISTORY

The Quality Housing and Work Responsibility Act of 1998 (QHWRA) established the PHA Plan because of the significant shift of authority to PHAs provided by that law. The PHA Plan was meant to ensure local accountability through resident and community participation opportunities. Resident Advisory Boards (RABs) were also created by QHWRA to ensure participation in the PHA Plan process by public housing residents and voucher-assisted households.

In June 2004, HUD issued regulations streamlining the Annual Plan requirements for PHAs with fewer than 250 public housing units and any number of voucher units, known as "small PHAs." These PHAs are only required to submit certifications regarding capital improvement needs and civil rights compliance. Congress broadened this regulatory streamlining in 2008, enacting several reforms that greatly diminish the Annual Plan requirements for PHAs administering fewer than 550 units of public housing and vouchers, combined, known as "qualified PHAs." Also in 2008, HUD took administrative action to dilute the information provided to residents and the general public through the PHA Plan template.

PLAN SUMMARY

All PHAs must develop 5-Year PHA Plans that describe the overall mission and goals of the PHA regarding the housing needs of low income families in its jurisdiction. Larger PHAs, called "non-qualified PHAs," must also develop an Annual Plan, which is a gathering together of a PHA's program intentions, such as demolition, as well as key policies, such as those relating to admissions, income targeting, rents, and pets. However, these larger PHAs only have to submit a short PHA Plan template to HUD each year.

See the following *"What is the PHA Plan"* for all of the required components of the Annual PHA Plan.

Resident Advisory Boards. As part of this planning process, PHAs are required to have at least one Resident Advisory Board to assist in the development of the PHA Plan and any significant amendments to the plan. RAB membership must adequately reflect and represent residents served by the PHA, including voucher holders if they make up at least 20% of all those assisted.

In order to ensure that RABs can be as effective as possible, the PHA must provide reasonable means for the RAB to become informed about programs covered by the PHA Plan, communicate with residents in writing and by telephone, hold meetings with residents, and get information through the Internet.

The PHA must consider RAB recommendations when preparing a final PHA Plan or any significant amendment to it. A copy of the RAB's recommendations and a description of whether those recommendations were addressed must be included with the final PHA Plan.

Resident and Community Participation. The law and regulations provide for a modest public participation process. The PHA must conduct reasonable outreach to encourage broad public participation. The PHA's board of commissioners must invite public comment regarding a proposed PHA Plan and conduct a public hearing to discuss it. The hearing must be held at a location convenient to PHA residents. At least 45 days before the public hearing, the PHA must make the proposed PHA Plan, required attachments, and other relevant information available for public inspection at the PHA's main office during normal business hours, and publish a notice indicating the date, time, and location of the public hearing, as well as the availability of the proposed PHA Plan.

The final, HUD-approved PHA Plan, along with required attachments and other related documents, must be available for review at the PHA's main office during normal business hours. Small PHAs submitting so-called streamlined Annual PHA Plans must certify that any revised policies and programs are available for review at the PHA's main office during normal business hours.

There are four places in the regulations indicating that writing and calling HUD to complain about the PHA Plan might secure attention and relief from HUD.

If a RAB claims in writing that the PHA failed to provide adequate notice and opportunity for comment, HUD may make a finding and hold up approval of a PHA Plan until this failure is remedied.

Before approving a PHA Plan, HUD will review "any… element of the PHA's Annual Plan that is challenged" by residents or the public.

HUD can decide not to approve a PHA Plan if the plan or one of its components:

- Does not provide all of the required information.
- Is not consistent with information and data available to HUD.
- Is not consistent with the jurisdiction's Consolidated Plan.

To ensure that a PHA complies with all of the policies adopted in its HUD-approved PHA Plan, "HUD shall, as it deems appropriate, respond to any complaint concerning PHA noncompliance with the plan…. HUD will take whatever action it deems necessary and appropriate."

Significant Amendments. The PHA Plan must identify the PHA's basic criteria for determining what makes an amendment significant. Significant amendments can only take place after formal adoption by the PHA board of commissioners at a meeting open to the public, and after subsequent approval by HUD. Significant amendments are subject to all of the RAB and public participation requirements discussed above.

Advocates and residents should be alert to changes to the PHA Plan at any time of the year because any policy or program in it can be modified. Advocates and residents should review the PHA Plan's criteria defining significant amendments, and work to change them if they are written so that few modifications would be judged significant and therefore escape the RAB and public participation requirements.

Major Changes Since 2008. Congress weakened the usefulness of the PHA Plan with changes made in the Housing and Economic Recovery Act of 2008. This law included a provision greatly diminishing PHA Annual Plan requirements for PHAs that administer fewer than 550 units of public housing and vouchers, combined. As of June 30, 2015, HUD reported that there were 2,817 so-called "qualified PHAs." This means that 85% of the nation's PHAs were exempt from developing an Annual Plan. Qualified PHAs only need to certify that they are complying with civil rights law, and that their 5-Year PHA Plan is consistent with the local or state government's Consolidated Plan. Qualified PHAs must still hold a public hearing annually regarding any proposed changes to the PHA's goals, objectives, or policies. They must also have RABs and respond to RAB recommendations at the public hearing.

HUD also took action in 2008 that weakened the usefulness of the PHA Plan for larger PHAs. Previously, HUD required public housing agencies to use a computer-based PHA Plan template. This was a helpful outline of all of the PHA Plan components required by the law. But HUD drastically diminished the template in 2008, reducing it from a helpful 41-page, easy-to-access electronic guide, to a mere page-and-a-half-long form, making it much more difficult for residents and the public to know what the law requires and what changed at the PHA during the previous year.

The 2008 PHA Plan template made it more difficult for residents and others to understand the PHA Plan process, engage in it, and have access to information associated with the 19 statutorily required PHA Plan components. (See the following *"What's in the PHA Plan."*) The template merely asked PHAs to indicate which of the components were revised, not how the components were revised. Also, there was no longer a list of required plan components prompting residents and others to proactively recommend their own revisions to the Annual Plan.

After proposing changes to the 2008 template in 2011 and 2012, HUD issued Notice PIH-2015-18 on October 23, 2015, announcing final revised PHA Plan templates.

Instead of one single Annual PHA Plan template used by all PHAs, HUD now has four types of Annual PHA Plan templates to be used for different categories of PHAs. These templates include several modest improvements over the streamlined PHA Plan in use since November 2008; however, they are still far less helpful for residents and advocates than the pre-2008 template.

The new Annual PHA Plan templates are:

HUD-50075-ST for Standard PHAs and Troubled PHAs. A Standard PHA owns or manages 250 or more public housing units and any number of vouchers, for a combined total of more than 550; and the PHA was designated "standard" in its most recent assessments for the Public Housing Assessment System (PHAS) and Section Eight Management Assessment Program (SEMAP). A Troubled PHA has an overall PHAS or SEMAP Score of less than 60%.

HUD-50075-HP for High Performer PHAs. A High-Performer PHA owns or manages any number of public housing units and any number of vouchers, for a combined total of more than 550; and the PHA was designated "high performer" in its most recent assessments for PHAS and SEMAP.

HUD-50075-SM for Small PHAs. A Small PHA owns or manages fewer than 250 public housing units and any number of vouchers, for a combined total of more than 550; and the PHA was not designated as troubled in the most recent PHAS or SEMAP assessment, or at risk of being designated as troubled.

HUD-50075-HCV for HCV Only PHAs. A Housing Choice Voucher (HCV) Only PHA does not own or operate any public housing units, but does administer more than 550 vouchers; and the PHA was not designated as troubled in its most recent SEMAP assessment.

Qualified PHAs that were not designated as troubled in the most recent PHAS assessment or as having a failing SEMAP score during the prior 12 months are not required to complete and submit an Annual PHA Plan. However, Qualified PHAs must submit a 5-Year PHA Plan.

Previously, the PHA Plan template for the 5-Year PHA Plan and the Annual Plan were the same. Notice PIH-2015-15 introduced a separate template for the 5-Year PHA Plan to be used by all PHAs.

Several modifications are improvements over the 2008 template. Each of the new templates clearly state that a proposed PHA Plan, each of the statutorily required PHA Plan elements, and all information relevant to the public hearing about a proposed PHA Plan and the proposed PHA Plan itself must be available to the public. The new templates must also indicate where the public can access the information. At a minimum, PHAs are required to post PHA Plan templates at each Asset Management Project, (public housing development or group of developments) and at the PHA's main office. PHAs are encouraged to post PHA Plans on their official websites and provide copies to resident councils. Notice PIH-2015-15 adds that the approved PHA Plan and required attachments and documents related to the PHA Plan must be made available for review and inspection at the principal office of the PHA during normal business hours.

The balance of this article focuses on the template for Standard/Troubled PHAs. The new template offers several modest improvement over the 2008 version. In a section titled "Revision of PHA Plan Elements," the template lists key statutorily required PHA Plan elements (for example, rent determination policies or grievance procedures), with boxes to indicate whether a change has been made. This modification offers residents a clue about what some of the required elements are; without listing them, the 2008 template merely directed PHAs to identify any elements that were revised during the year. The new template also directs PHAs to describe any revisions.

The Standard/Troubled PHA Plan template is also improved by creating a "New Activities" section for a PHA to indicate whether or not it intends to undertake a new activity, such as project base vouchers, convert public housing units under the Rental Assistance Demonstration, or undertake a mixed finance project. Any new activities must be described.

The revised template requires PHAs to include any comments received from the RAB, along with the PHA's analysis of the RAB's comments as well as a description of the PHA's decision regarding RAB comments.

One of the changes trumpeted in Notice PIH-2015-15 is that the template will finally integrate into the templates, descriptions of the PHA's policies or programs to enable a PHA to serve the needs of victims of domestic violence, dating violence, sexual assault, or stalking in accord with requirements of the Violence Against Women Act (VAWA). However, the body of the templates do not mention VAWA-related information. Only by reading the instructions regarding any revision to a PHA Plan statutorily required elements and then carefully examining the last half of the entry pertaining to "Safety and Crime Prevention" does one detect VAWA-related language.

The 2008 template required PHAs to submit as an attachment to the PHA Plan, any challenge to one of the statutorily required PHA Plan elements. The regulations call for HUD to review any such challenge. Although Notice PIH-2015-15 acknowledges this aspect of the regulations, it removes the requirement to submit any challenge from the new template. HUD writes that it will consider incorporating the requirement in the future.

FORECAST

NLIHC remains concerned that resident involvement in the PHA Plan will continue to diminish due to the loss of guidance in the PHA Plan template. The template still has fewer reminders about the role of the RAB 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 RAB members or residents on the PHA Board.

NLIHC is also concerned that HUD no longer posts a directory of approved PHA Plans by state. HUD should resume posting PHA Plans on its website.

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 under lease.

The PHA's SEMAP ratings, any audits of the agency performed by the HUD Secretary, and any corrective action the agency took regarding SEMAP or audit findings.

In addition, NLIHC believes that 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

Advocates should participate in the development of their local agency's PHA Plan. Find out the dates PHA Plans are due to HUD, which are based on PHAs' fiscal year start dates. Ask the PHA to provide notice well in advance of the required public hearing, and ask specifically about proposed changes. Review all PHA Plan components thought important, and prepare written comments as well as comment at the public hearing. Work with others, especially residents of public housing, voucher holders, and other low income people, to increase participation in the PHA Plan process. All year long advocates should be on the lookout for significant amendments, and submit written comments as well as verbal comments at the public hearing required for significant amendments.

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 and enhanced to require more components of concern to residents and other community members.
- HUD's diminished template for Annual PHA Plan submission should be returned to its original state.

FOR MORE INFORMATION

NHLIC, 202-662-1530, www.nlihc.org

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

HUD PHA Plan webpage, http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/pha

Notice PIH-2015-18 is at http://portal.hud.gov/hudportal/documents/huddoc?id=15-18pihn.pdf

HUD list of Qualified PHAs, http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/pha/lists ■

Public Housing Agency Plan: What's in the Annual PHA Plan?

By Ed Gramlich, Senior Advisor, NLIHC

1. **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.
2. **Tenant Eligibility, Selection, and Admissions Policies** as well as waiting list procedures, admissions preferences, unit assignment policies, and race and income deconcentration policies.
3. **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.
4. **Rent Determination** including rent policies for tenants, and for landlords receiving vouchers.
5. **Operations and Management** of facilities, including PHA programs, their organization, and policies governing maintenance (including those policies regarding pest infestation).
6. **Grievance Procedures** for residents and applicants.
7. **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.
8. **Demolition and Disposition Plans** that the PHA has applied for, or will apply for, including timetables.
9. **Designation of Public Housing for Elderly or Disabled** identified.
10. **Conversion of Public Housing** to tenant-based vouchers as specified in Section 33 or Section 22.
11. **Homeownership Programs** described, such as Section 8(y) or Section 5(h).
12. **Community and Self-Sufficiency Programs** that aim to improve families' economic or social self-sufficiency, including those that will fulfill community service requirements as well as Section 3 jobs efforts.
13. **Safety and Crime Prevention** including coordination with police.
14. **Pets** policy.
15. **Civil Rights** as reflected in a formal pledge that the PHA will comply with the Civil Rights Act of 1964, the Fair Housing Act, Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act.
16. **Financial Audit** from the most recent fiscal year.
17. **Asset Management** for long-term operating, capital investment, rehabilitation, modernization, or sale of the PHA's inventory.
18. **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.
19. **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, Senior Advisor, NLIHC

Administering Agency: The Internal Revenue Service of the Department of the Treasury

Year program started: 1986

Number of households served: 55,925 in 2012, the latest data available

Population targeted: Households with incomes either below 60% of area median income (AMI) or 50% AMI

Also see: *Low Income Housing Tax Credit*

The federal Low Income Housing Tax Credit (LIHTC) 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 to housing properties. In some states, the QAP also sets out threshold criteria for noncompetitive 4% tax credits and any state LIHTC.

The QAP is a tool advocates can use to influence how their state's share of annual LIHTCs is allocated to affordable housing properties. Advocates can use the public hearing and comment requirements to convince their housing finance agency to better target tax credits to properties 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 states, and a few local agencies, must develop in order to distribute federal LIHTCs, which may 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's) 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) or difficult development areas (DDAs), as long as the project contributes to a concerted community revitalization plan. QCTs are census tracts with a poverty rate of 25% or in which 50% of the households have incomes below 60% of the AMI. However, the aggregate population in census tracts designated as QCTs cannot exceed 20% of the metropolitan area's population. DDAs are areas in which construction, land, and utility costs are high relative to incomes.

The QAP selection criteria must address 10 items: (1) location; (2) housing needs; (3) public housing waiting lists; (4) individuals with children; (5) special needs populations; (6) whether a project includes the use of existing housing as part of a community revitalization plan; (7) project sponsor characteristics; (8) projects intended for eventual tenant ownership; (9) energy efficiency; and (10) historic nature. Those requirements are minimums; states can adopt more rigorous criteria that target advocates' priority populations and locations. Most states establish detailed QAP selection criteria and set-asides based on the characteristics of their state's needs.

HFAs may target tax credits in several ways:

- The QAP selection process may give preferences, in the form of extra points, to encourage developers to submit projects more likely to serve particular populations or locations; for example, by awarding 10 points to projects that set aside 10% of the units for special needs populations.
- The QAP may 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 $5 million set-aside for rural projects.
- The QAP may 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.

FORECAST

Because preservation and rehabilitation of existing properties is often more efficient, the Administration's FY16 budget request, as did the FY15 request, proposed adding preservation of federally assisted affordable housing to the current list of ten selection criteria that every QAP must include. The FY16 budget request also proposed removing the limit under which the aggregate population in census tracts designated as QCTs cannot exceed 20% of the metropolitan area's population; Treasury indicates the 20% limit may keep some census tracts from QCT status.

TIPS FOR LOCAL SUCCESS

Because each state receives a new allocation of LIHTCs each year, QAPs are usually drafted annually. This gives advocates regularly scheduled opportunities to influence QAP priorities. LIHTCs are often in high demand among developers; therefore, developers propose projects that address the priorities set forth in the QAP to give themselves an advantage in the selection 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 individual priorities 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 points to projects with fewer than 50 units in rural areas.

Advocates can also argue for features that protect tenants, for example a 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 the extended use period of another 15 years, advocates should try to get the compliance period lengthened as a threshold issue, or try to get point preferences or set-asides for projects that voluntarily agree to a longer compliance period.

All states are required to have a public hearing about their 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 advocate's priorities throughout the year. Not all communication has to take place in the context of the formal QAP process. Informal contacts can be used effectively to advance an advocate's priorities. In fact, the most effective means of advocating for any particular priority is to be in contact with the HFA long before a draft QAP is publicly released.

Once an HFA decides 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.

Before tax credits are allocated, there must be a comprehensive market study of the housing needs of low income people in the area a project is to serve. 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.

Most states post a list of properties that have won tax credits after each round of competition. These lists can often be found on an HFA's website.

FOR MORE INFORMATION

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

List of state HFAs, http://www.novoco.com/low_income_housing/lihtc/information_state.php

State QAPs, http://www.novoco.com/low_income_housing/lihtc/qap_2016.php ■

Section 3: Job Training, Employment, and Business Opportunities Related to HUD Funding

By Ed Gramlich, Senior Advisor, NLIHC

Section 3 of the Housing and Urban Development Act of 1968, titled "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 (VLI) residents and eligible businesses.

The Section 3 obligation is too often ignored by the recipients of HUD funds and not enforced by HUD or the local recipients; therefore, the potential of the program is unrecognized or underused by low and VLI people, qualified businesses, and their advocates. However in recent years, both lawmakers and current HUD officials have expressed interest in strengthening the program.

ADMINISTRATION

Oversight responsibility for Section 3 rests with HUD's Office of Fair Housing and Equal Opportunity (FHEO). HUD is charged with monitoring and determining whether 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 subrecipients and contractors.

HISTORY

The Section 3 obligation was created as part of the Housing and Urban Development Act of 1968, which at the time was described as "the most farsighted, the most comprehensive, the most massive housing program in all American history." Section 3 was a component of that act which strove to improve the quality of life for all. The Section 3 statute has been amended four times; each time the amendments primarily sought to expand the reach of Section 3 and to better benefit low income households. Nevertheless, the potential of this program has largely been ignored throughout its history.

SUMMARY

Section 3 is a federal obligation that is tied to HUD funding. Section 3 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 VLI residents and "Section 3 businesses."

It applies to all HUD funding for public housing and Indian housing, such as the public housing operating fund and capital fund, Resident Opportunity and Self-Sufficiency grants, Family Self-Sufficiency grants, HOPE VI, and the Rental Assistance Demonstration (RAD) program. Section 3 also applies to other housing and community development funding including Community Development Block Grant (CDBG), HOME Investment Partnerships, Housing Opportunities for Persons with AIDS, and Neighborhood Stabilization Program funds.

HUD regulations set numerical goals for all entities subject to Section 3. Low and VLI individuals should be given a preference for at least 30% of all new hires that arise from the HUD funding. 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 commits to contract at least 25% of the dollars awarded to Section 3 businesses. Low income is defined as income less than 80% of the metropolitan area median income, while VLI is defined as income below 50% of AMI. Building trades work is not defined, but probably includes obvious professions such as bricklaying, plumbing, and painting; "other" types of contracts might be carpet installation, pest control, or bookkeeping (for the construction company).

