

Opportunities to End Homelessness and Achieve Housing Justice in a Biden Administration

NOVEMBER 09, 2020



NATIONAL LOW INCOME
HOUSING COALITION



To: President-Elect Biden's Transition Team
From: Diane Yentel, President & CEO of the National Low Income Housing Coalition
Date: November 09, 2020
Re: Opportunities to End Homelessness and Achieve Housing Justice in a Biden Administration

The National Low Income Housing Coalition (NLIHC) looks forward to working with President-elect Biden and his administration to address one of the most critical issues facing extremely low-income families today: the lack of decent, accessible, and affordable housing. The ongoing coronavirus pandemic has underscored the inextricable link between housing and health, the urgent need to address our nation's affordable housing crisis, and the systemic racism that has resulted in the pandemic and housing crisis disproportionately harming Black, Latino, and Native people.

There is a shortage of seven million affordable and available homes for our nation's lowest-income renters. In other words, for every ten of the lowest-income renters, there are fewer than four affordable apartments available to them. Because of the shortage, nearly eight million of the lowest-income households pay at least half of their income towards rent – and many pay much more – leaving them at increased risk of eviction and, in worst cases, homelessness. Because of decades of chronic underfunding by Congress, just one in four eligible households receive housing assistance.

The shortage of affordable homes and decades of systemic racism have exacerbated the harm done by the COVID-19 pandemic. Without substantial and sustained investments in housing solutions, tens of millions of people are at risk of losing their homes this winter when the current eviction moratorium expires. This would have severe consequences for individual and public health, financial stability and job opportunities, educational outcomes, and more. With President-elect Biden's leadership, our country can both address the immediate and urgent need for coronavirus-related emergency housing and homelessness resources, and begin to repair the social safety net to end homelessness and housing poverty, and build sustainable, equitable communities that provide opportunity for the lowest-income and most marginalized people.

President-elect Biden has committed to "build back better" through substantial investments in affordable housing infrastructure and to help undo the generations of discriminatory and racist housing policies that have led Black, Latino, and Native families to bear the brunt of the affordable housing crisis. As part of his plan for investing in communities through housing, President-elect Biden proposed providing Section 8 housing vouchers to every eligible household and creating a renter's tax credit to bridge the gap between wages and housing costs, ensuring no household spends more than 30% of their income on rent every month. Other elements of the Biden administration's housing platform – investing \$20 billion in the Housing Trust Fund, preserving the existing affordable housing stock and making it more resilient to climate change, and a commitment to enforcing and strengthening anti-discrimination laws - would allow President-elect Biden to fulfil his promise that "housing should be a right, not a privilege."

NLIHC is committed to working with the Biden administration and Congress to advance solutions to the affordable housing crisis, and to target resources to individuals, families, and communities with the greatest needs. In this memorandum, we provide our recommendations on steps the Biden administration can take – whether through a coronavirus relief bill, an infrastructure or stimulus spending package, and other legislative and regulatory avenues – to make the critical investments in affordable housing that our nation needs to ensure all people have the stability to recover and thrive.

Table of Contents

I. The Need for Affordable Housing	4
II. Emergency Actions Needed to Respond to the Pandemic	6
A. Executive Action on Day 1	6
B. Pandemic Relief Legislation	7
III. Long-Term Solutions to Ensure Housing Affordability	9
A. Bridging the Gap Between Income and Housing Costs	9
i. Housing Choice Vouchers	
ii. Renters' Tax Credit	
B. Expanding and Preserving the Supply of Affordable Housing	9
i. Housing Trust Fund	
ii. Public Housing	
iii. Expansion and Reform of the Low-Income Housing Tax Credit	
iv. Local Zoning and Land Use Barriers	
C. Preventing Housing Instability with Eviction Prevention	11
i. National Housing Stabilization Fund	
ii. Right to Counsel and "Just Cause" Protections	
D. Addressing Climate Change and Ensuring Equitable Disaster Recovery	12
i. Permanent Authorization	
ii. Disaster Housing Assistance Program	
iii. Resiliency in Affordable Housing	
E. Addressing Fair Housing and Racial and Income Equity	13
i. Expansion and Enforcement of Fair Housing Protections	
ii. Access to Opportunity	
iii. Resources for People Exiting the Criminal Justice System	
IV. Legislative Opportunities	15
A. Infrastructure or Stimulus Package	15
B. Racial Justice and/or Criminal Justice Legislation	16
C. Climate Change Legislation	17
D. Tax Reform Legislation	17
E. Appropriations Bills	18
F. Other Legislative Opportunities	18
V. Regulatory Priorities	20
A. Fair Housing and Anti-Discrimination Protections	20
B. Criminal Justice	21
C. Public Housing Demolition and Disposition	22
D. Job Opportunities for Low-Income Renters	22
VI. Key Legislation	23
VII. Conclusion	26

