NATIONAL LOW INCOME HOUSING COALITION

September 17, 2021

The Honorable Janet Yellen
Secretary
U.S. Department of the Treasury
Washington, D.C.

To Secretary Yellen:

On behalf of the National Low Income Housing Coalition (NLIHC), I write to urge the U.S. Department of the Treasury to issue clear guidance on how communities can use State and Local Fiscal Recovery Funds provided by Congress and the Biden administration in the "American Rescue Plan Act" (ARPA) to meet the housing needs of the lowest-income renters most severely impacted by America's housing crisis and the COVID-19 pandemic. Treasury's Interim Final Rule allows Fiscal Recovery Funds to be used to develop affordable housing for "populations, households, or geographic areas disproportionately impacted by the pandemic." Without clear guidance on how states and localities can demonstrate "disproportionate impact," recipients may shift resources away from affordable housing development, choosing instead to focus resources on other, clearer allowable uses to avoid any missteps that could result in funds being clawed back by the federal government. Any final Treasury guidance should explicitly state that the development of any rental housing affordable to households with incomes below 30% of Area Median Income (AMI) is presumed to meet the statutory requirement to assist "households disproportionately impacted by the pandemic."

NLIHC is dedicated solely to achieving socially just public policy that ensures people with the lowest incomes in the United States have affordable and decent homes. NLIHC's members include state and local affordable housing coalitions, residents of public and assisted housing, nonprofit housing providers, homeless service providers, fair housing organizations, researchers, faith-based organizations, public housing agencies, private developers and property owners, local and state government agencies, and concerned citizens. While our members include the spectrum of housing interests, we do not represent any segment of the housing industry. Rather, we work on behalf of and with low-income people who receive and those who need federal housing assistance, especially extremely low-income people and people who are homeless.

The economic downturn resulting from the COVID-19 pandemic exacerbated the existing affordable housing crisis, as many renters who already struggled to afford their homes lost jobs or wages. Millions of renters struggled to remain safely and stably housed throughout the pandemic, primarily due to the severe pre-existing shortage of affordable and available homes for people with the lowest incomes. Pre-pandemic, there was a shortage of seven million affordable and available rental homes for the lowest-income renters earning less than the federal poverty rate or 30% of their area median income (AMI). For every 10 of the lowest-income renters, there were fewer than four homes affordable and available to them. Without affordable options, nearly ten million very low-income households must spend more than half of their incomes on rent and utilities. These renters, disproportionately people of color, now face even more precarity, due to lost income, increased expenses, and accumulating rent arrears. ARPA's Fiscal Recovery Funds provide flexibility for governments to meet local needs, including building and preserving affordable housing in impacted communities. The potential investment of funding for affordable housing construction through the Fiscal Recovery Funds presents a significant opportunity for communities to meaningfully address the systemic discrimination that has led to the pandemic's disproportionate toll on low-income households, who are disproportionately people of color.

NLIHC was grateful for the opportunity to weigh in on Treasury's Interim Final Rule governing implementation of these vital resources through a comment submitted on June 17. Additional recommendations are outlined below.

Target Impacted Households, Not Geographies

Rather than targeting geographic areas, it is critical that Treasury guidance require or encourage recipients to target housing investments to eligible populations and households disproportionately impacted by COVID-19, including people with the lowest-incomes and Black, Indigenous, and people of color.

Concentrating affordable housing investments only in communities disproportionately impacted by the pandemic could retrench racial segregation. Because of systemic racism in the housing market and other sectors, affordable housing is often sited in lower-income, less resourced communities, and not in higher-income neighborhoods with greater access to resources. Addressing this ongoing legacy requires both targeting resources to disinvested communities as part of a comprehensive revitalization plan and constructing affordable housing in higher-income neighborhoods with greater access to resources, good-performing schools, well-paying jobs, healthcare, and transit. This comprehensive approach is central to the goal of dismantling racial segregation and ensuring all renters have the freedom and ability to choose where to live.

Treasury should allow housing investments in any community – not just Qualified Census Tracts (QCTs)—as long as the homes are built to be affordable to households with the lowest incomes. Limiting the development of affordable housing to primarily QCTs would also unduly restrict some communities' ability to utilize these funds. While QCTs are an easily accessible means of identifying areas with persistent poverty, they do not necessarily reflect the number of extremely low-income people in an area, the area's housing costs, or the number of housing cost-burdened renters, providing a limited perspective of the actual housing needs in a particular community. Moreover, limiting the construction of affordable housing to only QCTs does little to help low-income people who are severely housing cost-burdened and living outside of a QCT access affordable housing.

Presume Eligibility for Housing Affordable to the Lowest-Income Renters

Treasury should explicitly state in its guidance that any affordable, accessible housing that serves the lowest-income renters automatically meets the statutory requirement to assist "households disproportionately impacted by the pandemic." The COVID-19 public health and economic crisis brought devastating harm to millions of families, and those with the lowest incomes have been disproportionately impacted. Many low-income renters still struggle to remain safely and stably housed, due in large part to the severe shortage of homes affordable and available to them.

Analysis of the Census Bureau's Household Pulse Survey suggests that the lowest-income renters were disproportionately harmed by the economic downturn. During the first eleven months of the survey (April 23, 2020 – March 29, 2021), respondents were asked the following question: "Have you, or has anyone in your household, experienced a loss of employment income since March 13, 2020?" Low-income renters were considerably more likely than other respondents to report having lost employment income: while 43.7% of all respondents experienced such a loss during that time, 55.9% of renter households with annual incomes less than $25,000 had lost income. Among renters with incomes less than $35,000, even more were affected—57.1% reported a loss of income.

Many of these low-income renter households are still struggling today. In mid-August 2021, the Household Pulse Survey indicated that nearly 6.5 million renter households are behind on their rent. People of color, who are much more likely than white people to have extremely low incomes, continue to be disproportionately at risk of eviction and housing loss. Twenty-seven percent of Black renters, 19% of Asian renters, 19% of Latino renters, and 10% of white renters are behind. Twenty-five percent of renters with incomes less than $25,000 are behind on rent, as are 18% of renters with incomes between $25,000 and $34,999.

Treasury should also require grantees to follow the 2015 Affirmatively Furthering Fair Housing (AFFH) rule until HUD issues a revised version of the 2015 AFFH rule. Treasury should strongly encourage localities to utilize a streamlined, tailored version of the Fair Housing Assessment Tool, as HUD now does, in order to assess factors that cause, increase, maintain, or contribute to discriminatory housing practices that further residential segregation.

Thank you for your attention and consideration. For more information or to discuss further, please contact me (dyentel@nlihc.org) or NLIHC Vice President of Public Policy Sarah Saadian (ssaddian@nlihc.org).

Sincerely,

Diane Yentel
President and CEO
National Low Income Housing Coalition