The Section 3 regulations spell out orders of preference that should be given to residents and businesses. A preference should mean that if the Section 3 individual meets the job qualifications or a Section 3 business meets the bid requirements, the individual should be hired or the business should get the contract. The order of resident preferences for Section 3 activities at public housing is: residents of the public housing development that is assisted; residents of other public housing developments in the service area of the public housing agency (PHA); YouthBuild participants; and, finally, other low income people in the metropolitan area (or non-metropolitan county). The order of resident preference for other housing and community development activities is: low income people living in the service area or neighborhood where the assisted project is located; YouthBuild participants; homeless people in the service area of neighborhood of the assisted project; and, other low income people in the metropolitan area (or non-metropolitan county). There are also orders of preferences regarding Section 3 businesses pertaining separately to public housing and to other housing and community development projects.

For both public housing and the other housing and community development funding, the Section 3 obligation is applicable to the entire project regardless of the amount of funding subject to Section 3. 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.

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 other housing and community development funding, Section 3 is applicable only to jobs that arise in connection with construction or rehabilitation, and only if the funding is more than established thresholds. Examples of eligible types of other housing and community development projects include housing construction or rehabilitation; public works projects, such as waterfront redevelopment; retail and restaurant development; development of entertainment facilities; and, other related infrastructure. The way HUD has established thresholds for contractors enables recipients and contractors to avoid Section 3 by making sure that they break up all construction activities (such as housing rehabilitation) into small contracts less than the $100,000 threshold, even if the contractor is receiving much more HUD money to do the same construction work (for example, rehabilitating many homes).

The HUD notice implementing RAD limits Section 3 to construction, rehabilitation, and repair work that arises from the conversions of public housing and Moderate Rehabilitation units to project-based vouchers or to project-based Section 8. Once the conversion is complete, future rehabilitation or repair work is not subject to Section 3.

One HUD administrative decision regarding the program is of special note. In April 2004, HUD issued a decision that the City of Long Beach, California, violated Section 3 because Section 3 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 with a hiring surge at the end of the contract period and therefore frustrate the purpose of Section 3. 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."

There is a HUD-established complaint procedure for individuals and businesses to use for violations of Section 3. Complaints are filed with the FHEO Regional offices. HUD has responded favorably to some complaints that have been filed. There is no publicly available data on the number of complaints that have been filed or their resolution, but HUD could make such information available.

FUNDING

There is no independent funding for Section 3. The number of jobs created or contracts provided to Section 3 individuals or businesses depends upon the level of funding for the applicable public housing or housing or community development program.

FORECAST

On March 27, 2015, HUD published long-anticipated amendments to the interim Section 3 regulations. In 1994, HUD published an interim rule updating the Section 3 regulations in response to changes made by the Housing and Community Development Act of 1992. The preamble summarizes 11 provisions of the proposed rule that HUD considers significant. Three key proposed changes are:

The proposed rule would change the dollar threshold for recipients that directly receive federal housing and community development funds. The text of the existing rule is confusing, leading some recipients to incorrectly apply the $200,000 threshold on a per-project basis rather than on a per-recipient basis. As a result, some recipients avoid Section 3 obligations at projects that have less than $200,000 of HUD assistance. The proposed rule would have unambiguous language and establish a new $400,000 threshold. The proposed rule clearly states that once the $400,000 threshold is reached, Section 3 obligations apply to all Section 3 projects and activities funded with any amount of HUD housing and community development funds. In addition, the requirements would apply to the entire project, regardless of whether the project is partially or fully funded with HUD funds.

The proposed rule would eliminate the $100,000 threshold for contractors and subcontractors. This improvement can result in greater employment and subcontracting opportunities for Section 3 residents and businesses. Under the existing regulation, contractors and subcontractors do not have to comply with Section 3 if a contract for construction work on a project is less than $100,000. Consequently, it has been HUD policy to exempt contractors and subcontractors awarded significant amounts of Section 3 covered funds in a single year to expend on small, discreet activities—such as homeowner housing rehabilitation—from meeting their Section 3 obligations. Cumulatively, such contractors and subcontractors can expend far more than $100,000 in covered funds, yet do not have to hire Section 3 residents or subcontract with Section 3 businesses because each component activity costs less than $100,000.

The proposed rule would revise the definition of "new hire." The existing rule sets a goal of having 30% of new hires at a project to be "Section 3 residents." The rule has no provision concerning how long the Section 3 resident is employed. Advocates have long asserted that the rule's lack of a provision considering hours worked as well as the duration of employment is a loophole, allowing contractors to hire Section 3 residents for a short period of time. HUD concurred, proposing to redefine a new hire as someone who works a minimum of 50% of the average hours worked for a specific job category for which the person was hired, throughout the duration of time that the work is performed on the project. The preamble offers an example: If a typical painter works 40 hours per week, then a Section 3 new hire must work a minimum of 20 hours per week for as long as a typical painter would work at the project.

Although advocates welcomed HUD's attempt to address the concern about the duration of employment, the proposed rule insufficiently addresses the first problem (hours worked) and does not address a second concern (duration). For years, advocates have suggested to HUD that the Section 3 employment goal obligation should not be measured by counting the number of Section 3 workers who are "new hires." Using "new hire" as a measure allows contractors and subcontractors to place any new hires on their non-Section 3 covered projects and thus evade Section 3. Instead of "new hire," compliance should be assessed by the number of hours worked by Section 3 residents as a percentage of total hours worked by all employees of a given job category. In other words, to meet Section 3 goals, Section 3 residents for each job category should be working at least 30% of the total number of hours worked by all employees in that job category.

Advocates commented that if HUD is not willing to accept the above recommendation, HUD's definition of a "new hire" should at least increase from 50% to 100%, the average number hours worked for a specific job category for which the Section 3 resident was hired. The 50% standard would encourage hiring Section 3 residents for part-time work and render Section 3 employees as second-class employees. In addition, it is likely to hinder skill building because the employer could rationalize that a Section 3 employee will not be around long enough.

Starting in 2009, HUD increased its efforts to get recipients of HUD funds who are subject to Section 3 to report their compliance on form HUD 60002. HUD later reported that nearly 80% of all recipients file these reporting forms. However as noted by a June 2013 HUD Office of Inspector General (OIG) report, HUD did not verify the accuracy of the forms or follow up on clearly non-compliant information, leading OIG to conclude that for 2011, some 1,650 PHAs "could be falsely certifying compliance."

In December 2013, FHEO announced in a webinar that it had revised the HUD 60002 form to address these problems for PHAs and all HUD grant recipients. FHEO intended to make mandatory, the requirement to explain efforts taken when the statutory and regulatory goals were not met. FHEO also stated that it had created a system that would prevent the submission of clearly non-compliant or inaccurate information. Unfortunately, HUD suspended the roll out in January 2014 due to unforeseen technical difficulties. On August 24, 2015, FHEO announced the re-launch of the Section 3 Performance Evaluation and Registry System (SPEARS) for the submission of form HUD 60002 annual summary reports, requiring retroactive reporting for the 2013 and 2014 reporting periods by December 15, 2015.

The issues for advocates include how HUD will respond to local agency reports that do not reasonably explain why there were no or too few new Section 3 hires, or no or too few dollars under contract with Section 3 businesses. In addition, advocates should be interested in how HUD works to secure compliance from those local agencies that have completely ignored the prior reporting requirements. Will HUD establish, as recommended by the OIG, a system of remedies and sanctions for PHAs (and presumably other HUD grant recipients) that do not submit HUD-60002 forms?

In accordance with the HUD Strategic Plan for 2010-2015, HUD's Notices of Funding Availability (NOFA) process was improved by informing applicants that HUD was interested in proposals that focus on skills training and partnerships with community-based organizations to develop pathways to career ladders for low income populations. The FY13 NOFA continued that emphasis and stated that HUD was interested in activities that were more comprehensive than Section 3 and outcomes "beyond just the number of jobs created." The FY14 and FY15 NOFAs no longer contained such emphasis. The FY16 NOFA merely states that for programs already subject to the requirements of Section 3, applicants must clearly explain how the proposed activities will exceed the Section 3 employment and contracting goals. The HUD Strategic Plan for 2014-2018 no longer made reference to Section 3.

In 2011 HUD selected five pilot locations to determine the feasibility of HUD monitoring a registry of self-certified Section 3 businesses. There is no information as to whether HUD will expand the pilot program.

Legislation to Improve Section 3. Representative Nydia Velazquez (D-NY) has repeatedly sought to improve Section 3 but these efforts have not been supported by many of her colleagues. It is not likely that things will change in the coming year. In prior years, she has held hearings and proposed legislation, such as the Section 3 Modernization and Improvement Act of 2015 (H.R. 3697), which she introduced last October. H.R. 3697 would ensure that recipients of HUD funding are held accountable for not meeting their Section 3 responsibilities when they fail to spend federal resources in a manner that creates jobs and economic opportunities for low and VLI residents. The bill would also extend Section 3 requirements to PHAs and owners of multifamily properties assisted under the RAD program. Moreover, H.R. 3697 would require HUD to report to Congress each year on Section 3 compliance and provide specific solutions for situations where funding recipients have failed to meet their Section 3 obligations.

TIPS FOR LOCAL SUCCESS

The successes of Section 3 are almost exclusively attributed to oversight, monitoring, and advocacy by local advocates and community groups, as well as some local staff of recipient agencies implementing the goals.

Advocates should contact resident organizations, local unions, minority and women-owned businesses, community development corporations, and employment and training organizations to discuss how they and their members or clients can use the Section 3 goals and preferences to increase employment and contracting opportunities for the targeted low and VLI individuals and Section 3 businesses.

In addition, advocates should meet with local PHAs and other local recipients of housing and community development dollars (generally cities and counties) to discuss whether they are meeting their Section 3 obligations with respect to public housing funds, or the CDBG, HOME, and RAD programs. Advocates should create or improve upon a local plan to fully implement Section 3. Seek information on the number of low and VLI individuals trained and hired in accordance with Section 3, and the dollar amounts contracted with Section 3 businesses. Because of the continuing initiative to get recipients to submit the form HUD 60002, advocates should ask local recipients of HUD funds or HUD for copies of the submitted forms and take the necessary action. Compliance with Section 3 could be addressed in the annual PHA plan process or the Consolidated Plan process.

If compliance is a problem, urge HUD to monitor and conduct a compliance review of the non-complying recipients of federal dollars for public housing or housing and community development. Low income persons and businesses with a complaint about recipients of HUD funds or contractors' failure to comply with or meet Section 3 goals should consider filing an official complaint with HUD.

WHAT TO SAY TO LEGISLATORS

Advocates should speak to legislators about the connection between HUD funding and jobs. They should also encourage their representative to support Ms. Velazquez's bill, H.R. 3697. Advocates should recommend that the Section 3 requirements that currently apply to PHAs should be extended to properties that convert to RAD beyond any initial rehabilitation or construction.

FOR MORE INFORMATION

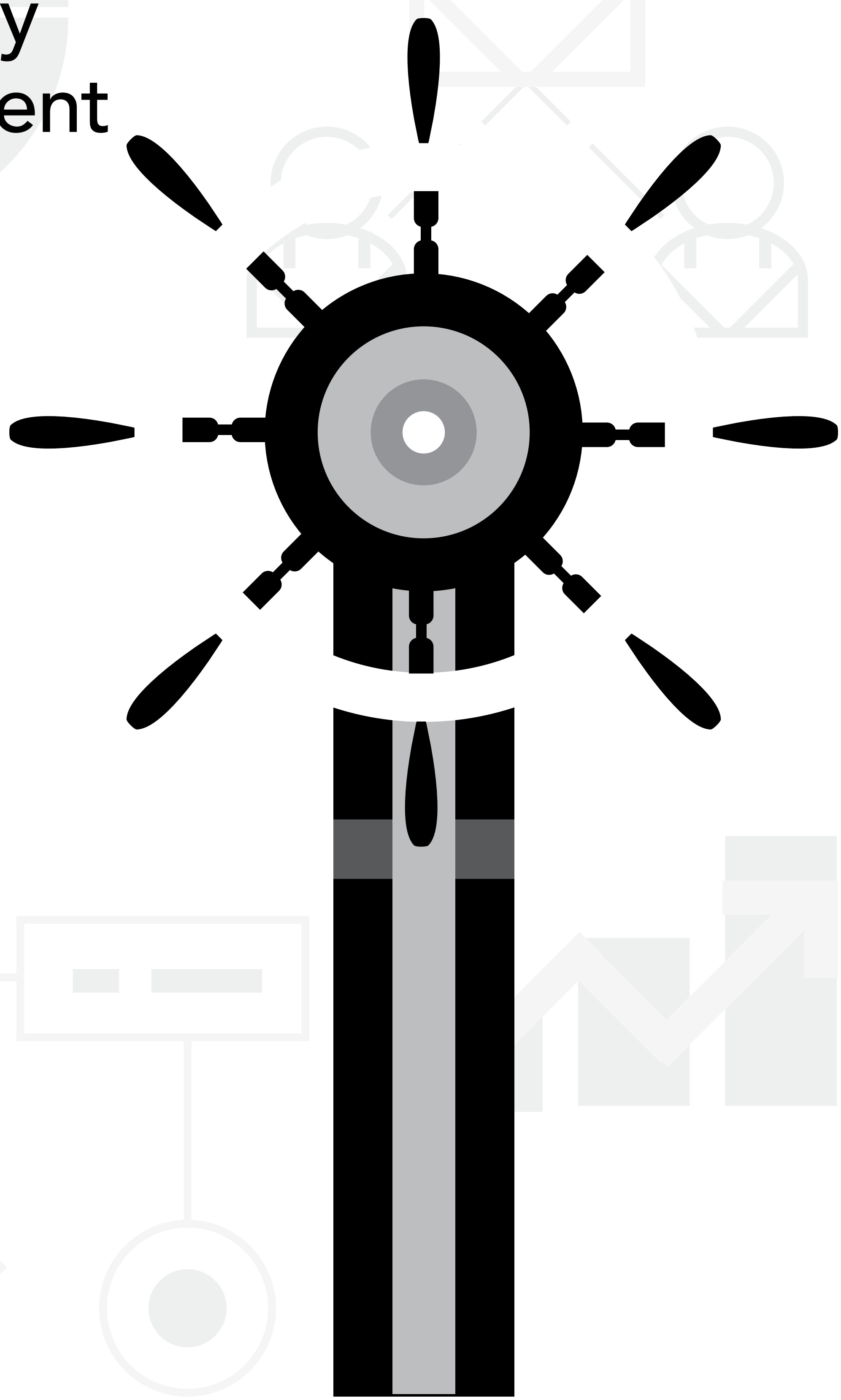
HUD's FHEO Section 3 website is http://1.usa.gov/YJPOIi

HUD's Section 3 Frequently Asked Questions are at http://portal.hud.gov/hudportal/documents/huddoc?id=11secfaqs.pdf

"An Advocate's Guide to the HUD Section 3 Program: Creating Jobs and Economic Opportunity," from the National Housing Law Project is at http://nhlp.mayfirst.org/files/03%20Sec.%203%20Guide.pdf ■

Chapter 8:

Community Development Resources



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Capital Magnet Fund

By Shannon Ross, Director, Government Relations, Housing Partnership Network

Administering Agency: Community Development Financial Institutions (CDFI) Fund at the U.S. Department of the Treasury

Year Program started: 2008 (two funding rounds in FY10 and current round FY16)

Number of persons/households served: 6,800 affordable homes, 15 community facilities

Population targeted: Households with income below 120% area median income (AMI); at least 51% with income below 80% AMI

FY16 funding: NLIHC estimates that the Capital Magnet Fund will receive $100.4 million in 2016.

Also see: *Community Development Financial Institutions Fund*

The Capital Magnet Fund (CMF) provides competitive grants to CDFIs and nonprofit housing developers to finance and develop affordable housing, as well as community facilities and economic development projects that support affordable housing. CMF grants are used to fund financing tools such as loan loss reserves or loan guarantees, and must be matched at least 10 to 1 with funding from other sources. Moving forward, the administration should support funding for the CMF under current law, and Congress should preserve the program as the housing finance reform system evolves.

HISTORY

The CMF was created as part of the Housing and Economic Recovery Act of 2008 to provide flexible public funds to attract private investment into affordable housing projects. As originally envisioned, the CMF (along with the National Housing Trust Fund) would have received funding through an assessment on new business of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac). In the fall of 2008, however, financial losses at Fannie Mae and Freddie Mac caused them to be placed in conservatorship, and their obligation to contribute to the CMF and to the National Housing Trust Fund (NHTF) was suspended. The suspension of contributions of assessments on new business of Fannie Mae and Freddie Mac was lifted at the end of 2014; contributions were to begin January 1, 2015, with funds to be distributed to CMF and NHTF in March 2016.

The legislation creating the CMF also allowed it to be capitalized through regular appropriations, which occurred in FY10 with an appropriation of $80 million to kick off the program. Until the FY16 funding round, the FY10 round was the only round of CMF funding. During the FY10 round of the CMF, the CDFI Fund received applications requesting more than $1 billion in grants. In October 2010, the CDFI Fund announced the inaugural CMF awardees. Out of 230 applicants, 23 organizations received awards; 13 awardees were nonprofit housing developers, 9 were CDFIs, and one was a tribal housing authority. According to the CDFI Fund, in the first two years of the CMF grants, each $1 of CMF funding attracted more than $12 in other capital for affordable housing. Thus, $80 million in CMF grants created upwards of $1 billion in investment in affordable housing and community facilities, creating more than 6,800 homes.

PROGRAM SUMMARY

The CMF is administered by Treasury's CDFI Fund as a competitive grant program to attract private capital and to increase investment in the development, preservation, rehabilitation, or purchase of affordable housing for low income families. Unlike other federal programs such as HOME, the CMF is not a block grant to state or local governments or housing authorities. The purpose of the CMF is to increase private investment in affordable housing built and operated by high-performing nonprofits. This improves the delivery system for affordable housing and community development.

A minimum of 70% of CMF money must be used for housing. One hundred percent of housing eligible project costs must be for units for households with income below 120% of the AMI; at least 51% of housing eligible project costs must be for units for households with income below 80% of

AMI. If CMF finances rental housing, then at least 20% of the units must be occupied by households with income below 50% of AMI. Maximum rent is fixed at 30% of either 120% AMI, 80% AMI, 50% AMI, or 30% AMI, depending on the household's income. For example, if an assisted household has income at 120% AMI, its maximum rent is 30% of 120% AMI. Assisted housing must meet the above affordability requirements for at least 10 years.

Eligible recipients are Treasury-certified CDFIs or nonprofit organizations that include the development or management of affordable housing as at least one of their purposes. 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 timeframe in which they intend to use it. 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 they were received.

In order to leverage funds, CMF dollars may be used to: provide loan loss reserves, capitalize a revolving loan fund or an affordable housing fund, or make 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 healthcare clinics, which in conjunction with affordable housing activities, implement a concerted strategy to revitalize low income or underserved rural areas.

Prohibited uses include political activities, advocacy, lobbying, counseling services, travel expenses, and endorsement of a particular candidate or party. Each grantee must track its funds by issuing periodic financial and project reports, and by fulfilling audit requirements.

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

FUNDING

The CMF's funding source was to be a percentage of new business for Fannie Mae and Freddie Mac. Under current law there is to be a 4.2 basis point assessment on each company's new business, with the CMF receiving 35% and the NHTF receiving 65%. However, these assessments were been suspended due to the government conservatorship.

In December 2014, the Federal Housing Finance Agency finally lifted the suspension. The 4.2 basis point assessment on Fannie Mae and Freddie Mac new business began on January 1, 2015. Sixty days after the close of 2015, Treasury is to distribute funds to the CMF and NHTF.