I. The Need for Affordable Housing

Even before the current COVID-19 pandemic, the country was in the grips of a pervasive affordable housing crisis, impacting rural, suburban, and urban communities alike. Nearly eight million of our nation's lowest-income households live in housing poverty, spending more than half of their incomes on rent and utilities every month.¹ Nationally, there is a shortage of approximately seven million homes affordable and available to the lowest-income renters, and there is not a single state or congressional district in the country with enough affordable homes to meet this demand.²

While this crisis has many dimensions, the fundamental problem is the mismatch between what people earn or otherwise have available to spend on housing and what housing costs. Since 1960, renters' incomes have increased by 5%, while rents have risen 61%.³ High rental costs and low wages leave housing cost-burdened renters with few resources to cover other necessities, like medical care or nutritious food, and put them at risk of housing instability and, in worst cases, homelessness.

Across the country, the greatest need for affordable housing is concentrated among extremely low-income renters who earn no more than 30% of area median income (AMI). NLIHC's report [The Gap: A Shortage of Affordable Rental Homes](#) found that only seven million affordable rental homes exist for the nation's 11 million lowest-income renter households, assuming they spend no more than 30% of their income on housing costs. More than three million of these homes, however, are occupied by higher-income households, leaving only four million affordable and available rental homes for the 11 million lowest-income renter households. This means there are fewer than four affordable homes available for every ten of the nation's lowest-income renters, who are often seniors, people with disabilities, veterans, or families with children.

The shortfall of 7 million homes affordable and available to extremely low-income renters accounts for virtually the entire shortage of affordable homes in the US. When extremely low-income households cannot access affordable homes, they must compete with higher-income renters for housing they cannot reasonably afford. As a result, 11 million renter households are severely housing cost-burdened, spending more than half of their incomes on rent and utilities every month, and eight million – nearly three-quarters – of these households are extremely low-income.⁴

Decades of racist housing policies locked Black, Native, and Latino households out of opportunities to build wealth and economic security, creating tremendous racial disparities in housing and homelessness. People of color are disproportionately represented among extremely low-income renters and people experiencing homelessness. Black households account for 12% of all households, yet they account for 19% of all renters and 26% of all extremely low-income renters. Black individuals represent 40% of people experiencing homelessness, and more than half of all homeless families. Hispanic households account for 12% of all U.S. households, 19% of all renters, 21% of extremely low-income renters, and 22% of people experiencing homelessness.⁵

Housing cost burdens make it more difficult for extremely low-income households to accumulate emergency savings. Without savings, unexpected costs, like car repairs, unreimbursed medical bills, or a drop in income, can cause households to fall behind on their rent and face eviction. The housing instability caused by eviction can lead to significant disruptions in critical services and economic stability. For example, a lack of stable housing can disrupt the care given to chronically

1 National Low Income Housing Coalition. 2020. *The Gap: A Shortage of Affordable Homes*. Washington, DC: Author. See: <https://nlihc.org/gap>

2 U.S. Department of Housing and Urban Development. 2019. CHAS Data, 2011-2015 [data file].

3 Joint Center for Housing Studies of Harvard University. 2018. *The State of the Nation's Housing*. Cambridge, MA: Author.

4 National Low Income Housing Coalition. 2020. *The Gap: A Shortage of Affordable Homes*. Washington, DC: Author. See: <https://nlihc.org/gap>

5 National Low Income Housing Coalition. 2020. *The Gap: A Shortage of Affordable Homes*. Washington, DC: Author. See: <https://nlihc.org/gap>

ill individuals, interrupt student learning and academic achievement,⁶ and increase the likelihood of job loss.⁷ Affordable housing and housing subsidies are foundational to employment, economic security, and positive health outcomes.

The public is looking to the federal government's leadership for solutions, particularly during the ongoing pandemic. A poll conducted by NLIHC's *Opportunity Starts at Home Campaign* in June 2020 indicated the majority of the public (67%) is in favor of the federal government making major investments in housing, even if it means increasing the deficit. Eighty-six percent of respondents agreed that the federal government needs to invest more in affordable housing over the long-term to ensure people are prepared when a crisis like the coronavirus hits. Importantly, 63% of those surveyed noted that housing affordability is a serious problem in their area, an increase of 24 points since 2016.⁸

6 Maqbool, N., Viveiros, J., & Ault, M. 2015. The Impacts of Affordable Housing on Health. Washington, DC: National Housing Conference; Brennan, M., Reed, P., & Sturtevant, L. 2014. The Impacts of Affordable Housing on Education. Washington, DC: National Housing Conference.

7 Desmond, M. & Gershenson, C. 2016. Housing and Employment Instability among the Working Poor. *Social Problems*, 63(1): 46-67.

8 *Opportunity Starts at Home Campaign*. 2020. 2020 Public Opinion Poll on Housing Instability during the COVID-19 Pandemic. <https://www.opportunityhome.org/resources/2020-public-opinion-poll/>

II. Immediate Actions Needed to Respond to the Pandemic

The Biden administration must immediately act to prevent millions of America's lowest-income renters from losing their homes and to address the health and housing needs of people experiencing homelessness during the pandemic.

A. EXECUTIVE ACTION ON DAY 1

On Day 1, the administration must take executive action to implement an improved moratorium to stop the eviction of millions of renters.

A [federal eviction order](#) issued by the Centers for Disease Control and Prevention (CDC) extends vital protections to tens of millions of renters at risk of eviction for nonpayment of rent during the coronavirus pandemic. In issuing the order, the CDC makes clear the harmful connection between evictions and the spread of coronavirus. While the CDC moratorium has significant shortcomings, it is providing stability to millions of people who would otherwise lose their homes.

The CDC moratorium expires on December 31, 2020. At that time, economists estimate that renters will owe between \$34 billion and \$75 billion in back rent. House and Senate Democrats have advanced several bills to provide \$100 billion in emergency rental assistance, and Republicans have indicated willingness to provide lesser, but still substantial, amounts for rental assistance. However, it is unclear when legislation with these resources will be enacted and whether funds can be distributed in time to prevent a catastrophic wave of evictions in January.

A surge in eviction filings occurred when protections under the much more limited CARES Act eviction moratorium expired in August and before the CDC moratorium was implemented in September. When the CDC eviction moratorium expires on December 31, we expect to see a far greater number of landlords and courts removing families from their homes, due to both the amount of accumulated back rent and recent changes to the CDC order that allows for landlords and courts to take all actions up to the removal of families (notices to vacate, eviction filings, court hearings, etc) prior to the order's expiration. These actions will result in many families being pressured to leave their homes before the formal eviction process begins, and a flood of families being evicted from their homes in January.

If no further action is taken, [30 million to 40 million renters](#) in 17 million households are at high risk of losing their homes this winter. This will have enormous, negative consequences for individuals and families, communities, and our nation's public health and economy - and must be prevented.

When issuing a new eviction moratorium, the Biden administration should address the many shortcomings of the current CDC moratorium that have prevented some renters from making use of its protections. The Biden administration should issue an eviction moratorium that:

- [Reduces barriers for renters](#). A significant shortcoming of the current CDC moratorium is that renters must know about the moratorium and take affirmative steps to be protected. Far too many eligible renters, especially those with the lowest incomes who may not have access to legal aid attorneys, internet, or printers, and other marginalized people such as immigrants, seniors and people with disabilities, have been wrongfully evicted from their home. Moreover, NLIHC and other advocates are aware of numerous cases where landlords are evicting renters from their homes, even though renters provided their landlords with a signed declarative statement. The Biden administration should provide an automatic, universal moratorium to keep more renters in their homes. If the Biden administration instead keeps in place the requirement for renters to submit declarative statements, landlords must be required to notify tenants of the order and to attest to the court that they have not received a declaration before filing an eviction action.