As was the case in FY10, if authorized by Congress, the CMF is also able to collect funding from other dedicated revenue sources or receive appropriated funds.

FORECAST

The CDFI Fund released the application for the FY16 CMF funding round on February 2, 2016, applications were due March 30, 2016, and awards should be announced later this year. The CMF was designed to use a small government subsidy as a magnet to attract much larger amounts of private capital to support affordable housing and community development. The overwhelming interest from applicants in the first round of funding demonstrates the appeal of this capital magnet model for expanding the nation's supply of affordable housing in a cost-effective manner. Proposed housing finance reform legislation is unlikely to take place before 2017. There was no funding for the CMF in the administration's FY17 budget request.

TIPS FOR LOCAL SUCCESS

The CMF represents a significant source of capital to support affordable housing and related community economic development.

WHAT TO SAY TO LEGISLATORS

If housing finance reform debate does return in 2016, advocates need to support the provisions in the 2014 legislation drafted by former Senate Banking Committee Chair Tim Johnson (D-SD) and former Ranking Minority Member Mike Crapo (R-ID) that would provide funds for the CMF and the NHTF.

FOR MORE INFORMATION

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

Housing Partnership Network, 202 677-4292, www.housingpartnership.org ■

Community Development Block Grant Program

By Ed Gramlich, Senior Advisor, NLIHC

Administering agency: HUD's Office of Community Planning and Development

Year program started: 1974

Population targeted: Households with incomes below 80% area median income (AMI)

FY16 funding: $3 billion

Also see: *Consolidated Plan*

The Community Development Block Grant (CDBG) program is a federal program intended to strengthen 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 (less than 80% of the area median income, AMI).

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 provide greater local flexibility in the use of federal dollars.

PROGRAM SUMMARY

The primary objective of the CDBG program is to have viable communities by providing funds to improve housing, the living environment, and economic opportunities principally for persons with low and moderate incomes. The regulations for entitlement jurisdictions are at 24 CFR Part 570, and the states and small cities regulations are at 24 CFR Part 570, Subpart I.

Eligible Activities. CDBG funds can be used for a wide array of activities, including: rehabilitating housing (through loans and grants to homeowners, landlords, nonprofits, and developers); constructing new housing (but only by certain neighborhood-based nonprofits); providing down payment assistance and other help for first-time home buyers; detecting and removing lead-based paint hazards; 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 or disabled; providing public services such as job training, transportation, healthcare, and child care (public services are capped at 15% of a jurisdiction's CDBG funds); building the capacity of nonprofits; rehabilitating commercial or industrial buildings; and making 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 local jurisdictions and states receive. 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 populations of more than 50,000 and counties with populations of more than 200,000. Those 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 AMI, which can be quite high. In FY15, for instance, 80% of AMI in Chicago was $60,800. AMI in some jurisdictions is so high—as in the Lowell, Mass., metropolitan area where the AMI was $96,400—that HUD caps the qualifying household income at the national median income, which in FY15 was $65,800 for a four-person household.

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 FY14, only 25% of CDBG was allocated for some type of housing program. Key housing-related uses included 12% for single-unit rehabilitation, 3.5% for rehabilitation administration, 1.9% for multi-unit rehabilitation, and 0.8% for new construction.

(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 the project's 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 will 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 incomes.

(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 to: (a) limit participation to people with lower incomes; (b) show that at least 51% of the beneficiaries are lower income; or (c) 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 actually benefit people with low incomes.

(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 lower incomes. Public hearings are required at all stages of the CDBG process. Hearings must give residents a chance to articulate community needs, review the proposed uses of CDBG funds, and comment on 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 have reasonable and timely access to information. In particular, advocates should get a copy of the draft Annual Action Plan of the Consolidated 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 as part of the larger Consolidated Annual Performance and Evaluation Report.

FUNDING

The FY16 appropriation for the CDBG formula program is $3 billion, the same as FY15 but less than the FY14 amount of $3.03 billion. The FY16 amount is a 25% reduction from FY10's $3.99 billion. For FY17, the president has requested $2.8 billion for CDBG.

TIPS FOR LOCAL SUCCESS

Because only 70% of CDBG funds must 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 realize little 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 low 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 low incomes really want in their neighborhoods, and then to monitor how funds are actually spent. To do this, advocates should 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 local jurisdictions.

FORECAST

The administration's proposed FY17 budget would decrease CDBG funding from FY16's $3 billion to $2.8 billion in FY17. The administration again is seeking to increase the set-aside for colonias in states along the US-Mexico border (California, Arizona, New Mexico, and Texas) from 10% to 15% of the states' allocations.

FOR MORE INFORMATION

NLIHC, 202-662-1530, www.nlihc.org

HUD's CDBG webpage, http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/programs which transfers users to HUD Exchange pages such as

The Entitlement Program page https://www.hudexchange.info/programs/cdbg-entitlement and

The State Program page https://www.hudexchange.info/programs/cdbg-state ■

Community Development Financial Institutions Fund

By Shannon Ross, Director, Government Relations, Housing Partnership Network

Administering agency: U.S. Department of the Treasury (Treasury)

Year program started: 1994

FY16 funding: $233.5 million

Also see: *Capital Magnet Fund*

The Community Development Financial Institutions (CDFI) Fund is comprised of seven 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.

HISTORY

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

OVERVIEW

To understand the CDFI Fund it is first necessary to describe CDFIs and what they do. CDFIs are specialized private sector financial institutions that serve economically disadvantaged communities and consumers. As of December 2015, there were 977 CDFIs, according to the CDFI Fund at Treasury. CDFIs assume many different forms, including banks (118), credit unions (265), depository institution holding companies (62), nonprofit loan funds (518), and venture capital funds (14). 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.

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 TA, to help alleviate poverty for economically disadvantaged people and communities. CDFIs offer responsible, innovative financing that banks would not typically offer. CDFIs also provide basic financial services to people who are unbanked, offering responsible alternatives to predatory lenders. 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, community facility financing, and small business development and training.

PROGRAM SUMMARIES

The CDFI Fund operates seven primary 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 (CMF) Program, the Healthy Food Financing Initiative, and the CDFI Bond Guarantee 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 enterprise approach to its programming by strengthening institutions rather than funding 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 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 FY16 funding level for this program is $153.4 million.

Native Initiatives Program. This program is the cornerstone of the CDFI Fund's Native Initiatives, which are designed to overcome identified barriers to financial services in Native Communities (including Native American, Native Alaskan, and Native Hawaiian populations). Through TA and FA, the CDFI Fund seeks to foster the development of new Native CDFIs and strengthen the capacity of existing Native CDFIs. Financial education and asset building programs, such as matched savings accounts, are particularly important to Native Communities. Despite being founded in 1994, the first TA grants were not made until 2002 after a comprehensive study of the capital and credit needs of Native Communities had been performed. FA followed in 2004. The CDFI Fund continues to collaborate with tribal governments and tribal community organizations through ongoing research and analysis that informs the recommendations for Native CDFIs. The FY16 funding level for this program is $15.5 million.

Bank Enterprise Award Program. The Bank Enterprise Award (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 FY16 funding level for this program is $19 million.

New Markets Tax Credit 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 912 awards totaling $43.5 billion in allocation authority. Awards for the 2015 round are expected to be announced in the summer of 2016.

The authority for NMTC had expired at the end of 2014. On December 18, 2015, Congress extended the authorization of the NMTC program for $3.5 billion per year through 2019.

Capital Magnet Fund Program. The CMF was created through the Housing and Economic Recovery Act of 2008. Through the CMF, the CDFI Fund provides competitively awarded grants to CDFIs and qualified nonprofit housing organizations. CMF awards can be used to finance affordable housing activities as well as related economic development activities and community service facilities. Awardees will be able to utilize financing tools such as loan loss reserves, loan funds, risk-sharing loans, and loan guarantees to produce eligible activities with aggregate costs at least 10 times the size of the award amount.

A minimum of 70% of CMF money must be used for housing. One hundred percent of housing-eligible project costs must be for units for households with income below 120% of the area median income (AMI); at least 51% of housing eligible project costs must be for units for households with income below 80% of AMI. If CMF finances rental housing, then at least 20% of the units must be occupied by households with income below 50% of AMI. Maximum rent is fixed at 30% of either 120% AMI, 80% AMI, 50% AMI, or 30% AMI, depending on the household's income. For example, if an assisted household has income at 120% AMI, their maximum rent is 30% of 120% AMI. Assisted housing must meet the above affordability requirements for at least 10 years.

As with the National Housing Trust Fund (NHTF), funding for the CMF is intended to be provided in part by the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac). Because Fannie Mae and Freddie Mac went into conservatorship soon after the authorizing statute creating those programs became law and the collection of the contributions was suspended, in FY10 the administration requested and Congress approved an initial appropriation of $80 million to capitalize the CMF. Two hundred and thirty CDFIs and nonprofit housing organizations applied, requesting more than $1 billion. Twenty-three awards were made, which leveraged at least $1.6 billion for the financing of affordable housing within underserved communities, and helped put underserved neighborhoods on the path to recovery and revitalization. There have been no further appropriated funds for the CMF.

The suspension of contributions of assessments on new business of Fannie Mae and Freddie Mac was lifted at the end of 2014; contributions began January 1, 2015, and the funds were to be distributed to CMF and NHTF in March 2016. The deadline to apply for the second round of CMF was March 30, 2016, and awards should be announced later this year.

CDFI Healthy Foods Financing Initiative. The CDFI Healthy Food Financing Initiative, launched in 2011 as part of the multi-agency Healthy Food Financing Initiative (HFFI), provides grants to CDFIs focused on developing solutions for increasing access to affordable healthy foods in low income communities. The HFFI is an interagency initiative involving Treasury, the U.S. Department of Agriculture, and the U.S. Department of Health and Human Services. HFFI represents the federal government's first coordinated step to eliminate 'food deserts' by promoting a wide range of interventions that expand the supply of and demand for nutritious foods, including increasing the distribution of agricultural products, developing and equipping grocery stores, and strengthening producer-to-consumer relationships. The FY16 funding level for this program is $22 million.

CDFI Bond Guarantee Program. Enacted through the Small Business Jobs Act of 2010, the Treasury may issue up to $1 billion each year in fully guaranteed bonds to support CDFI lending and investment. Long-term, patient capital such as this is difficult for CDFIs to obtain. The program experienced regulatory delays related to making it cost neutral to the federal government. To date the CDFI fund has guaranteed $852 million bond loans. The CDFI Bond Guarantee Program is authorized through FY16 at $750 million, but advocates are encouraging Congress to extend it at $1 billion as allowed by statute.

Authorized uses of the loans financed may include a variety of financial activities, such as: supporting commercial facilities that promote revitalization, community stability, and job creation/retention; community facilities; the provision of basic financial services; housing that is principally affordable to low income people; businesses that provide jobs for low income people or are owned by low income people; and, community or economic development in low income or underserved rural areas. Since the bonds have a minimum size of $100 million that are larger than most CDFIs can readily invest, groups of CDFIs can put in joint applications.

FUNDING

The appropriation for the CDFI Fund in FY16 is $233.5 million. The president's FY17 budget requests $245.9 million, a $12.4 million increase from the previous year. Considering the austere budget environment for all domestic discretionary funds, these funding levels represents a dramatic turnaround from budgets only a few years ago that called for elimination of the CDFI Fund. The George W. Bush Administration demonstrated opposition to the continued existence of the CDFI Fund, but with broad bipartisan support, the CDFI Fund remained funded, although at lower appropriations levels.

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. The CDFI Fund received 238 applications for the 2015 round of the NMTC Program, representing $17.6 billion in NMTCs, five times the available funding.

FORECAST

Given the fiscally constrained environment, it is good news that the FY16 CDFI Fund appropriation is higher than the previous year. Housing Finance Reform is unlikely to take place before 2017. The CDFI Bond Guarantee Program has completed three rounds of awards, and the lessons learned will set the stage for a campaign to extend the program beyond 2016.

WHAT TO SAY TO LEGISLATORS

Advocates should contact Members of Congress, especially members of the Senate and House Financial Services and General Government Appropriations Subcommittees, to encourage support for continued support for at least $233.5 million in FY17 for the CDFI Fund and an extension of the CDFI Bond Guarantee Program, to help meet the demand for financial services and capital in low income communities.

Finally, CDFIs design innovative below-market products that banks would not offer, 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, 202-653-0300, www.cdfifund.gov

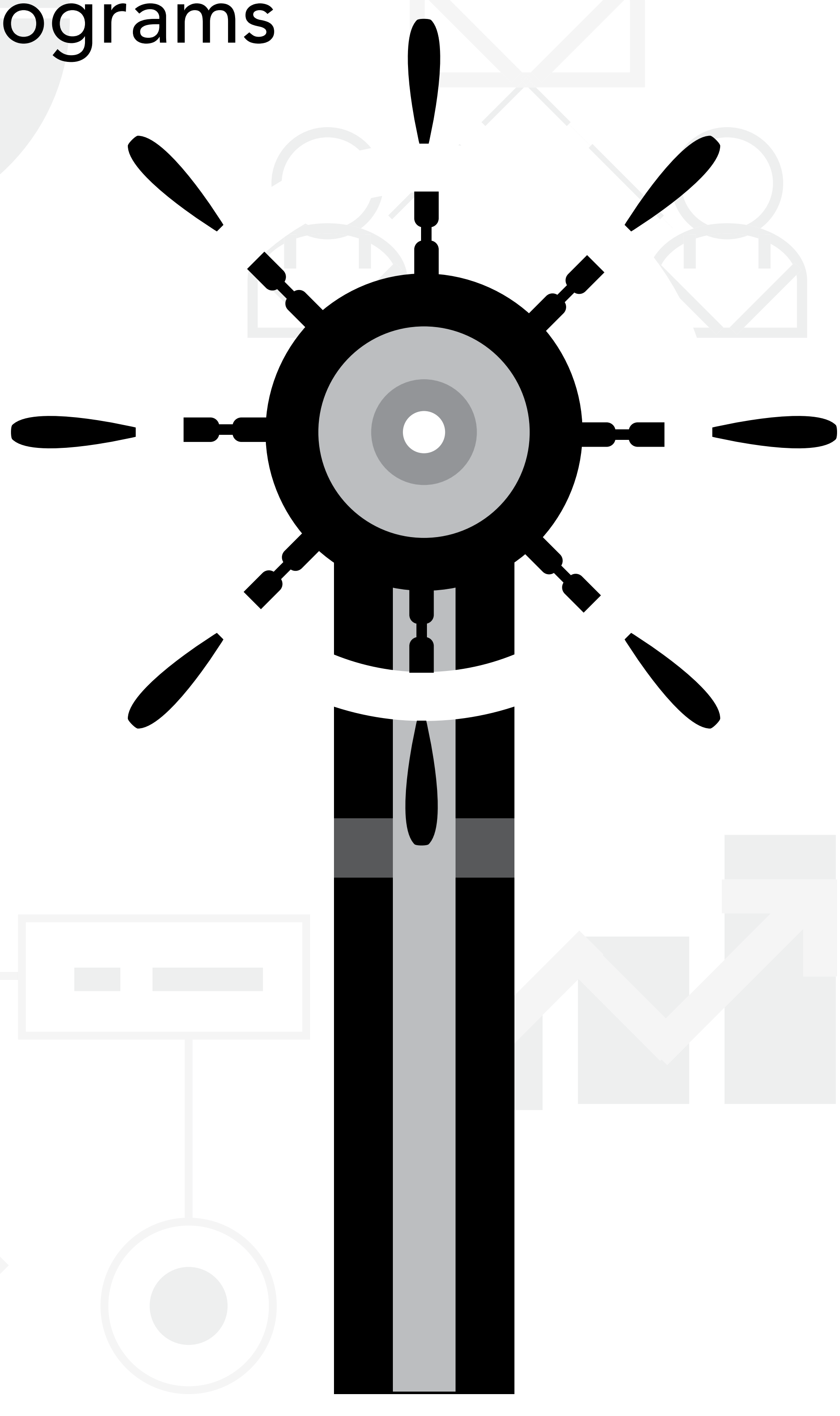
CDFI Coalition, 202-393-5225, www.cdfi.org

Opportunity Finance Network, 215-923-4754, www.ofn.org

Find local CDFIs at https://www.cdfifund.gov/Pages/FAQ.aspx ■

Chapter 9:

Income Programs and Laws



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Earned Income Tax Credit

Roxy Caines, Get It Back Campaign Director, Center on Budget and Policy Priorities

Administering agency: Internal Revenue Service (IRS)

Year program started: 1975

Number of persons/households served: 27.5 million tax filers in 2015

Population targeted: low and moderate income workers

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. Very low income workers not raising children may also qualify for a smaller credit.

HISTORY

Congress established the EITC in 1975 under Section 32 of the Internal Revenue Code. Congress has expanded the EITC 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 (ARRA). Important expansions of the Child Tax Credit and a higher education credit were also enacted through ARRA. The Protecting Americans from Tax Hikes (PATH) Act of 2015 made all of those expansions permanent.

The EITC was designed to offset the payroll and income tax burdens of low income workers raising children. Expansion of the EITC now also delivers an income supplement to such workers earning very low wages, therefore providing a work incentive.

PROGRAM SUMMARY

According to analyses of Census data by the Center on Budget and Policy Priorities (CBPP), in 2014 the EITC lifted an estimated 6.8 million people out of poverty, including 3.5 million children. The EITC lifts more children in working families out of poverty than any other single program or category of programs. It also enables near-poor parents and children to maintain incomes above the poverty line.

The EITC is received as a refund from the Internal Revenue Service (IRS). The amount of the EITC varies according to workers' earnings and number of children. Below are guidelines for work performed in 2015.

Workers who claim children for the EITC must file tax form 1040 or 1040A, and attach IRS "Schedule EIC." In addition to sons and daughters, 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.

Number of children:	Single workers with income less than:	Married workers with income less than:	EITC up to:
3 or more children	$47,747	$53,267	$6,242
2 children	$44,454	$49,974	$5,548
1 child	$39,131	$44,651	$3,359
No children	$14,820	$20,330	$503

Workers who do not claim children for the EITC must be between 25 and 64 years old at the end of 2015. They are not required to file Schedule EIC with their tax forms.

To claim the EITC, workers cannot have investment income (such as taxable interest, tax-exempt interest, or capital gain distributions) greater than $3,400 in 2015.

Claiming public benefits like cash assistance, food stamps, SSI, Medicaid, or federal housing assistance do not affect eligibility for the EITC. The EITC is not counted as income to determine eligibility for any federally funded programs and does not count against resource limits for 12 months after receipt. For 2015, 26 states—including the District of Columbia—offered 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. To be eligible for the "additional CTC" in 2015, workers must have taxable earned income above $3,000. As with the EITC, CTC refunds are not counted as income in determining eligibility for any federally funded program and do not count toward resource limits for 12 months after receipt.

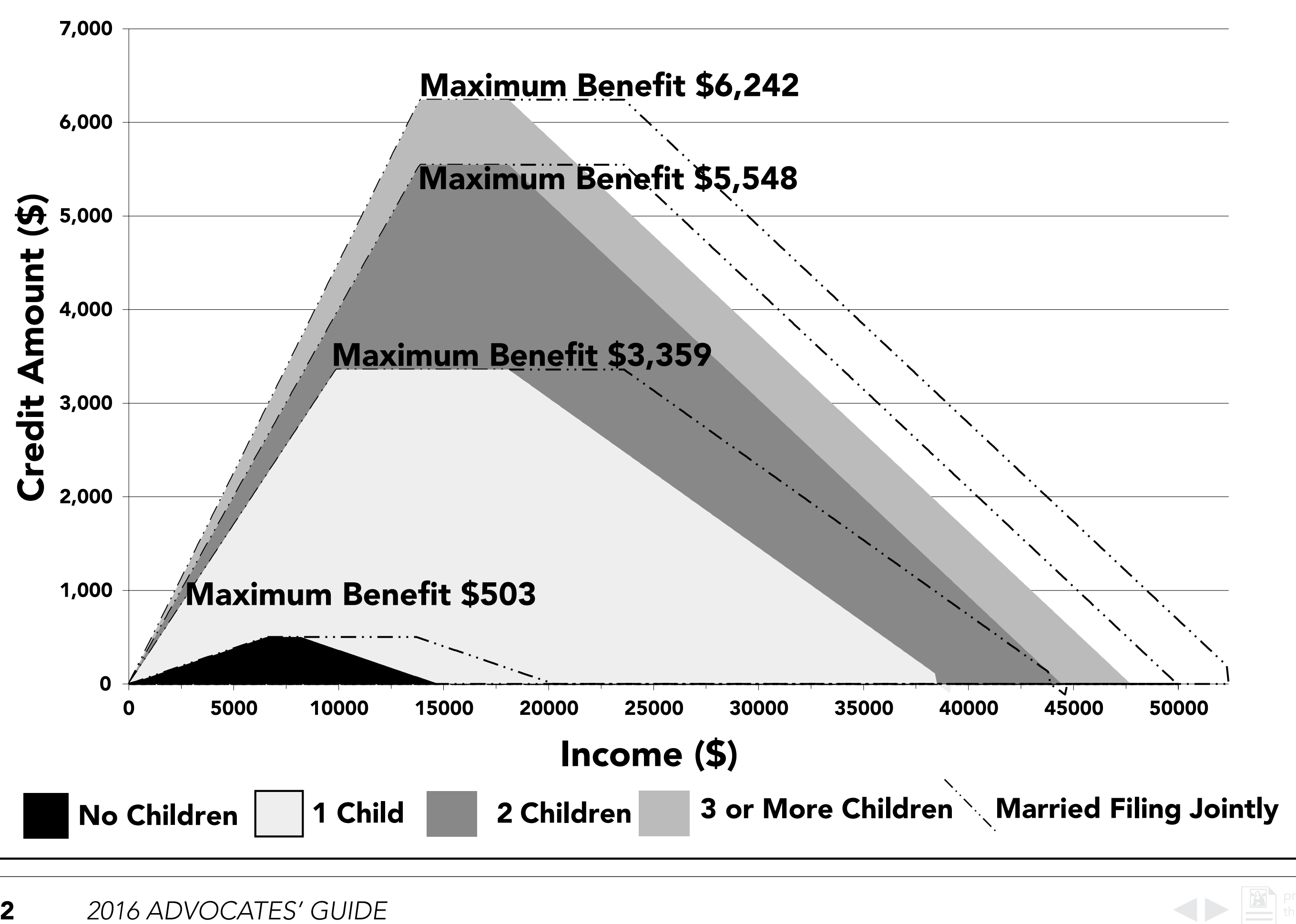
Higher Education Tax Credit. The American Opportunity Tax Credit was first enacted by ARRA as a revised version of the HOPE credit for higher education expenses and made permanent as part of the PATH Act in December 2015. It is worth a total of $2,500, compared to $1,800 for the HOPE credit. Up to $1,000 of the credit can be claimed even if the individual does not earn enough to owe income tax, benefitting lower income parents of college students and adult students. Such filers could not claim the HOPE credit.

Premium Tax Credit. This credit can help some individuals and families with incomes between 100 and 400 percent of the federal poverty line pay for health insurance purchased through the federal marketplace or through state marketplaces. The amount of the credit is figured on a sliding scale, so people do not have to pay more than 2.01% – 9.56 %of their adjusted gross income in 2015.

FUNDING

The EITC and other tax credits are components of the Internal Revenue Code. Consequently, the benefits of those credits do not require annual appropriations decisions. Funding for EITC administration is part of the IRS budget and is not separately appropriated. In 2015, 27.5 million lower and moderate income workers received more than $66 billion from the EITC.

The EITC in Tax Year 2015



FORECAST

Since the PATH ACT made expansions to the EITC and other credits permanent, attention will focus on expanding the EITC for low-wage childless workers. This is the only group of people who are taxed into poverty through the federal tax system. President Obama and Speaker of the House Paul Ryan (R-WI) issued nearly identical proposals in 2015 that would lower the eligibility age from 25 to 21 and raise the maximum credit to $1,000. Although the proposals have garnered some bipartisan support in Congress, an agreement must be reached on how to pay for it.

TIPS FOR LOCAL SUCCESS

CBPP closely monitors congressional action on the EITC and the other tax credits, publishes analyses of proposals, and issues legislative action alerts to advocates.

Although 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. Nearly 60 percent of EITC recipients pay commercial tax preparers to do their tax returns, draining hundreds of dollars from their refunds and risking exposure to predatory refund loan practices.

Resources for helping people to receive their EITC include:

- The IRS sponsors the Volunteer Income Tax Assistance (VITA) and the Tax Counseling for the Elderly (TCE) programs to provide free tax filing assistance by trained community volunteers at local community sites. Search for VITA and TCE locations by ZIP code at http://irs.treasury.gov/freetaxprep.
- CBPP's Get It Back Campaign provides local organizations with training and technical assistance in building tax credit outreach campaigns and VITA programs. The campaign annually updates its tax credit outreach kit with facts about the EITC and the CTC and strategies to promote them, and its customizable outreach materials. Flyers in 24 languages, an EITC Estimator, and other tools are available at www.eitcoutreach.org.
- CFED coordinates a Taxpayer Opportunity Network that provides support to organizations running VITA programs. Learn more at www.cfed.org.
- Resources are also available from the IRS (www.eitc.irs.gov). The IRS and HUD partner to promote those credits and the VITA program.
- Community organizations and local agencies may qualify to apply for annual Community VITA grants, a matching grant program administered by the IRS to expand VITA to underserved communities (search for "VITA Grants" at www.irs.gov).

WHAT TO SAY TO LEGISLATORS

The EITC is designed to encourage and reward work. Beginning with the first dollar, a worker's EITC grows with each additional dollar of earnings until the credit reaches the maximum value. This creates an incentive for people to work and for lower-wage workers to increase their work hours.

The EITC reduces poverty by supplementing the earnings of workers who have low wages and low earnings. There has been broad bipartisan agreement that a two-parent family with two children with a full-time, minimum-wage worker should not have to raise its children in poverty. At the federal minimum wage's current level, such a family can move above the poverty line for an average family of four only if it receives the EITC as well as SNAP (food stamp) benefits.

For young children, moving out of poverty is particularly important. Research has found that lifting income in early childhood not only tends to improve a child's immediate educational outcomes, but also is associated with improved health outcomes, greater college attendance, and higher earnings in adulthood.

The EITC needs to be strengthened for low-wage childless workers who are the only group that the federal tax system taxes into poverty. A full-time, minimum-wage childless worker who earns $14,500 annually, will receive an EITC of only $23 after filing his or her 2015 tax return. This does little to offset the more than $1,000 he or she owes in income and payroll taxes.

FOR MORE INFORMATION

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

The Minimum Wage

By David Cooper, Senior Economic Analyst, Economic Policy Institute

The Federal Minimum Wage: $7.25 (effective July 24, 2009)

State Minimum Wages for 2016: range from $5.15 in Wyoming and Georgia (the federal minimum wage applies) to $10 in California. The District of Columbia has a minimum wage of $10.50 that will increase to $11.50 on July 1, 2016. (Several other states have passed additional minimum wage increases that will take effect in the coming years).

The federal minimum wage, designated by the Fair Labor Standards Act, is a labor standard that ensures a basic level of compensation for workers in the United States. As costs go up, the buying power of the minimum wage is eroded, resulting in millions of workers who struggle to afford their most basic needs, including housing. Increasing the minimum wage not only improves affected workers' well-being, it also puts more money in the hands of people likely to spend those additional earnings quickly, thereby spurring additional economic activity and promoting growth. The 2008 and 2009 increases to the federal minimum wage boosted consumer spending by approximately $8.6 billion.

Most recently raised in 2009, the federal minimum wage is currently set at $7.25 per hour. Because of the ongoing impact of inflation, six years of inflation have already significantly eroded the real value of the minimum wage. Today's minimum wage is worth roughly 10 percent less in 2016 than it was worth when it was last increased in 2009, and 24 percent less than at its inflation-adjusted peak value in 1968.

The U.S. Department of Labor enforces federal minimum wage laws, while state labor departments handle enforcement of state wage laws. However, states with minimum wages equal to the federal minimum wage often defer enforcement to the U.S. Department of Labor.

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, eroding the wage's buying power over the years. This buying power peaked in 1968 at $9.55 in 2015 dollars (inflation adjusted using the Consumer Price Index Research Series Using Current Methods (CPI-U-RS). 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, to $6.55 in 2008, and to $7.25 in 2009. This restored much of the buying power of the minimum wage, but it remained well below the peak value reached in 1968, and its real value has eroded with each passing day since then. At the start of 2015, the federal minimum wage is worth roughly 24 percent less in purchasing power than the minimum wage in 1968.

ISSUE 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, workers at businesses with gross receipts of less than $500,000 that do not engage in interstate commerce, and a number of other small occupational groups.

A full-time minimum wage worker takes home just $14,500 a year—an annual income below the federal poverty line for any worker with at least one child. According to a study by the Economic Policy Institute (EPI), there are about 3.5 million workers who earn at or near the federal minimum wage, with 75% of this group 20 years old or older. In addition, almost 25% of these workers have children; nearly 1.7 million children 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 $40,000 a year. A 2012 U.S. Bureau of Labor Statistics report shows that more than two-thirds (72.2%) of those earning the federal minimum wage or less have completed high school, with more than a third (34.6%) having completed some college or an associate's degree.

As NLIHC's report, *Out of Reach,* (Megan Bolton, 2014) 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 (FMR). According to the 2014 edition of *Out of Reach*, a minimum wage worker would have to work 104 hours a week, the equivalent to 2.6 full-time jobs, in order to afford a two-bedroom apartment at the national average FMR.

FORECAST

A lot has happened since the president indicated in the 2013 State of the Union address that he supported raising the federal minimum wage to $9. Since then, more than a dozen states and the District of Columbia have passed state minimum wage increases that will reach or exceed $9 within the next two years, and 28 cities and counties have passed local wage floors, as of February 2016. These local ordinances have set minimum wages as high as $15.24 in SeaTac, WA. In 2015, Congressional leaders in the House and Senate introduced legislation to raise the federal minimum wage in five steps to $12 by 2020. Representative Bobby Scott (D-CA) and Senator Patty Murray (D-WA) have garnered more initial cosponsors for their proposal (The Fair Minimum Wage Act of 2015) than any previous minimum wage legislation since the last federal minimum wage bill was passed in 2007; however, the bill has yet to be put to a floor vote in either house of Congress. The longer that Congress waits to approve any increase, inflation will reduce the real value of the eventual target wage level. For this reason, lawmakers may ultimately target an even higher minimum than the current proposal, phased-in over a longer time period, in order to achieve the desired inflation-adjusted value. Lawmakers are also expected to call for an increase in the federal tipped minimum wage, which has remained unchanged at $2.13 since 1991.

Indexing the Minimum Wage: The lack of a strong minimum wage contributes 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 45 years ago. Although the purchasing power of the minimum wage has fallen, it can be restored to help working families support themselves.

Fifteen states and the District of Columbia have ensured that the real value of the minimum wage will not decline over time by indexing it to inflation, and Congress should follow their lead. This is an improvement over the current system in which the minimum wage is raised only when it is politically expedient. In addition to maintaining a constant purchasing power of the minimum wage, indexing also ensures that each increase is small and predictable. Rather than simply indexing to changes in prices, the minimum wage could also be indexed to changes in wages. For example, indexing the minimum wage to 50% of average, non-supervisory workers' wages, as suggested in a 2009 EPI paper, *Fix it and Forget it: Index the Minimum Wage to Growth in Average Wages* (Heidi Shierholz, 2009), would help combat the growth in inequality by ensuring that the wages for lowest paid workers never fall too far from the wage for the average worker.

Strengthening Government Assistance Programs: Many low-wage workers (many of whom work full time) are paid so little that they must turn to public assistance programs in order to make ends meet. As the value of the minimum wage is left to erode and more workers' wages slip to levels that are insufficient to afford basic necessities, it places greater stress on government assistance programs that must take up the slack in workers' earnings. Accordingly, if the minimum wage were raised, it would lift the labor earnings of many low-wage workers such that they would no longer need public assistance or would still be better off even if their benefits were reduced. An EPI study, Balancing paychecks and public assistance (David Cooper, 2016), describes how raising the federal minimum wage to $12 by 2020 would generate $17 billion in annual savings to public assistance programs–funds that could then be used to strengthen anti-poverty programs or make long-needed investments in education, public infrastructure, or other key policy priorities.

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. This strategy has proven successful at the state level, and should be adopted at the federal level as well.

Advocates interested in fair wages in their states or localities can contact the groups listed below to connect with campaigns to enact a higher state or local minimum wage. Between 2013 and 2015, 17 states – Alaska, Arkansas, California, Connecticut, Delaware, Hawaii, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, New York, New Jersey, Rhode Island, South Dakota, Vermont, and West Virginia either passed legislation or approved ballot initiatives to increase the minimum wage. There were also successful local campaigns in a number of cities and counties throughout California, including Berkeley, Emeryville, Mountain View, Palo Alto, San Francisco, Santa Clara, Oakland, Los Angeles, San Jose, Santa Monica, Sunnyvale; as well as Chicago, Ill.; Montgomery County, Md.; Prince George's County, Md.; Portland, Maine; Kansas City, Mo.; St. Louis, Mo.; Albuquerque, N.M.; Las Cruces, N.M.; SeaTac, Wash.; Seattle, Wash.; Tacoma, Wash.; and the District of Columbia.

WHAT TO SAY TO LEGISLATORS

Advocates should urge their Members of Congress, as well as state elected officials, to increase the minimum wage. 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 significantly lower than historic 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. Second, index it to protect against inflation.

Increasing the minimum wage, at either the federal or state level, contributes to economic growth at a time when the economy remains in need of further expansion. Increasing the minimum wage improves the well-being of low income workers, while improving the economy for all. Increasing the minimum wage is smart public policy.

FOR MORE INFORMATION

Economic Policy Institute, 202-775-8810, www.epi.org

National Employment Law Project, 212-285-3025, www.nelp.org ■

Supplemental Security Income

By Kathleen Romig, 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 2016, the basic monthly SSI benefit is $733 for an individual and $1,100 for a couple. Beneficiaries who live in another person's household and receive in-kind maintenance and support receive one-third less than that 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 constraining 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 one 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 same agency, SSI is distinct from the Old-Age, Survivors, and Disability Insurance 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.

More than 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 seven years; or immigrants who entered after August 1996 and have earned 40 quarters of coverage under Social Security.

Individuals may apply for SSI online, 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) weigh 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 DDS initially denies the application, claimants 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, subsidized housing vouchers or units prioritized for people with disabilities. Supportive housing providers may also receive Medicaid reimbursement for certain services provided to clients who qualify for Medicaid via SSI.

In December 2015, 8.3 million people received SSI benefits: 1.3 million children under age 18, 4.9 million disabled adults aged 18-64, and 2.2 million people 65 or older.

FUNDING

As an entitlement program, SSI is available to anyone who meets its eligibility requirements. Total SSI outlays were about $57.9 billion in 2014, including about $4 billion for administrative costs (which are subject to annual appropriation).

FORECAST

Although SSI payments may allow recipients to obtain subsidized housing, they are insufficient to enable residents to afford market-rate 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.

Although SSI benefits provide critically needed resources to people with disabilities, they can be difficult to obtain. Nationwide, about one-fourth of adult disability claims are approved at the initial level, a rate that rises to nearly 40% after all appeals. Allowance rates for disabled children are slightly higher. 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 three to four months, although there is a fast-track program for certain severe conditions; appeals to the Administrative Law Judge (ALJ) level may take a year or more to be processed. SSA is working hard to eliminate the hearings backlog, but record numbers of applications and tight resources have hampered progress. Some states and localities offer interim assistance while an applicant awaits a decision on SSI, eventually recouping the money from any retroactive benefits.

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). Through 2014, clients at SOAR-trained sites in 49 states and DC had an average initial approval rate of 65%.

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. Advocates should also ask legislators to extend SSI for refugees who lose their benefits when their temporary eligibility ends. Congressional appropriators should ensure that SSA offices, including ALJ services, are adequately staffed; these are among the vital government activities that are being squeezed by the discretionary caps and sequestration procedures in the Budget Control Act of 2011 that some in Congress actually threaten to tighten further. 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 Senior Citizens Law Center, www.nsclc.org.

SOAR, www.prainc.com/soar.

Social Security Administration, www.socialsecurity.gov. ■

Temporary Assistance for Needy Families

By Elizabeth Lower-Basch, Director, Income and Work Supports, Center for Law and Social Policy; and Sharon McDonald, Director for Families and Youth, National Alliance to End Homelessness

Temporary Assistance for Needy Families (TANF) is a federal block grant program that provides funds to states to assist low income families. TANF was last reauthorized under the Deficit Reduction Act of 2005. The program was scheduled to be reauthorized in 2010. Congress has instead extended authorization for the program under existing statute through periodic short-term extensions.

HISTORY AND PURPOSE

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 replaced Aid to Families with Dependent Children (AFDC, an entitlement program established by the Social Security Act of 1935), with the TANF block grant. TANF is used by states to provide a wide range of benefits and services that promote the four purposes of TANF for low income families with children.

The first purpose of the TANF program is to "provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives." Other purposes include reducing dependence on cash assistance for low income families with children by promoting work, job preparation and marriage; preventing out-of-wedlock pregnancies; and promoting the formation and maintenance of two-parent families.

PROGRAM SUMMARY

TANF dollars are distributed to states based on what states received under AFDC and related programs from 1994-1996. 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 programs that benefit low income families. The programs may be administered by the state- or county-level TANF agency.

Cash Assistance: Under AFDC, states provided monthly cash benefits to poor families with children, primarily single-parent families. All states have continued to operate such programs with their TANF funds, although cash assistance now accounts for only 27 % of total TANF and MOE spending.

Eligibility criteria for TANF cash assistance and TANF-funded services are largely determined by the state, or the county. Typically, households with children and very limited incomes are eligible for TANF cash assistance. In more than half the states, a family with earnings at half the poverty level earns too much to qualify for TANF assistance. States cannot use federal TANF resources to provide cash assistance to families for more than five years, and many states have adopted shorter time limits. Legal resident immigrant families cannot receive federally funded TANF assistance unless they have resided in the United States for more than five years. However, states can choose to use MOE funds to support families that don't or no longer qualify for TANF assistance.

All states impose participation requirements in work-related activities on most adults who receive assistance. States have flexibility in determining who to exempt, and what activities to permit, but must meet a federal work participation rate that only counts certain activities. Families that do not meet the required number of hours in work activities may be sanctioned, which reduces or suspends the families' cash assistance grants. Most states will eventually fully sanction families that do not participate in work activities, meaning that those families lose the entire cash benefit.