- **Applies to all stages of the eviction process.** The CDC’s Frequently Asked Questions document issued on October 10 states, contrary to the original order, that landlords may serve eviction notices and file eviction lawsuits as long as physical evictions are not executed. Allowing landlords to give eviction notices and file eviction proceedings serves no purpose other than to mislead, pressure, scare, or intimidate renters into leaving sooner. An eviction moratorium issued by the Biden administration should bar all stages of the eviction process, including notices, filings, hearings, and physical evictions.
- **Provides greater clarity to courts and close loopholes.** To date, courts have interpreted the order very differently, resulting in uneven application and protections for renters. The Biden administration should provide greater clarity to courts in interpreting its CDC moratorium. For example, the order should make clear that a CDC moratorium covers “no fault” evictions and evictions at the end of lease term. If the Biden administration continues the use of declarative statements, it must make clear that landlords cannot question the veracity of a declarative statement signed under penalty of perjury.
- **Enforce the moratorium.** While the CDC order imposes criminal penalties on landlords who violate the CDC moratorium, no entity or persons are enforcing the order and there is no mechanism for renters to file complaints against landlords who violate the order. As a result, the criminal penalties in the order have not deterred improper evictions and landlords continue to evict renters in violation of the moratorium without consequence. The Biden administration must create a hotline number that renters can use to file complaints, and it must charge the U.S. Department of Justice and the Consumer Financial Protection Bureau to enforce the CDC order. The process for enforcement must be clear and published on all relevant materials and websites.

Implementing an improved eviction moratorium will keep families in their homes while providing Congress and the administration sufficient time to enact a comprehensive relief package that includes emergency rental assistance and other resources to ensure housing stability.

B. PANDEMIC RELIEF LEGISLATION

During the first 100 days in office, the Biden administration must work with Congress to pass a robust coronavirus relief package that includes resources and protections to address the health and housing needs of people experiencing homelessness and America’s lowest-income renters. While it is possible that Congress may reach a deal on a relief package during the lame duck session, the Biden administration should be prepared for further needed action.

[NLIHC’s top priorities for any pandemic relief package include: a national, uniform moratorium on evictions; at least \\$100 billion in emergency rental assistance and housing vouchers; \\$11.5 billion to prevent and respond to outbreaks among people experiencing homelessness; and additional resources to ensure housing stability through HUD and USDA.](#)

The COVID-19 pandemic and its resulting job and wage losses magnified and accelerated the existing affordable housing crisis. As of September 2020, 60 million Americans have filed for unemployment insurance. More than 20 million renters live in households that have suffered coronavirus-related job loss, throwing them into financial distress that was further exacerbated when pandemic unemployment insurance benefits expired.

As discussed above, an estimated 30-40 million people will be at risk of losing their homes without federal action.⁹ Racial disparities among those affected by both the affordable housing crisis and the pandemic put Black, Latino, and Native people and people with disabilities at disproportionate risk of facing eviction. Protecting renters vulnerable to eviction from losing their homes, and ensuring people already

⁹ Benfer, E., et al. 2020. The COVID-19 Eviction Crisis: An Estimated 30-40 Million People in America Are at Risk. https://nlihc.org/sites/default/files/The_Eviction_Crisis_080720.pdf

experiencing homelessness have access to safe, stable, accessible housing, is both a moral imperative and a public health necessity.

A national, uniform moratorium on evictions for nonpayment of rent and at least \$100 billion in emergency rental assistance and housing vouchers are needed to prevent a wave of evictions.¹⁰ The number of severely housing cost-burdened renters – those paying over 50% of their income on rent every month – is expected to increase by at least 1.5 million households as a result of the coronavirus pandemic. These households are at greater risk of housing instability and, in worst cases, homelessness. Eviction moratoriums play a critical role in protecting renters, but rent will still be owed when the moratorium ends. At least \$100 billion in emergency rental assistance and housing vouchers is needed to avoid creating a financial cliff for renters to fall off when eviction moratoria are lifted and back-rent is owed, and to ensure the continued viability of our country's essential affordable housing infrastructure.