TANF cash assistance is an important source of financial support for families without other sources of income. However, in all states, benefit levels are well below what families need to pay for housing. The average cash assistance benefit for a family of three leaves them with incomes below 30% of the poverty level. In 41 states and the District of Columbia, a family of three with no other income received less than $500 a month. Families served by 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 further increase the risk of housing instability and homelessness.

Nationally, in FY14, a monthly average of 1.65 million families received cash assistance under TANF – and 43 percent of those families were "no-parent cases," in which only children received assistance. In 1995, the U.S. Department of Health and Human Services (HHS) estimated that 84 percent of eligible families received assistance from AFDC. In 2012, 32.4% of eligible families received assistance from the TANF program. Recent research indicates that some of the poorest families are not receiving assistance. Approximately 40% of families entering homeless shelters report income from TANF cash assistance. Poor families that are not receiving cash assistance include those that have been sanctioned because they have not complied with program requirements, or that have reached their state's time limit. Studies have found that families having lost TANF cash assistance through sanctions are more likely than other families to include a person with a disability that can hinder his or her ability to find or maintain employment.

Use of Funds: States have a great deal of flexibility in the use of TANF funds, with few limitations, as long as they are used to promote the four goals of TANF. In addition to cash assistance, common uses of TANF and MOE funds include child care, work activities, refundable state earned income tax credits, and child-welfare related services.

Some states use TANF resources to help meet the housing needs of low income families, including short- or medium-term rental assistance, eviction prevention assistance, and security deposit and first month's rent to help families exit shelter. "Short-term non-recurrent benefits" such as these are not considered "assistance" under TANF, and therefore do not trigger the TANF time limits or work participation requirements. However, if a state uses TANF to provide ongoing rental assistance (lasting more than four months), that would be considered "assistance" and would trigger these requirements if the family were not already receiving cash benefits. TANF resources are also used in states to support shelters and transitional housing programs serving families. In February 2013, HHS issued an Information Memorandum (ACF-2013-01) to TANF administrators outlining how states can use TANF resources to meet the housing needs of homeless 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 MOE. Because the block grant has not been increased to reflect inflation since TANF was first created, its value in real dollars has declined by 32 percent.

FORECAST

Although there were Congressional discussions about TANF reauthorization in 2015, it is unclear whether legislation will be introduced in 2016. State-level advocates should look for opportunities to preserve and expand financial support to low income families under the TANF program. Housing advocates should support state and local efforts to improve TANF for low income families because a strong performing income and employment support program can help those families access and maintain housing in their community.

State advocates should also explore opportunities to use TANF resources to meet the housing needs of at-risk and homeless families. Advocates may use information outlined in the HHS Information Memorandum (ACF-2013-01) to educate welfare advocates and TANF administrators about opportunities to use TANF resources more effectively in helping families avoid or escape homelessness.

TIPS FOR LOCAL SUCCESS

Local homelessness and housing advocates should develop partnerships with state and local organizations advocating for improved TANF income and employment supports for low income families. Through collaboration, housing and welfare advocacy organizations can propose solutions that meet the holistic needs of low income families.

WHAT TO SAY TO LEGISLATORS

Local advocates should educate their Congressional delegation about how TANF resources are being used to meet the needs of families in their state and the need for more funding for the TANF block grant.

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

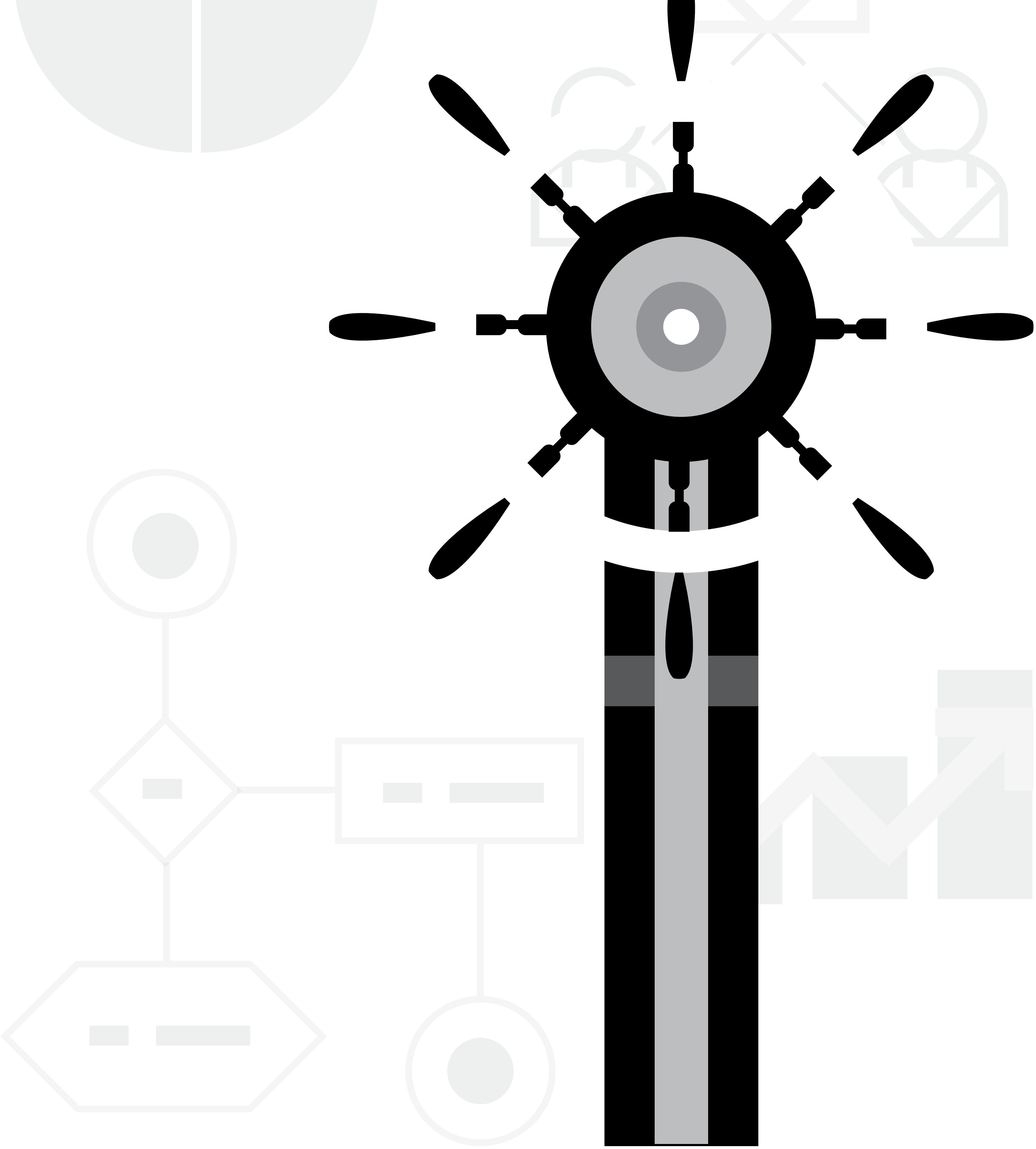
National Alliance to End Homelessness, 202-638-1526, www.endhomelessness.org

ADDITIONAL RESOURCES:

Funders Together to End Homelessness - Temporary Assistance for Needy Families Fails to Meet Basic Needs Interactive Map provides an interactive map outlining the benefit levels within each state and how it measures up against the fair market rent in that state: http://www.funderstogether.org/map_tanf_fails_to_meet_basic_needs. ■

Chapter 10:

About NLIHC



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Make a Difference: Ways to Engage with and Support the Coalition and Policy Center

BECOME A MEMBER OF THE COALITION

The best way to demonstrate your commitment to ensuring that the lowest income people in America have access to decent, affordable homes is to become a member of the Coalition. NLIHC's power to influence change is directly proportional to the number and active engagement of our members. NLIHC has been a membership organization since our earliest days, and our large and involved membership is what sets us apart from others.

Anyone can be an NLIHC member. Our membership base is broad and diverse, including low income renters, professionals who work in the housing field, tenant associations, state and local housing advocacy organizations, community development corporations, housing authorities, and individuals who believe in NLIHC's mission and want to support our work. Our members care about a broad array of affordable housing issues, from accessibility and affordability for people with disabilities, to the preservation of resources for homelessness prevention and affordable housing programs, to veteran's housing, fair housing, community development, and more.

Why our Members Are Crucial

The modest membership contribution from each individual and organization, when multiplied by the many, is a significant source of revenue to allow NLIHC to continue to do our work. Members provide us invaluable feedback about the housing issues that low income residents and the homeless face every day. Most importantly, members are advocates, the people we count on to reach out to their constituents, to their local representatives, to local media, and to Members of Congress about the affordable housing needs of low income people. A geographically wide and sizeable membership base brings true power to NLIHC's advocacy efforts.

Membership Benefits

In addition to the satisfaction of knowing you are supporting the most effective national advocate for housing for extremely low income individuals and families, NLIHC members receive:

- *Memo to Members*, NLIHC's acclaimed weekly newsletter on federal housing issues.
- Discounted rates to NLIHC's annual Housing Legislative Forum and annual Housing Leadership Awards Reception.
- Free or discounted access to our research publications like *Out of Reach* and *The Affordable Housing GAP Analysis*, educational resources like the *Advocates' Guide* and regular webinars, and tenant resources like the *Tenant Talk* newsletter.
- Consultations with NLIHC staff on how to most effectively use NLIHC research data.
- Periodic "Calls to Action," alerting you to the issues that need attention and action.
- Telephone resource referrals with links to state and regional networks.
- The opportunity to participate in NLIHC's policy-setting decisions.

Become a Member Today!

Joining NLIHC is easy. Our membership rates are flexible, and tiered by member type. All rates are suggested—you can pay at the level you can afford. Join at www.nlihc.org/membership. You can also contact your NLIHC housing advocate organizer for assistance or to learn more about membership. Email outreach@nlihc.org to learn who your housing advocate organizer is.

MAKE A DONATION TO NLIHC

Contributions to NLIHC directly support our research, educational, organizing, policy development, and regulatory efforts. The financial support we receive through donations is crucial to helping us achieve our mission.

What Can you Donate to NLIHC?

A contribution at any level makes a difference. You can support our work by making an end-of-year gift, a general contribution, or a donation to our scholarship fund, which helps subsidize low income membership rates and low income Legislative Forum registration rates. You can sponsor the Annual Housing Leadership Awards Reception, or contribute to the Sheila Crowley Housing Justice Fund. Individual donations to NLIHC are tax deductible.

Your Support Makes a Difference.

The generosity of our donors makes it possible for NLIHC staff to produce our acclaimed weekly newsletter *Memo to Members*, conduct research on the housing wage and the housing gap for extremely low income households, and produce our valuable publications like *Out of Reach*, *the Affordable Housing GAP Analysis, Tenant Talk*, and the *Advocates' Guide*. Your contributions support our efforts to ensure success of the National Housing Trust Fund (NHTF); to build awareness and support for the United for Homes Campaign; and to keep our members informed about the federal budget and appropriations, changing federal regulations, policy developments, and much more. Each contribution makes a powerful difference. Please donate to NLIHC today!

To donate to NLIHC, visit our website at www.nlihc.org/donate. You can also contact NLIHC's Development Coordinator, Christina Sin, at christina@nlihc.org, for assistance donating.

MAKE A DONATION TO THE SHEILA CROWLEY HOUSING JUSTICE FUND

After 17 years as president and CEO of the NLIHC, Dr. Sheila Crowley will be retiring in April 2016. Throughout her tenure at NLIHC, Sheila has tirelessly led NLIHC's efforts to achieve socially just public policy that assures people with the lowest incomes in the United States have affordable and decent homes.

As President and CEO, Sheila shaped NLIHC into the preeminent voice for housing for the lowest income people in America. Using research and data, organizing, communications and media outreach, Sheila developed partners and champions on both sides of the aisle, within Congress, multiple Administrations, and with thousands of low income housing advocates across the country. One of Sheila's signature achievements was her nationwide effort to establish and secure funding for the NHTF, the first new federal funding in a generation targeted to expand the supply of rental housing affordable for extremely low income households.

To honor Sheila Crowley's legacy and to build upon the foundation she established, NLIHC has created the Sheila Crowley Housing Justice Fund, which will support the policy and advocacy work of NLIHC and the National Low Income Housing Policy Center into the future. You can donate to the Sheila Crowley Housing Justice Fund at https://nlihc.wufoo.com/forms/honoring-sheila/

DONATE TO THE NATIONAL LOW INCOME HOUSING POLICY CENTER 501(C)(4)

In the summer of 2014, the National Low Income Housing Policy Center, a 501(c)(4) nonprofit, was re-activated to allow the organization to engage in direct and grassroots lobbying and advocacy work beyond the limits of a 501(c)(3) nonprofit. Under the aegis of the Policy Center, the staff meets regularly with national elected officials (House Representatives and Senators) and their staffs to advocate for or against specific legislation. We call for improvements to existing laws, and we encourage our membership to support or oppose specific legislation through calls to action, sign-on letters, and advocacy days. The focus of the Policy Center's work is exclusively to support legislation that advances NLHIC's mission of assuring that the lowest income individuals and families have access to decent, affordable homes. (The National Low Income Housing Policy Center engages in no partisan electoral politics of any kind, nor does it endorse or support any candidates for public office.)

For donation assistance, you can contact NLIHC Development Coordinator Christina Sin at christina@nlihc.org. Or, donate directly to NLIHC at www.nlihc.org/donate ■

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.

FIELD

Your first point of contact at NLIHC is your Housing Advocacy Organizer. Housing Advocacy Organizers are members' best direct resource for answers to federal policy or membership questions. The field team also coordinates responses from NLIHC's field when there is a federal housing issue that needs attention. NLIHC's Outreach Associates are assigned specific states. Find the contact information for your state's Outreach Associate at http://nlihc.org/takeaction/field, or e-mail outreach@nlihc.org.

Tenant Talk. *Tenant Talk* is NLIHC's quarterly newsletter geared toward residents and tenants. *Tenant Talk* provides NLIHC's low income resident members and others with updates about the policies affecting them, ways to take action and get involved, tips for effective organizing, local tenant victories, and other resources. *Tenant Talk* is distributed through email and mail. To be added to the mailing list, email tenanttalk@nlihc.org. To view past issues of *Tenant Talk*, visit www.nlihc.org/library/tenanttalk

POLICY

NLIHC's policy team tracks, analyzes, and advocates for NLIHC's policy priorities. The policy team updates Fact Sheets on NLIHC's policy initiatives and priority legislation on a monthly basis. NLIHC's policy priorities can be found at www.nlihc.org/issues NLIHC also convenes a policy advisory committee, comprised of NLIHC board members and individual members. The policy advisory committee informs NLIHC's policy agenda. Committee information is available on the website at www.nlihc.org/involvement/policycomm.

RESEARCH

NLIHC's research team publishes resources on housing-related topics throughout the year. Access the latest research and reports in our "Resource Library" online at www.nlihc.org/library

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 (Metropolitan Statistical Areas and HUD Metro FMR Areas), combined nonmetropolitan area and state in the United States. Advocates across the country use the data in this report to show the extent of housing need in their communities. 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 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 website at www.nlihc.org/oor

Housing Spotlight. This series of occasional research briefs uses data from different sources to highlight a variety of housing issues. NLIHC members receive each issue of *Housing Spotlight* by email and by mail. Find them online in the Resource Library at www.nlihc.org/library/housingspotlight

Congressional District Housing Profiles. NLIHC's Congressional District Housing Profiles offer a snapshot of housing needs 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. The profiles can be found at www.nlihc.org/library/CDP

State Housing Profiles. This resource illustrates the housing needs of low income renter households for each state in the country. The profiles include visual representations of housing affordability issues as well as key facts about housing in each state. The profiles can be found at www.nlihc.org/library/SHP

National Housing Preservation Database. NLIHC and the Public and Affordable Housing Research Corporation (PAHRC), maintain an inventory of all federally assisted multifamily housing in the country. It includes information on properties subsidized by HUD, the USDA, and the Treasury

Department. Advocates can use this database to get a clear picture of the subsidized stock of housing in their community and to identify properties that might be at risk of losing a subsidy. The National Housing Preservation Database can be found at www.preservationdatabase.org For more information on the database and background on its development, visit www.nlihc.org/library/other/preservation

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. Access NLIHC’s entire Legislative Action Center at www.cqrcengage.com/nlihc

NLIHC STATE COALITION PARTNERS

NLIHC maintains close ties with our state partners, housing and homeless advocacy organizations who serve statewide or regional areas. To find a list of State Coalition Partners, visit www.nlihc.org/partners/state For information on becoming a State Coalition Partner, visit www.nlihc.org/involvement/state-coalition/apply

ANNUAL HOUSING POLICY FORUM

NLIHC hosts a forum every spring in Washington, D.C. The forum offers federal housing policy plenary sessions, and keynote speakers, as well as a lobby day at which advocates have the opportunity to weigh in with Members of Congress and their staffs. For more information, visit www.nlihcforum.org

NLIHC ON SOCIAL MEDIA

Facebook. Like NLIHC on Facebook and get instant updates on the latest housing news and information at www.facebook.com/NationalLowIncomeHousingCoalition

Twitter. Follow @NLIHC on Twitter for daily updates at www.twitter.com/NLIHC

LinkedIn. Connect with NLIHC on LinkedIn and interact with some of the people who are part of our work. http://www.linkedin.com/company/national-low-income-housing-coalition

Blog. NLIHC’s blog, *On the Home Front*, features news and analysis from our staff, guest posts from state and national partners, and opinions on the latest developments in housing policy. Join the discussion at http://hfront.org ■

NLIHC State Coalition Partners

NLIHC's state coalition project seeks to improve and expand the capacity of state housing and homeless coalitions to educate, to be more actively engaged in educating, and to be more skillful in holding federal, state and local policy makers accountable for solving the housing problems of low income people.

NLIHC's 67 state coalition partners in 44 states and the District of Columbia are an integral part of the work we do. Our state partners are housing and homeless advocacy organizations serving statewide or regional areas, and are the organizations with which we work most closely. Please join the partner or partners 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.lihca.org

ALASKA

Alaska Coalition on Housing and Homelessness
907-465-5114
www.alaskahousing-homeless.org

ARIZONA

Arizona Housing Alliance
480-788-4180
www.azhousingalliance.org

ARKANSAS

Arkansas Coalition of Housing and Neighborhood Growth for Empowerment
501-776-3941
www.achange.org

Housing Arkansas
501-6666-9629
www.housingar.org

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 NonProfit Housing
213-480-1249
www.scanph.org

COLORADO

Colorado Coalition for the Homeless
303-293-2217
www.coloradocoalition.org

Housing Colorado
303-863-0124
www.housingcolorado.org

CONNECTICUT

Connecticut Housing Coalition
860-563-2943
www.ct-housing.org

DELAWARE

Delaware Housing Coalition
302-678-2286
www.housingforall.org

DISTRICT OF COLUMBIA

Coalition for Nonprofit Housing & Economic Development
202-745-0902
www.cnhed.org

FLORIDA

Florida Coalition for the Homeless
877-205-0021
www.fchonline.org

Florida Housing Coalition, Inc.
850-878-4219
www.flhousing.org

GEORGIA

Georgia State Trade Association of Nonprofit Developers
404-586-0740
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
317-454-8533
www.iaced.org

KANSAS

Kansas Statewide Homeless Coalition
785-242-4673
www.kshomeless.com

KENTUCKY

Homeless and Housing Coalition of Kentucky
502-223-1834
www.hhck.org

LOUISIANA

Louisiana Housing Alliance
225-381-0041
www.lahousingalliance.org

MAINE

Maine Affordable Housing Coalition
207-553-7780x211
www.mainehousingcoalition.org

MARYLAND

Maryland Affordable Housing Coalition
443-758-6270
www.mdahc.org

MASSACHUSETTS

Citizens' Housing and Planning Association
617-742-0820
www.chapa.org

MICHIGAN

Community Economic Development Association of Michigan
517-485-3588 x1940
www.cedam.info

Michigan Disability Rights Coalition
517-333-2477 x329
www.copower.org

MINNESOTA

Minnesota Coalition for the Homeless
651-645-7332
www.mnhomelesscoalition.org

Minnesota Housing Partnership
651-649-1710
www.mhponline.org

MISSISSIPPI

Housing Mississippi
601-969-1895
www.housingmississippi.org

MISSOURI

Empower Missouri
573-634-2901
www.empowermissouri.org

NEBRASKA

Nebraska Housing Developers Association
402-435-0315
www.housingdevelopers.org

NEW HAMPSHIRE

Housing Action New Hampshire
603-828-5916
www.housingactionnh.org

NEW JERSEY

Housing and Community Development Network of New Jersey
609-393-3752
www.hcdnnj.org

NEW MEXICO

New Mexico Coalition to End Homelessness
505-217-9570
www.nmceh.org

Supportive Housing Coalition of New Mexico
505-255-3643
www.thehousingcoalition.org

NEW YORK

Coalition for the Homeless
212-964-5900
www.coalitionforthehomeless.org

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
212-870-3303
www.shnny.org

Tenants & 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
919-881-0707
www.nchousing.org

NORTH DAKOTA

North Dakota Coalition for Homeless People
701-390-1635 x301
www.ndhomelesscoalition.org

OHIO

Coalition on Homelessness and Housing in Ohio
614-280-1984
www.cohhio.org

OREGON

Oregon Housing Alliance (c/o Neighborhood Partnerships)
503-226-3001
www.oregonhousingalliance.org

Oregon Opportunity Network
503-223-4041
oregonon.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
401-721-5685
www.rihomeless.org

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 (CONTINUED)

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 Alliance
804-840-8185
www.vahousingalliance.org/

WASHINGTON

Washington Low Income Housing Alliance
206-442-9455
www.wliha.org

WEST VIRGINIA

West Virginia Coalition to End Homelessness
304-269-8600
www.wvceh.org

WISCONSIN

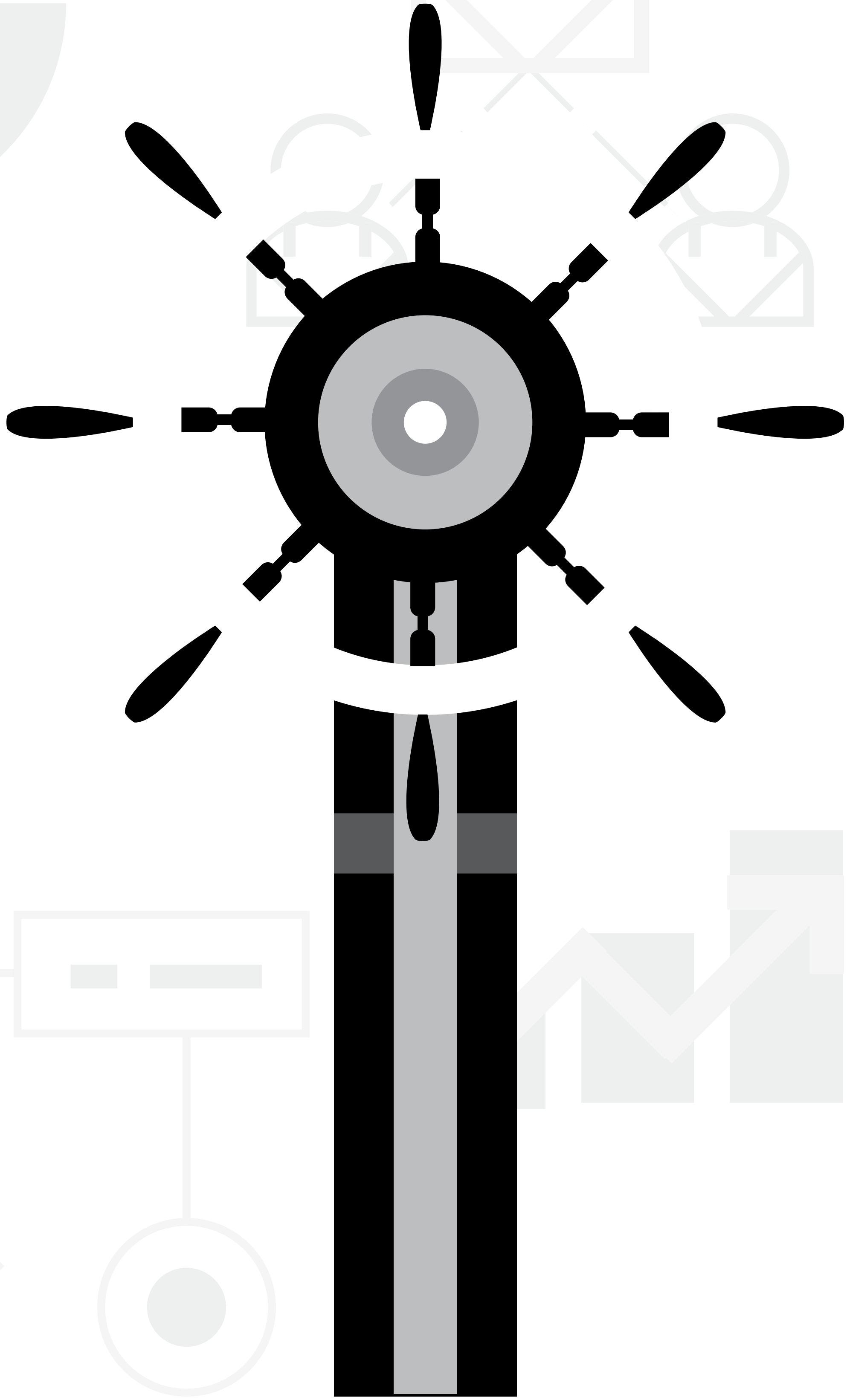
Housing for All (c/o Independence First)
414-291-7520
www.independencefirst.org

Wisconsin Partnership for Housing Development, Inc.
608-258-5560
www.wphd.org

WYOMING

Wyoming Coalition for the Homeless
307-634-8499
www.wyhomeless.org ■

Chapter 11:
Appendix



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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 8, United States Housing Act of 1937, 42 U.S.C. 1437f, low income rental housing assistance.

Section 9, United States Housing Act of 1937, 42 U.S.C. 1437g, funding for public housing.

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 104(d), Title I, Housing and Community Development Act of 1974, 42 U.S.C 5304(d), anti-displacement provisions for Community Development Block Grants (CDBGs) and Home Investment Partnerships.

Section 108, Housing and Community Development Act of 1974, 42 U.S.C. 5308, CDBG 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 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 504, Rehabilitation Act of 1973, 29 U.S.C. 794, prohibits disability discrimination, requires accessibility standards.

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.

Title V, McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11411-11412, excess federal properties available to assist homeless.

FOR MORE INFORMATION

HUD's list of programs frequently identified by statute: http://1.usa.gov/13i1mt5 ■

Selected List of Major Housing and Housing-Related Laws

Age Discrimination Act of 1975, P.L. 101-336.

AIDS Housing Opportunity Act (Housing Opportunities for Persons with AIDS), title VIII, subtitle D of the Cranston-Gonzalez National Affordable Housing Act, P.L. 101-625, 104 Stat. 4079.

Americans with Disabilities Act of 1990, P.L. 110-325.

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 VIII, 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. 89-117, 79 Stat. 667.

Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, P.L. 111-203, 124 Stat. 1376.

Emergency Low-Income Housing Preservation Act of 1987 (ELIHPA), P.L. 100-242, 101 Stat. 1877

Frank Melville Supportive Housing Investment Act of 2010, P.L. 111-374.

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, Division B

Helping Families Save Their Homes Act of 2009, P.L. 111-222, 123 Stat. 1633.

Housing Act of 1949, P.L. 81-171, 63 Stat. 413.

Housing Act of 1959, P.L. 86-372, 73 Stat. 654.

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 Economic Recovery Act of 2008, P.L. 110-289, 122 Stat. 2654.

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.

Lead-Based Paint Poisoning Prevention Act, P.L. 91-695, 84 Stat. 2078.

Low Income Housing Preservation and Resident Homeownership Act of 1990, P.L. 101-625, 104 Stat. 4249

Multifamily Assistance and Housing Reform and Affordability Act of 1997, P.L. 105-65, 111 Stat. 1384.

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.

National Housing Trust Fund, §1338 to the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, P.L. 102-550, as amended by §1131 of the Housing and Economic Recovery Act of 2008, P.L. 110-289, 122 Stat. 2654.

Protecting Tenants at Foreclosure Act, Division A, title VII, Helping Families Save Their Homes Act of 2009, P.L. 111-22, 123 Stat. 1633.

Quality Housing and Work Responsibility Act of 1998, P.L. 105-276, 112 Stat. 2461.

Rehabilitation Act of 1973, P.L. 93-112, 87 Stat. 355

Section 202 Supportive Housing for the Elderly Act of 2010, P.L. 111-372, 124 Stat. 4077

Stafford Disaster Relief and Emergency Assistance Act, P.L. 100-707, 102 Stat. 4689.

Stewart B. McKinney Homeless Assistance Act, P.L. 100-77, 101 Stat. 482.

Supportive Housing for Persons with Disabilities, Section 811, Cranston-Gonzalez National Affordable Housing Act, P.L. 101-625, 104 Stat. 4079.

Uniform Relocation Act, P.L. 91-644, 84 Stat. 1895

United States Housing Act of 1937, P.L. 75-412, 50 Stat. 888.

Violence Against Women Act, P.L. 109-162, 119 Stat. 2960.

FOR MORE INFORMATION

Key HUD Statutes: http://1.usa.gov/13i1SY1 ■

Glossary

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 FY14 appropriations act would become available for programs in FY15 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 U.S. Department of the Treasury (Treasury) for specified purposes. Non-entitlement programs are funded through annual appropriations.

AREA MEDIAN INCOME (AMI). The midpoint in the income distribution 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 debated the re-establishment of pay-as-you-go rules and 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 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 formula grants administered by HUD that are distributed to states, cities with populations of 50,000 or more and counties with populations of 200,000 or more. CDBG funds are to be used for housing and community development activities, principally benefiting low and moderate income people. The CDBG program is authorized by Title I of the Housing and Community Development Act of 1974.

COMMUNITY DEVELOPMENT CORPORATIONS (CDCs). Nonprofit, community-based organizations that work to revitalize the neighborhoods in which they are located by building and rehabilitating housing, providing services, developing community facilities, and promoting or undertaking economic development.

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 Treasury, 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). The Act prohibits lending institutions from discriminating against low and moderate income and minority neighborhoods. CRA also imposes an affirmative obligation on banks to serve these communities. Banks must proactively assess community needs, conduct marketing and outreach campaigns in all communities, and consult with community stakeholders in developing financing options for affordable housing and economic development activities. CRA has formal mechanisms for banks and regulators to seriously consider community needs and input. Members of the community can comment at any time on a bank's CRA performance in a formal or informal manner. When federal agencies conduct CRA examinations of banks' lending, investing, and service activities in low and moderate income communities, federal agencies are required to consider the comments of members of the public concerning bank performance. Likewise, federal agencies are required to consider public comments when deciding whether to approve a bank's application to merge or open and relocate branches.

CONGRESSIONAL BUDGET OFFICE (CBO). An organization created by Congress that provides staff assistance to Congress on the federal budget.

CONSOLIDATED PLAN (ConPlan). 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), HOME Investment Partnerships, Emergency Solutions Grants (ESG), and Housing Opportunities for Persons With AIDS (HOPWA) grants.

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CONTINUING RESOLUTION (CR). 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 nonprofit 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 from 1987 to 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 (CDBG), cities with populations of 50,000 or more and counties with populations of 200,000 or more are 'entitled' to receive funding under the program.

ENTITLEMENTS. Entitlements are benefits available to people if they meet a certain set of criteria. Entitlement programs, such as Social Security, are not constrained by the appropriations process.

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 (ELI). A household income below 30% of area median income (AMI), as defined by HUD.

FAIR MARKET RENTS (FMR). HUD's estimate of the actual market rent for a modest apartment in the conventional marketplace. FMRs 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 charted 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 institution, and that 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 HUD that insures lenders against loss on residential mortgages. It was founded in 1934 to execute the provisions of the National Housing Act in response to the Great Depression.

FEDERAL HOUSING FINANCE AGENCY (FHFA). 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 systems. 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, FY16 began on October 1, 2015, and ends on September 30, 2016.

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 is 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 the 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. The method by which certain programs distribute appropriated funds to state and local governments. The parameters for the formula are established by statute and are generally based on demographics (poverty) and housing conditions (overcrowding) in the jurisdiction. CDBG and HOME are formula allocation programs.

FREDDIE MAC (FEDERAL HOME LOAN MORTGAGE CORPORATION). A federally charted government-sponsored enterprise that purchases mortgages from originators to facilitate new mortgage lending. Similar to Fannie Mae.

FREEDOM OF INFORMATION ACT (FOIA). The law providing for a means of public access to documents from HUD or other federal agencies.

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.

GINNIE MAE (GOVERNMENT NATIONAL MORTGAGE ASSOCIATION). An agency of HUD, Ginnie Mae guarantees payment on mortgage-backed securities, which represent pools of residential mortgages insured or guaranteed by the Federal Housing Administration (FHA), the Veterans Administration, or the Rural Housing Service (RHS).

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). Administered by HUD's Office of Community Planning and Development, this program 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 to 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). Created in 1975, HMDA 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. This law revises the McKinney-Vento Homeless Assistance Grant programs and provides 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 PAYMENTS (HAP). HAP is the payment made according to a HAP contract between HUD and an owner to provide Section 8 rental assistance. The term applies to both the Housing Choice Voucher (HCV) program and Section 8 Project-Based Rental Assistance Program. The local voucher program is administered by a public housing agency (PHA), whereas a Section 8 contract administrator makes payments in the Multifamily Housing Programs.

HOUSING BONDS. Bonds that are generally issued by states and secured by mortgages on homes or rental properties. Although homeowner housing financed by bonds are typically targeted to families or individuals with incomes below the median for the area or the state, rental housing is targeted to lower income families or individuals.

HOUSING CHOICE VOUCHERS (HCV). Also known as Section 8 or Section 8 vouchers, this is a rental assistance program funded by HUD. The program helps some families, primarily extremely low income (ELI) families, rent private housing. Families pay a percentage of their monthly adjusted income toward monthly rent and utilities (generally not more than 30%); the balance of the rent to the owner 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 items such as contract rent, utilities, property insurance, and mobile home park fees. For homeowners, monthly housing costs include monthly payments for all mortgages or installment loans or contracts, as well as real estate taxes, property insurance, utilities, and homeowner association, cooperative, condominium, or manufactured housing park fees. Utilities include electricity, gas, fuels, water, sewage disposal, garbage, and trash collection.

HOUSING FINANCE AGENCY (HFA). The state agency responsible for allocating and administering federal Low Income Housing Tax Credits (LIHTC) as well as other federal and state housing financing sources.

HOUSING STARTS. An indicator of residential construction activity, housing starts represent the start of construction of a house or apartment building, which means the digging of the foundation. Other measures of construction activity include housing permits, housing completions, and new home sales.

HOUSING TRUST FUNDS. Distinct funds, usually established by state or local governments that receive ongoing public revenues that can only be spent on affordable housing initiatives, including new construction, preservation of existing housing, emergency repairs, homeless shelters, and housing-related services.

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.

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 prohibiting the sale of older HUD-assisted properties for market rate use, compensating the owners with financial incentives. The program was active from 1990 to 1996.

LOW INCOME HOUSING TAX CREDITS (LIHTC). 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 (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 throughout 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 (ELI), VERY LOW INCOME (VLI).

MARK-TO-MARKET. HUD program that reduces above-market rents to market levels at certain HUD-insured properties that have project-based Section 8 contracts. Existing debt is restructured so that the property may continue to be financially viable with the reduced Section 8 rents.

MARK-UP-TO-MARKET. A federal program to adjust rents on Section 8 assisted housing up to the market rate.

METROPOLITAN STATISTICAL AREA (MSA). The basic census unit for defining urban areas and rental markets.

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 the 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). A demonstration program for public housing agencies (PHAs) that provides them with enormous flexibility from most HUD statutory and regulatory requirements. The flexibilities, regarding key programmatic features such as rent affordability and income targeting requirements, can impact residents in both the public housing and Housing Choice Voucher (HCV) programs. Authorized in 1996, the demonstration program continues even though it has not been evaluated on a broad scale.

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.

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 from 1976 to 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.

OUTLAYS. Payments made (usually through the issuance of checks or disbursement of cash) to liquidate obligations. Outlays during a fiscal year (FY) 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. Payment standards are used to calculate the housing assistance payment (HAP) that a public housing agency (PHA) pays to an owner on behalf of a family leasing a unit. Each PHA has latitude in establishing its schedule of payment standard amounts by bedroom size. The range of possible payment standard amounts is based on HUD's published fair market rent (FMR) for the area in which the PHA has jurisdiction. A PHA may set its payment standard amounts from 90% to 110% of the published FMRs, and may set them higher or lower with HUD approval.

PERFORMANCE FUNDING SYSTEM. Developed by HUD to analyze costs of operating public housing developments, used as the basis for calculating the need for operating subsidies.

PERMANENT SUPPORTIVE HOUSING. Decent, safe, and affordable permanent community-based housing targeted to vulnerable very low income (VLI) households with serious and long term disabilities that is linked with an array of voluntary and flexible services to support successful tenancies.

PREPAYMENT PENALTY. A fee that may be levied for repayment of a loan before it falls due.

PROJECT-BASED VOUCHERS (PBVs). A component of a public housing agency's (PHAs) housing choice voucher program. A PHA can attach up to 20% 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. In general, no more than 25% of the units in a property can be subsidized with PBVs.

RENTAL ASSISTANCE DEMONSTRATION (RAD). Congress authorized RAD as part of its FY12 and FY15 HUD appropriations bills. There are two RAD components. The first component allows HUD to approve the conversion of up to 185,000 public housing and moderate rehabilitation (Mod Rehab) units into either project-based Section 8 rental assistance (PBRA) contracts or project-based vouchers (PBVs) by September 30, 2018. The second component allows an unlimited number of units in three smaller programs administered by HUD's Office of Multifamily Housing Programs to convert tenant protection vouchers to PBVs or PBRAs. There is no deadline for the three second component programs – Rent Supplement (Rent Supp), Rental Assistance Program (RAP), and Mod Rehab.

REAL ESTATE ASSESSMENT CENTER (REAC). The office within HUD responsible for assessing the condition of HUD's portfolio, both public housing and private, HUD-assisted multifamily housing. REAC oversees physical inspections and analysis of the financial soundness of all HUD housing, and REAC scores reflect physical and financial condition.