An additional \$11.5 billion for HUD's Emergency Solutions Grants (ESG) program is also needed to respond to and prevent coronavirus outbreaks among people experiencing homelessness. People experiencing homelessness who contract the coronavirus are twice as likely to be hospitalized, two to four times as likely to require critical care, and two to three times as likely to die than others in the general public. If unchecked, as many as 20,000 people who are homeless could require hospitalization and nearly 3,500 could die. This has enormous implications for individuals, their communities, and our already overstretched hospital systems. Funds are needed to minimize the number of people living in homeless encampments and congregate shelters and identify alternative space, including hotels, for isolation and self-quarantine, as well as funding for short-term rental assistance and housing stabilization services.

Finally, a coronavirus relief bill should include additional resources for public housing agencies, HUD and USDA housing providers, and tribal housing authorities to help keep renters safe and healthy during this crisis, including \$26 billion for new emergency Housing Choice Vouchers specifically for people experiencing or on the verge of homelessness and survivors of domestic violence, dating violence, sexual assault, or stalking. Access to these crucial resources and any other services provided in response to the coronavirus should be made available regardless of immigration status, involvement with the criminal legal system, or insurance.

¹⁰ Aurand, A., Emmanuel, D., and Threet, D. 2020. *NLIHC Research Note: The Need for Emergency Rental Assistance During the COVID-19 and Economic Crisis*. National Low Income Housing Coalition. <https://nlihc.org/sites/default/files/Need-for-Rental-Assistance-During-the-COVID-19-and-Economic-Crisis.pdf>

III. Long-Term Solutions to Ensure Housing Affordability

The affordable housing crisis demands a major, long-overdue federal response. Federal leadership is necessary to not only expand affordable housing resources, but to set policy priorities and incentivize and support coordinated efforts at the state and local levels. While every state and congressional district is impacted by the affordable housing crisis, specific housing challenges differ in every community – there is no silver-bullet solution. For that reason, the administration must use every available tool to solve this problem.

A. BRIDGING THE GAP BETWEEN INCOME AND HOUSING COSTS

Rental assistance is a critical tool for helping the lowest-income people afford decent, stable, accessible housing and has a proven track record of reducing homelessness and housing poverty. A growing body of research finds that rental assistance can improve health and educational outcomes and increase children’s chances of long-term success. Today – and particularly in light of the coronavirus pandemic – more extremely low-income families are struggling to pay rent than ever before, and despite growing need, only one in four families who qualify for rental assistance actually receive it because of chronic underfunding by Congress.

Housing Choice Vouchers

Making rental assistance available to all income-eligible households in need – a core element of President-elect Biden’s housing platform – is central to any successful strategy to solve the affordable housing crisis.

Housing Choice Voucher’s (HCV) are a proven solution to homelessness and housing poverty. Vouchers help people with the lowest incomes afford housing in the private market by paying landlords the difference between what a household can afford to pay and the cost of reasonable rents.

Housing vouchers are flexible – people can use them to rent homes that best meet their needs, including homes in areas with quality schools and greater access to well-paying jobs. Housing vouchers may also be tied to a specific housing development, which helps facilitate the development’s financing and makes it easier for owners to provide health and other services that some residents may require.

Renters’ Tax Credit

Creating a new federal renters’ tax credit – as proposed in President-elect Biden’s housing platform and as introduced in the Senate by Vice President-elect Kamala Harris – is a promising policy innovation that would assist more low-income families.

Our nation has long provided mortgage tax relief for higher income homeowners, most of whom would be stably housed without assistance; a renter’s tax credit that could help ensure the lowest-income households are able to afford a safe, decent, accessible home is long overdue.

A renter’s tax credit should be targeted to extremely low-income renters and could complement the existing Low Income Housing Tax Credit, which subsidizes the development of affordable housing that, on its own, is rarely affordable to the lowest-income people. A renters’ tax credit could be provided directly to renters or to property owners in exchange for lowering rents to levels affordable to the lowest-income households.

B. EXPANDING AND PRESERVING SUPPLY OF AFFORDABLE HOUSING

Increasing the overall supply of deeply affordable housing not only helps the lowest-income people but can also alleviate rent pressure for those with higher incomes. Millions of low-income renters occupy units they cannot afford, and a greater supply of affordable, accessible rental housing for those with the

lowest incomes would allow these renters to move into affordable units and free up their original units for renters who can better afford them.