REAL ESTATE INVESTMENT TRUST (REIT). 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 (Rent Supp). An older HUD project-based rental subsidy program used for some Section 221(d)(3) and Section 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 (HFA)] into which is deposited all surplus cash generated in excess of 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). A mission area of the U.S. Department of Agriculture (USDA), RD administers grant and loan programs to promote and support housing, public facilities and services such as water and sewer systems, health clinics, emergency service facilities, and electric and telephone service in rural communities. RD also promotes economic development by supporting loans to business, and provides technical assistance to help agricultural producers and cooperatives.

RURAL HOUSING SERVICE (RHS). An agency of the U.S. Department of Agriculture's (USDA) Rural Development (RD), RHS is responsible for administering a number of rural housing and community facilities programs, such as providing loans and grants for single-family homes, apartments for low income people , housing for farm workers, child care centers, fire and police stations, hospitals, libraries, nursing homes, and schools.

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." The Census Bureau defines rural as an area with a population of less than 2,500. The U.S. Department of Agriculture (USDA) definition of rural has several factors, including population: under 20,000 in non-metro areas, under 10,000 in metro areas, or under 35,000 if the area was at one time defined as rural but the populations has grown (a "grandfathered" area).

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. Fannie Mae (the Federal National Mortgage Association) and Freddie Mac (the Federal Home Loan Mortgage Corporation), 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 nonprofits 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 BMIR (3%) and Federal Housing Administration (FHA) mortgage insurance to private developers of low- and moderate-income housing. Active from 1963 to 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 1%. Active from 1968 to 1975.

SECTION 514 LOANS AND SECTION 516 GRANTS. Administered by USDA RD's Rural

Housing Service (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. Provides funds for loans made by USDA RD's Rural Housing Service (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 USDA RD's Rural Housing Service (RHS), provides grants to promote preservation of Section 515 properties. Authorized by the Housing Act of 1949.

SECTION 538 RENTAL HOUSING LOAN GUARANTEES. U.S. Department of Agriculture's (USDA) Rural Development (RD) Rural Housing Service (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 RENTAL ASSISTANCE (PBRA). Administered by HUD's Office of Multifamily Housing, Section 8 PBRA 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% of the household's adjusted income. Assistance may be provided to some or all of the units in a project occupied by eligible tenants. Assistance is attached to the unit and stays with the unit after the tenant moves.

SECTION 8 PROJECT-BASED VOUCHERS (PBV). Public housing agencies (PHAs) are allowed to use up to 20% of their housing choice voucher funding allocation to project base, or tie, vouchers to a property. PHAs may contract with property owners to project base vouchers to up to 25% of the units in a property. 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 that allows a tenant to move with continued assistance in the form of a housing choice voucher. This program is administered by HUD's Office of Public and Indian Housing (PIH) and local PHAs.

SECTION 8 VOUCHERS. Administered by HUD's Office of Public and Indian Housing (PIH) and local public housing agencies (PHAs), housing choice vouchers (HCVs) are allocated to individual households, providing a rent subsidy that generally limits tenant contribution to rent to 30% of adjusted household income. PHAs can attach a limited number of their housing choice vouchers to individual units, thereby 'project basing' them. See Section 8 project-based vouchers (PBVs).

SECTION 811. The Section 811 Supportive Housing for Persons with Disabilities is a federal program that assists the lowest income people with the most significant and long-term disabilities to live independently in the community by providing affordable housing linked with voluntary services and supports. The program provides funds to nonprofit organizations to develop rental housing, with supportive services, for very low income (VLI) adults with disabilities, and it provides rent subsidies for the projects to help make them affordable. Two new approaches to creating integrated permanent supportive housing were recently introduced: the Modernized Capital Advance/Project Rental Assistance Contract (PRAC) multi-family option, and the Project Rental Assistance (PRA) option. Both options require that properties receiving Section 811 assistance limit the total number of units with permanent supportive housing use restrictions to 25% or less. Congress directed that all FY12, FY13, and FY14 funding for new Section 811 units be provided solely through the PRA option.

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 five units.

STAFFORD DISASTER RELIEF AND EMERGENCY ASSISTANCE ACT (STAFFORD ACT, P.L. 100-707). Provides a systemic means of supplying 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 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 provision of the tax code that specifies an amount by which a taxpayer's taxes will be reduced in return for some specific behavior or action.

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (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 household with income is at or below 50% of area median income (AMI), as defined by HUD.

VOUCHER. 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. ■

Advocates' Guide Authors

MALIK SIRAJ AKBAR

Malik Siraj Akbar joined NLIHC in June 2015 as the Communications Specialist. Malik just completed his Master's degree in Public Administration from Harvard University's John F. Kennedy School of Government. There he was elected Vice President of Communications for the Kennedy School Student Government, and served as the Online Editor of the *Citizen*, the campus newspaper. Malik was responsible for managing the communications for more than 70 student organizations and professional interest groups.

Malik brings to NLIHC ten years of experience in journalism, communications, and international reporting. He has been a Contributing Writer at *The Huffington Post*, a Fulbright Hubert Humphrey Fellow (2010-11) at Arizona State University's Walter Cronkite School of Journalism, and a Reagan-Fascell Democracy Fellow at the Washington DC-based National Endowment for Democracy (NED). He was a 2011 Visiting Journalist at the Pulitzer Prize-winning Center for Public Integrity.

Malik founded Pakistan's first English hyper local newspaper, the *Baloch Hal* in 2009, and previously served as the Bureau Chief of *Daily Times* in Pakistan's largest province of Balochistan. Malik's writings have appeared in *Foreign Policy*, *The Huffington Post*, *Chicago Tribune, The Times of India*, and several international publications. He has been interviewed or quoted by *The New York Times*, *The Washington Post*, *The Guardian*, CNN, BBC, Al-Jazeera, Reuters, and the Voice of America. Malik is the author of two books, *The Redefined Dimensions of the Baloch Nationalist Movement* and *Pakistan: A Broken Democracy. The Huffington Post Live* called Malik "a real mouthpiece for the oppressed."

ANDREW AURAND

Andrew Aurand joined NLIHC in July 2015 as the new Vice President for Research. Andrew has extensive experience in research and affordable housing. He previously served as a faculty member in the Department of Urban and Regional Planning at Florida State University, where he taught graduate courses in research methods and housing policy, and where he completed research on the impact of comprehensive planning and land use principles on the supply of affordable housing for low income households. He has also worked in the Research Division of the Montgomery County Planning Department. Andrew received his PhD and MSW from the University of Pittsburgh.

TRISTIA BAUMAN

Tristia Bauman combines litigation, legal education, and legislative advocacy strategies to prevent and end homelessness. Her work focuses on combating the criminalization of homelessness and advocating for laws that protect the civil and human rights of homeless people. Tristia also conducts legal trainings around the country, writes reports and other publications related to housing, and serves as a legal resource for homeless advocates.

Tristia began her law career at Legal Services of Greater Miami, Inc. as a housing attorney working with low-income tenants in federally subsidized housing. She later served for several years as an Assistant Public Defender in Miami-Dade County.

Tristia hails from Auckland, New Zealand but was raised in Washington State where she attended the University of Washington as an undergraduate and law student. She received her B.A. in Anthropology in 2000 and her J.D. in 2006.

STEVEN R. BERG

Steve R. Berg is Vice President for Programs and Policy at the National Alliance to End Homelessness, where he works to end homelessness by promoting effective public policies and local practices regarding housing, employment, and human services. He 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, Steve spent 14 years as a legal services attorney in California and Connecticut, working on housing, government benefits, employment and family integrity issues. His experience includes nonprofit management and staff training and development.

NANCY BERNSTINE

Nancy Bernstine is a policy consultant for the National AIDS Housing Coalition (NAHC) where she served as executive director from 2003-2015. NAHC is a national housing advocacy and policy organization which focuses on the housing and housing-related support service needs of people with HIV/AIDS. Previously, she was a member of a Washington, D.C. law firm providing legislative and administrative representation for nonprofit housing organizations and housing industry trade associations. She has worked in senior policy positions in U.S. nonprofit housing organizations including the National Housing Law Project and the McAuley Institute. Nancy is a member of the District of Columbia Bar and the American Bar Association Affordable Housing Forum.

ANNA BLASCO

Anna Blasco works with the Alliance's Center for Capacity Building to help communities adopt best practices to end homelessness. She has worked closely with service providers to improve rapid re-housing, and has provided guidance to communities on becoming data-driven crisis response systems and improving emergency shelter. Ms. Blasco sits on a local Continuum of Care leadership board, has extensive knowledge of HUD's Continuum of Care and Emergency Solutions Grant programs, and helps communities navigate the changes made by the HEARTH Act. She graduated from American University in Washington, DC.

MARY E. 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 Master's 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 is Senior Advisor with the Housing Trust Fund Project of the Center for Community Change.

RAMON BULLARD

Ramon Bullard joined the Housing Partnership Network (HPN) in October 2015 as Senior Associate for the Policy team. In this role, he supports advocacy efforts for legislative and regulatory changes to advance the nonprofit housing and community development sector, with particular focus on single-family housing issues. Prior to joining HPN, Ramon worked in the Division of Consumer and Community Affairs of the Federal Reserve Board of Governors and at the National Community Reinvestment Coalition (NCRC). Ramon holds a Bachelor of Arts degree in Political Science from the University of Richmond, and a Master of Public Administration degree from the Trachtenberg School of Public Policy and Public Administration at George Washington University.

ROXY CAINES

Roxy Caines leads Earned Income Tax Credit outreach efforts as the Get It Back Campaign Director for the Center on Budget and Policy Priorities, a Washington-based nonprofit organization that conducts research and policy analysis on issues that impact lower-income Americans. The Center has spearheaded a national public education campaign on tax credits for lower-income workers each year since 1989. Roxy assists local agencies and community groups across the country to organize outreach efforts and to promote free tax filing assistance programs.

JUDITH P. CHAVIS

Judy Chavis has more than 25 years of association, legislative and administrative policy experience related to programs and services for low-income people. Prior to starting at AASC, Judy was the Assistant Executive Director of the Ohio Job and Family Services Directors' Association where she co-directed governmental relations for the organization. She also provided policy development and advocacy; technical assistance; training on public assistance and social services "safety net" programs (e.g., Medicaid, Food Stamps, child care, TANF, etc.); and, issues affecting low-income families including workforce development, adult protective services, child support enforcement, and child protective services. Judy holds a Master's degree in Public Administration from Ohio University and a Bachelor's degree with honors in Political Science/Sociology from The Ohio State University.

DAVID COOPER

David Cooper is the Senior Economic Analyst with the Economic Policy Institute and the Deputy Director of the Economic Analysis and Research Network (EARN) in Washington, DC. He conducts national and state-level research, with a focus on the minimum wage, employment and unemployment, poverty, and wage and income trends. He also coordinates and provides support to EARN, a national network of over 60 state-level policy research and advocacy organizations.

David has testified in a half dozen states on the challenges facing low-wage workers and low-income families. His research on the minimum wage has been used by policymakers in city halls and statehouses across the country, as well as in Congress and the White House. David has been interviewed and cited by numerous local and national media, including *The New York Times, The Washington Post,* and NPR. He holds a Bachelor's and a Master of Public Policy degree from Georgetown University.

LINDA COUCH

Linda Couch has worked at NLIHC since 1995 except for three years at LeadingAge (formerly the American Association of Homes and Services for the Aging), where she worked on affordable housing for low income seniors. Linda works on public and assisted housing issues, budget and appropriations and NLIHC's campaign to capitalize 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. Linda has a Master of Public Affairs degree from the University of Connecticut and a B.A. from the George Washington University. She lives in Mount Rainier, Maryland with her husband and two young children.

BAYLEE CRONE

Baylee Crone is the executive Director for the National Coalition for Homeless Veterans (NCHV), a nationally recognized voice in efforts to end veteran homelessness. Crone is a technical expert on veteran homelessness and currently directs NCHV's Technical Assistance Center. In addition to providing intensive program development consultations with homeless veteran service providers, she regularly gives trainings across the country on several topics related to homeless veterans. Utilizing strong relationships with partners throughout the country, Ms. Crone serves as a liaison between NCHV Member organizations and their partners in state and Federal agencies.

Ms. Crone earned a Master's Degree in Vocational Rehabilitation Counseling with an emphasis on Traumatic Brain Injury at the George Washington University and a Bachelor's Degree in Political Science with an emphasis in Public Service and Global Security from the University of California, Santa Barbara.

JAMIE L. CROOK

As an associate attorney at Relman, Dane & Colfax, Jamie practices in civil rights litigation with an emphasis on housing, lending, and employment discrimination. Ms. Crook's better-known cases include *Central Alabama Fair Housing Center v. Magee*, 835 F. Supp. 2d 1165 (M.D. Ala. 2011) and *Anderson Group LLC v. City of Saratoga Springs*, 805 F.3d 34 (2d Cir. 2015). Following her graduation from Boalt Hall (Berkeley Law School), Jamie clerked for the Honorable Richard A. Paez, Ninth Circuit Court of Appeals, and completed a fellowship with Altshuler Berzon LLP and the Natural Resources Defense Counsel in San Francisco. Before joining Relman, Dane & Colfax PLLC, Jamie also worked in Johannesburg, South Africa, as a law clerk to Pius Langa, former Chief Judge of the Constitutional Court, and as a volunteer attorney with the Southern Africa Litigation Centre. She also served as counsel for the Fair Housing and Community Development Project at the Lawyers' Committee for Civil Rights Under Law.

Jamie is the author of "From *Hernandez v. Texas* to the Present: Doctrinal Shifts in the Supreme Court's Latina/o Jurisprudence," 11 *Harvard Latino Law Review* 19 (2008), and "Promoting Peace and Economic Security in Rwanda through Fair and Equitable Land Rights," 94 Calif. L. Rev. 1487 (2006). Along with Michael Allen and John Relman, she is a co-author of "Assessing HUD's Disparate Impact Rule: A Practitioner's Perspective," 49 Harv. Civil Rights-Civil Liberties L. Rev. 155 (2014).

SHEILA CROWLEY

As the President and CEO of the National Low Income Housing Coalition, Sheila heads a membership organization dedicated solely to ending the affordable housing crisis in America. She joined the staff in December 1998, after two decades in Richmond, Virginia 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.

DAN EMMANUEL

Dan Emmanuel joined the NLIHC staff in November 2013. Dan completed his Master of Social Work degree from Saint Louis University in May 2013 with a concentration in community and organization practice. Since 2008, he has worked in a range of housing and community development contexts involving program evaluation and community needs assessment. Prior to his role as Research Analyst, he served as a Senior Organizer for Housing Advocacy at the Coalition. Dan earned his B.A. in Philosophy and Psychology from the College of William & Mary.

LANCE GEORGE

Lance George is the Director of Research and Information at the Housing Assistance Council (HAC). Prior to becoming the HAC's Research Director, Lance served as the organization's Senior Research Associate for 10 years. Before HAC, Lance worked for Frontier Housing, Inc., a nonprofit organization that builds affordable homes for low income families in Appalachian Eastern Kentucky. Lance's research and policy analysis at HAC encompasses a wide array of issues and topics related to rural housing, including manufactured housing, poverty and high need rural areas, rural definitions and classifications, mortgage access and finance, and general demography, mapping, and data analysis of rural people and their housing conditions.

ED GRAMLICH

Ed Gramlich has been at NLIHC since October 2005. For his first two years Ed staffed 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. Between October 2007 and January 2010 he was the Director of Outreach. Prior to joining the staff of the Coalition, he 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, Ed also devoted considerable time to providing technical assistance to groups concerned about the negative impacts of UDAGs in their community.

ELLEN LURIE HOFFMAN

Ellen Lurie Hoffman joined the National Housing Trust in May 2014 as the Federal Policy Director. NHT is a national leader in "preserving and improving" affordable housing, ensuring that privately owned rental housing remains in our affordable housing stock and is sustainable over time. Ms. Lurie Hoffman is responsible for federal housing policy spanning the HUD Budget, fair housing, the Clean Power Plan, housing finance reform, and maintaining and improving the Low Income Housing Tax Credit. She represents the Trust before congressional staff, federal officials, and other housing advocates and stakeholders. Ms. Lurie Hoffman facilitates the National Preservation Working Group, a coalition of over 40 nonprofit organizations dedicated to the preservation of affordable rental housing;

Prior to joining the trust, Ms. Lurie Hoffman worked for the National Council of State Housing Agencies (NCSHA) for nine years, where she analyzed and advocated for federal multifamily housing policy issues on behalf of the nation's state Housing Finance Agencies (HFAs). NCSHA is the leading national nonprofit organization created by state HFAs to coordinate and leverage their federal advocacy efforts for affordable housing. Ms. Lurie Hoffman led NCSHA's legislative campaign to advocate for congressional authorization of Ginnie Mae securitization within the FHA-HFA Risk-Sharing program. Ms. Lurie Hoffman has been engaged on the HUD budget, housing finance reform, HUD's Rental Assistance Demonstration (RAD), and FHA and USDA multifamily programs. She also promoted a primary role for state agencies in the Section 8 Performance-Based Contract Administration (PBCA) program with HUD and Congress.

Ms. Lurie Hoffman holds a Master in Public Policy degree from Harvard University's John F. Kennedy School of Government and a B.A. in Political Science from Vassar College.

DAVID JEFFERS

David Jeffers is Executive Vice President of Policy and Public Affairs for the Council of Federal Home Loan Banks. The Council is the public voice of the America's Federal Home Loan Banks. Before joining the Council, Jeffers was President and CEO of Collingwood Communications. Previously Jeffers was Fannie Mae's Vice President for Corporate Relations.

SARAH JEMISON

Sarah Jemison joined NLIHC in February of 2016 as a Housing Advocacy Organizer. Prior to coming to NLIHC, Sarah worked as the Special Projects Fellow at Achievement Prep Charter School in Southeast DC, where she witnessed the impact of concentrated poverty, neglected public housing projects, and homelessness on students and their families. Sarah earned her B.A. in History with a minor in African American Studies from Princeton University. She is originally from Memphis, TN.

PAUL KEALEY

Paul Kealey joined NLIHC in June 2014 with more than twenty-five years of leadership and management experience. Paul has a rich background of developing, directing, and evaluating large and complex operations, staff, and programs in international and domestic community development, human services, volunteer service, environmental conservation, and professional development and training. Most recently, Paul served as a Senior Vice President for NeighborWorks America. He has also held leadership positions with the Corporation for National and Community Service/AmeriCorps VISTA, World Wildlife Fund, and Peace Corps. Paul earned a Master of Arts in Geography at the University of California, Davis, and a Bachelor of Arts in International Relations at San Francisco State University. Paul is also a graduate of the Harvard University Kennedy School/ NeighborWorks America 18-month Achieving Excellence Program.

JULIE KRUSE

Julie Kruse joined NCHH as Policy Director in November 2014 where she leads federal advocacy efforts to improve resources and policies to promote healthy housing, leads the National Safe and Healthy Housing Coalition, and directs a campaign to reduce substandard housing. Prior to joining NCHH, she worked for twenty-four years advocating for LGBT rights, tax fairness for working families, and economic and educational equity for women and girls. Julie holds a master's degree in education from Northwestern University and a bachelor's in honors biology from the University of Illinois.

JOSEPH LINDSTROM

Joseph Lindstrom first worked with NLIHC in 2000 while organizing Wisconsin advocates in support of the National Housing Trust Fund Campaign. He led campaigns in Madison, WI, on issues such as the local minimum wage, funding for homeless services, and eliminating housing discrimination against Housing Choice Voucher recipients. In addition to his advocacy and campaign work, Joseph has also worked in various direct service capacities including as a homeless outreach coordinator, tenant's rights counselor, and workforce development professional. Joseph received his Bachelor's Degree from the University of Wisconsin with majors in political science and religious studies.

ELIZABETH LOWER-BASCH

Elizabeth Lower-Basch directs the Income and Work Supports team at the Center for Law and Social Policy (CLASP). Her expertise is federal and state welfare (TANF) policy, other supports for low-income working families (such as refundable tax credits) and systems integration. From 1996 to 2006, Ms. Lower-Basch worked for the Office of the Assistant Secretary for Planning and Evaluation at the U.S. Department of Health and Human Services. Ms. Lower-Basch received a Master of Public Policy from the Kennedy School of Government at Harvard University.

PATRICK MAIER

Patrick Maier is the Executive Director of the Innovative Housing Institute (IHI), a nonprofit consulting organization that is a nationally recognized leader in the field of inclusionary housing. The Institute provides research, consultation, and information on the best practices to local and state governments faced with housing affordability challenges. IHI is the lead author of the Regional Housing Plan for the Baltimore Region's Opportunity Collaborative, a federal Sustainable Communities Initiative Grantee. IHI recently assisted the City of Chicago in their revamping of the Affordable Requirements Ordinance, Chicago's inclusionary program.

KEVIN MARTONE

Kevin Martone is Executive Director at TAC, a non-profit consulting firm that provides technical assistance on behavioral health, Medicaid, affordable, supportive housing and other human services to government agencies, national associations and direct service providers. Kevin has 20 years of experience in executive leadership at the national, state government and nonprofit levels, with expertise in public mental health and human services administration. He specializes in a range of issues related to behavioral health, including policy strategy, system financing and design, Olmstead and community integration, health reform, and the design and delivery of permanent supportive housing. Prior to joining TAC, Kevin served as President of the National Association of State Mental Health Program Directors where he advanced key policy issues on behalf of the nation's public mental health systems before Congress and federal agencies, including the U.S. Centers for Medicare and Medicaid Services, the U.S. Department of Housing and Urban Development, and the Substance Abuse and Mental Health Services Administration. Kevin also served as Deputy Commissioner of the New Jersey Department of Human Services overseeing the state mental health and substance abuse system. Upon his arrival, Kevin negotiated the State's Olmstead Settlement Agreement and led a statewide transformation of the public behavioral health system that included a significant expansion of supportive housing. Previously, Kevin was CEO for Advance Housing, a non-profit supportive housing provider, and Vice President for the Supportive Housing Association of New Jersey. He has taught at Tufts University School of Medicine and the Rutgers University School of Social Work on mental health policy and various social work issues.

SHARON MCDONALD

Sharon McDonald is the Director for Families and Youth at the National Alliance to End Homelessness, where her primary focus is on policy and program strategies to prevent and end family and youth homelessness. Before joining the Alliance in 2001, Sharon was a direct practitioner in a Richmond, Virginia community-based service center for people experiencing homelessness. She has experience providing and supervising the delivery of social work services to families in a service-enriched subsidized housing development for low income families. Sharon was the 1999 National Association of Social Workers/ Council on Social Work Education Congressional Fellow and served in Senator Paul D. Wellstone's office, where she focused on welfare and housing issues. Sharon holds an M.S.W and a Ph.D. in Social Work and Social Policy from Virginia Commonwealth University.

MONICA MCLAUGHLIN

Monica McLaughlin joined NNEDV in 2007 and is the Senior Public Policy Specialist. She chairs national collaborations working to improve federal legislation and increase resources to address and prevent domestic violence. Monica leads national efforts to improve the safe and confidential housing options available for survivors.

As a life-long activist in the women's movement, Monica began her career as a domestic violence advocate in Montana, Chicago and England. Her work with survivors afforded her a unique perspective on the issues that impact women's lives and fueled her desire to advocate for survivors at a macro level. While completing her Master's in Communication Studies, she was the Public Relations and Advocacy Coordinator for a women's substance abuse treatment program, where she coordinated the agency's first legislative call-to-action campaign and initiated a speaker's bureau of women in recovery.

SHAWN PENSONEAU

Shawn Pensoneau is the Director of the Office of Governmental Affairs at National American Indian Housing Council (NAIHC). Mr. Pensoneau has over 15 years of experience working for tribal interests on Capitol Hill and the federal government. His role with the NAIHC is the point of contact with Members of Congress and federal agencies with Indian housing programs and provides advocacy for tribal housing programs.

Mr. Pensoneau joined NAIHC in May of 2011 after serving for seven years as Director of Congressional and Public Affairs for the National Indian Gaming Commission (NIGC). While at the NIGC, Mr. Pensoneau was responsible for the planning, coordination, and management of agency programs and activities relating to both legislative and public affairs. He has also held legislative positions at the Navajo Nation Washington Office, and at one time the NAIHC in 2003-2004.

Mr. Pensoneau has a Bachelor's degree in Political Science with an emphasis in Public Administration from Ft. Lewis College in Durango, Colorado. He is a member of the Kickapoo Tribe of Oklahoma.

GARTH B. RIEMAN

Garth B. Rieman is the Director of Policy and Government Affairs for the National Council of State Housing Agencies (NCSHA), where he has worked since February of 1993. He manages the development and execution of NCSHA's legislative and regulatory agenda on a variety of affordable housing issues, including Housing Credits, Mortgage Revenue Bonds, Section 8, HOME, FHA, appropriations, the GSEs, and rural housing.

From 1989 to 1993, Garth served as a professional staff member and the Republican staff director for the United States Senate Housing Subcommittee. He also worked at HUD, the National Association of Realtors, and the U.S. Office of Management and Budget.

Garth graduated from Pomona College and received a Masters Degree in Public Policy from the John F. Kennedy School of Government at Harvard University.

KATHLEEN ROMIG

Kathleen Romig is a Senior Policy Analyst at the Center on Budget and Policy Priorities. She works on Social Security, Supplemental Security Income, and other budget issues. Romig previously worked at the Social Security Administration, Social Security Advisory Board, and Congressional Research Service. She began her career as a Presidential Management Fellow, during which time she completed an assignment at the Office of Management and Budget. Romig has a master's degree in Social Policy from University College Cork, Ireland, where she was a George J. Mitchell Scholar, and a B.A. from Michigan State University's James Madison College.

JAIMIE A. ROSS

Jaimie A. Ross, Attorney at Law, is the President and CEO of the Florida Housing Coalition. In 1991, Ross initiated the broad-based coalition that successfully advocated the passage of the William E. Sadowski Affordable Housing Act, providing a dedicated revenue source for affordable housing in Florida. She continues to facilitate the Sadowski Act Coalition to ensure funding for Florida's state and local housing programs. Her work includes all forms of legislative and administrative advocacy and education related to the planning and financing of affordable housing. She authored "Creating Inclusive Communities in Florida: a Guidebook for Local Elected Officials and Staff on Avoiding and Overcoming the NIMBY Syndrome", originally published in 2004, with 2016 edition underway. Nationally, she serves on the Boards of Grounded Solutions and the Innovative Housing Institute. Ross is the founder of the Florida Community Land Trust Institute, past Chair of the Affordable Housing Committee of the Real Property Probate & Trust Law Section of the Florida Bar, and a former Fannie Mae Foundation James A. Johnson Community Fellow.

SHANNON ROSS

Shannon Ross is the Director, Government Relations for Housing Partnership Network. In that role, she advocates on behalf of HPN's members and policy priorities with Congress, the Administration and other policy makers. Immediately prior to joining HPN, Shannon was the Vice President, Public Policy for Opportunity Finance Network, the leading national network of Community Development Financial Institutions (CDFIs) where she lobbied on issues involving the CDFI Fund and affordable housing. Shannon has also previously worked as a congressional staffer for the Senate Committee on Banking Housing and Urban Affairs and

Congressman John Tierney (D-MA) and practiced law at the Washington DC office of O'Melveny and Myers LLP. Shannon holds a Bachelor of Arts degree from Georgetown University and a law degree from the University of Virginia School of Law.

BARBARA SARD

Barbara Sard rejoined the Center as Vice President for Housing Policy in 2011 after 18 months as Senior Advisor on Rental Assistance to HUD Secretary Shaun Donovan. She previously held the director's position at the Center between 1997 and 2009. She has written extensively on welfare, homelessness and housing issues and is considered a leading expert on the housing voucher program, rental assistance, and issues concerning the intersection of housing and welfare policy. Prior to working at the Center, she was the Senior Managing Attorney of the Housing Unit at Greater Boston Legal Services, where she worked for more than 19 years. Sard has a B.A. in Social Studies from Radcliffe College/Harvard University and a J.D. from the Harvard.

JAMES SAUCEDO

James Saucedo joined NLIHC in September 2015 as a Housing Advocacy Organizer. Prior to NLIHC, James worked at Ashoka Changemakers, where he served as a Finance & Administrative Associate. Prior to his work at Ashoka Changemakers, James was a Research Associate for a national real estate organization based in Washington, DC. In this role, James observed first-hand the gentrification trends in several cities across America. Originally from New Mexico, James earned his Bachelor of Science degree from the Georgetown University McDonough School of Business and served as a leader and member of several social justice-oriented student organizations.

GINA SCHAAK

Gina Schaak is a Senior Associate at the Technical Assistance Collaborative (TAC) with over 10 years experience helping nonprofit housing and service agencies navigating federal, state and local programs in order to access an create more permanent supportive housing for the most vulnerable populations. In addition to being a skilled TA and training provider with extensive experience providing support and consultation to numerous nonprofit homeless and housing organizations, Gina serves as TAC's national policy researcher and public liaison. In this role, she tracks federal congressional activity related to relevant homeless and housing legislation and disseminates information to the public, both via TAC's website and through partnerships with the Consortium for Citizens with Disabilities (CCD) Housing Task Force. Prior to joining TAC, Gina worked for the City of Boston Department of Neighborhood Development managing multiple federal homeless Supportive Housing Programs.

JOSH SILVER

Josh Silver has more than 25 years of experience in the housing and community development field. He is a Senior Advisor at NCRC. He produces white papers on the Community Reinvestment Act and fair lending policy and issues. He serves as an expert and provides advice and resources internally and externally. He came back to NCRC after serving as a Development Manager engaged in fundraising and research at Manna, Inc., a housing nonprofit developer and counseling agency serving the District of Columbia. He also previously served as Vice President of Research and Policy at NCRC for 19 years.

Prior to NCRC, Mr. Silver worked at the Urban Institute for five years. 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.

LISA SLOANE

Lisa Sloane is a Senior Policy Advisor at the Technical Assistance Collaborative (TAC) with over 30 years of experience working with federal, state and local governments as well as nonprofit agencies, to address the supportive housing needs of people with disabilities, including homeless individuals and their families. Lisa is Project Manager of TAC's Section 811 Technical Assistance contract with HUD.

JORGE ANDRES SOTO

Jorge Andres Soto is Director of Public Policy with the National Fair Housing Alliance (NFHA). Jorge leads NFHA's federal relations and advocates on behalf of its member organizations before Congress and federal agencies and coordinates efforts with advocacy and industry groups on civil rights matters concerning housing and housing finance. Prior to NFHA, Jorge was at Relman, Dane & Colfax PLLC where he worked as a civil rights paralegal on the development and litigation of several housing, lending, and public accommodations cases involving discrimination, as well as on public policy matters concerning employment and contracting diversity in federal financial regulatory agencies. Jorge also previously worked as a labor organizer at Service Employees International Union (SEIU) and community organizer with CRECEN/American Para Todos, Houston, Texas. Jorge earned his B.A. in History and American Studies from Wesleyan University.

LESLIE STRAUSS

Leslie R. Strauss is Senior Housing Analyst at the Housing Assistance Council. She began working at HAC in 1991 as Research and Information Director and has also served as HAC's 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.

ERIC TARS

Eric Tars currently serves as Senior 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 U.S. Human Rights Network. Mr. Tars currently serves on the Board of the U.S. Human Rights Network and on the Steering Committee of the Housing Not Handcuffs Campaign. Mr. Tars received his J.D. as a Global Law Scholar at Georgetown University Law Center, his B.A. in Political Science from Haverford College, and studied international human rights the Institute for European Studies, Vienna, and at the University of Vienna.

ALAYNA WALDRUM

Alayna Waldrum is a affordable senior housing and services consultant with over 20 years of experience in affordable housing. She currently advises Section 202 providers and acts as coordinator for nonprofit senior service providers in Washington, D.C. Previously she served as the Legislative Representative for LeadingAge, an association serving the largest Section 202 housing providers in the country, and as the first Director of the LeadingAge DC affiliate. She advocates on affordable senior housing and supportive services before Congress, regulatory agencies, and local governments. She had served as the Associate Director of Policy at the LeadingAge California representing non-profit affordable housing providers before the state legislature, local HUD offices, the tax credit allocation agency and with state regulatory agencies. She began her work in affordable housing in 1994 working with first time home buyer's program in Baltimore, Maryland, where she developed and conducted homebuyer education sessions for low-income, first-time buyers. Alayna holds BA from the University of Maryland, College Park, and a JD from the University of California, Davis. She resides in DC where she is on the board of a local not-for-profit that provides affordable housing to families living with HIV/AIDS and volunteers on the Home First Advisory Council for Seabury Aging Resources.

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 fifth edition of NCLC's manual Access to Utility Service and co-author of The Rights of Utility Consumers. She co-chairs the LIHEAP Coalition. Ms. Wein serves on the Federal Communication Commission's Consumer Advisory Committee and is a member of the Board of Directors for the Universal Services Administrative Company. She was an Economic Justice Fellow at Consumers Union prior to her work at NCLC.

ELAYNE WEISS

Elayne Weiss joined the NLIHC staff in November 2014. For the last three years, Elayne served as a legislative assistant for the American Civil Liberties Union Washington Legislative Office where her work concentrated on reproductive and women's rights. In her position at the ACLU, Elayne helped craft and implement strategies to meet the organization's advocacy goals, and worked on a broad range of issues, including housing protections for survivors of domestic and sexual violence. Recently, Elayne played a critical role in helping plan and manage the successful legislative campaign expanding reproductive health coverage for U.S. servicewomen and military families. Elayne holds a JD from the Drexel University Thomas R. Kline School of Law and a BA in economics from Brandeis University. Elayne is originally from Philadelphia.

RUTH ANNE WHITE

Ruth White, MSSA 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 (CWLA). At CWLA, she co-edited the landmark issue of the League's journal, *Child Welfare*, documenting the extent to which children are needlessly held in foster care because their parents lack decent housing. Through White's advocacy, $50 million in new funding for the Family Unification Program has been made available for families and youth in child welfare since 2009. White is also certified as an Assisted Housing Manger.

White has a Master of Science Degree in Social Administration from Case Western Reserve University and a Bachelor of Science degree in Social Work from Ohio State University. She is currently a Furfey Scholar and doctoral candidate at the Catholic University of America. Ruth serves on the American Bar Association's Commission on Homelessness and Poverty and currently co-chairs the National Homeless Advocates Group.

ALEX WILLIAMS

Alex Williams joined NLIHC in September 2015 to complete her year-long Master of Social Work practicum. She is currently pursuing her Masters in Social Work with a concentration in Social Change at George Mason University. She graduated with a Bachelor of Social Work at James Madison University. Prior to working at NLIHC, Alex worked in nonprofit development as well as community outreach and engagement with refugees, immigrants, and youth and families.

RENEE M. WILLIS

Renee M. Willis joined NLIHC in June 2015 as the Vice President for Field and Communications. In this role, Renee leads all of NLIHC's field and communications efforts in support of our mission, goals, and objectives. Renee brings more than fifteen years of experience in affordable housing, including establishing and leading successful community and region-wide initiatives. Renee has extensive experience in strategic planning, financial management, marketing, organizational development, staff management, and program operations. Renee served as Housing Services Chief with Arlington County, VA from 2008 to 2015. Prior to her work in Arlington, she served as the Administrator of the Office of Landlord-Tenant Affairs for Montgomery County, MD from 1999 to 2004 and as an Advocate and Manager for the Public Justice Center's Tenant Advocacy Project in Baltimore, MD from 1993 to 1999. Renee earned dual Bachelor of Arts degrees in English and Spanish from the University of Maryland. She also holds a Certificate in Public Management from George Washington University. ■

Membership Form

NATIONAL LOW INCOME HOUSING COALITION

MEMBERSHIP INFORMATION

❑ Joining NLIHC ❑ Renewal

	CATEGORY	Amount *(suggested)*
❑	Individual with low income, or student	$5.00
❑	Individual	$110.00
❑	Resident Association, or student group	$15.00
❑	Organization, <$250,000 operating budget	$225.00
❑	Organization, $250K – $499,999	$375.00
❑	Organization, $500K – $999,999	$550.00
❑	Organization, $1,000,000 – $2,000,000	$1,100.00
❑	Organization, $2,000,000 – $5,000,000	$2,200.00
❑	Organization, > $5,000,000	$3,000.00
❑	Other Amount	$____________

❑ I would like to contribute to NLIHC's Scholarship Fund to support the participation of low income people. $ ____________

❑ I do not have an email address and want to receive *Memo to Members* by mail.

Organizations may list up to 10 additional people to receive *Memo to Members*. Please fill out the opposite side of this form or include an additional list.

CONTACT INFORMATION

❑ Mr. ❑ Ms. ❑ Other: ____________________

Name:____

Title: ____

Organization: ______________________________________

Address: ____

____

City: ______________________ State: _______ Zip: __________

Telephone:______________ Fax: ______________ Cell: ______________

Email: ______________________ Twitter: @______________________

PAYMENT INFORMATION

❑ Check (please enclose) ❑ Visa ❑ Mastercard Exp. Date: ________

Credit Card Number:__________________________ CVC*:____________

Cardholder Name (printed):_________________________________

Cardholder Signature:_____________________________________

**Three-digit code on back of card.*

NLIHC is a membership organization open to individuals, organizations, corporations, and government agencies. **EVERY MEMBERSHIP MAKES A DIFFERENCE.**

BENEFITS OF MEMBERSHIP

Memo to Members: Receive the nation's most respected housing policy newsletter in your inbox each week.

Calls To Action: Members receive email notification of significant policy developments warranting constituent calls or letters to Congress.

Discounted Conference Fees: NLIHC hosts an annual policy conference and leadership reception in Washington, DC. The conference brings together advocates, researchers, academics, individuals with low incomes, and government experts to share expertise and insights on the latest federal housing policy initiatives.

Free or Discounted Publications: NLIHC produces numerous publications each year, including the *Advocates' Guide* and *Out of Reach*. Telephone resource referrals with linkages to state and regional networks participation in policy-setting decisions of NLIHC

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Questions? Call 202-662-1530 or e-mail outreach@nlihc.org

Gifts are tax-exempt under Section 501(c)(3) of the IRS code.

NATIONAL LOW INCOME
HOUSING COALITION

DO YOU KNOW FRIENDS OR COLLEAGUES WHO SHOULD BE A MEMBER OF NLIHC?

Let us know and we'll send them free membership materials.

Name: ____________________
Organization: ____________________
Address: ____________________
City: __________ State: __________ Zip: __________
Telephone: __________ Email: __________

Name: ____________________
Organization: ____________________
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City: __________ State: __________ Zip: __________
Telephone: __________ Email: __________

ORGANIZATIONAL MEMBERS CAN PROVIDE ADDITIONAL RECIPIENTS FOR MEMO .

Please fill out the address if it does not match that of the primary contact.

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The PNC Financial Services Group

NATIONAL LOW INCOME HOUSING COALITION

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