Capital investments are needed to increase the supply of housing affordable and accessible to the lowest-income renters. This includes expanding the national Housing Trust Fund and both expanding and reforming the Low-Income Housing Tax Credit to better target the credit to households with the greatest needs. Investments must also be made to preserve and rehabilitate our nation's public housing infrastructure.

Housing Trust Fund

President-elect Biden's plan to invest \$20 billion in the national Housing Trust Fund (HTF) would be a vital step forward in addressing the housing needs of the lowest-income renters.

The HTF is the first new federal housing resource in a generation exclusively targeted to build and preserve rental homes affordable to people with the lowest incomes. The HTF is administered as a block grant to states, allowing each state the flexibility to decide how to best utilize HTF resources to address the most pressing housing needs of low-income renters. By law, at least 90% of funds must be used for the production, preservation, rehabilitation, or operation of rental housing, and up to 10% may be used for homeownership activities for first-time homebuyers. States are using HTF investments to build, rehabilitate, or preserve affordable, accessible rental homes for extremely low-income veterans, seniors, people with disabilities, and people experiencing homelessness.

Currently, the HTF is funded with a dedicated source of revenue outside of the appropriations process. The initial source of funding designated in the statute is an annual assessment of 4.2 basis points (0.042%) of the volume of business of Freddie Mac and Fannie Mae, 65% of which goes to the HTF. The statute also provides that the HTF can be funded by other sources of revenue, such as appropriations, transfers, or credits that Congress may designate in the future.

The first \$174 million in HTF dollars were allocated to states in 2016; as of November 2019, NLIHC's interim analysis of how states have started using their allocations found that 50 states and DC awarded HTF funds to 161 projects with over 1,928 HTF-assisted homes.¹¹ This is an important first step, but far more resources are necessary to continue this vital work and meet the overwhelming need for deeply affordable housing.

There are many proposals to expand the Housing Trust Fund – from [extending a small fee on Fannie Mae and Freddie Mac](#) that is set to expire in 2021 and reinvesting the resources into the Housing Trust Fund to large-scale proposals like the [American Housing and Economic Mobility Act](#) to invest nearly \$45 billion annually in the program. The Biden administration should consider every opportunity to expand the Housing Trust Fund.

Public Housing

President-elect Biden should make a significant investment to rehabilitate, preserve and build public housing throughout the country.

Public housing is critical to ensuring people with the greatest need have a safe, decent, affordable, and accessible place to call home, and the preservation of this community asset must be included in any strategy to end housing poverty. The nation's stock of roughly 1 million public housing units is home to 2.6 million residents, many of whom are elderly and/or disabled, families with children, and have very low or extremely low incomes.

11 National Low Income Housing Coalition. 2019. Supplemental Updated to Getting Started: First Homes Being Built with 2016 National Housing Trust Fund Awards. Washington, DC: Author. See: <https://nlihc.org/sites/default/files/Updated-Supplement-Getting-Started.pdf>

Despite its critical role, public housing capital repairs have been chronically underfunded for decades – today, public housing faces over \$70 billion in unmet capital backlog needs. With limited funding, many public housing agencies are unable to make needed repairs to preserve these homes. As a result, our country loses 10,000 to 15,000 units of public housing every year to obsolescence or decay and other units fall into disrepair.¹²

The federal government has already invested significant resources to develop, maintain, and operate public housing, and communities will lose an important asset – and the federal government will lose all its investment – if Congress continues to underfund public housing. The Faircloth Amendment should be repealed to allow new public housing units to be built.

Expansion and Reform of the Low Income Housing Tax Credit

The Low Income Housing Tax Credit (LIHTC) program finances new affordable housing; nearly 3 million affordable apartments have been developed or preserved over the last three decades. While LIHTC is a critical resource, the administration should reform the program to better serve those with the greatest housing needs – people and families experiencing homelessness, extremely low-income seniors, families with children, people with disabilities, and Native communities.

Reforms should increase the ability to use LIHTC to serve extremely low-income renters and encourage development in challenging markets, such as rural communities and tribal lands. Reforms should also provide new incentives and/or resources so that a significant share of LIHTC units are affordable to those with the lowest incomes and strategically sited to foster economically and racially inclusive communities.

Local Zoning and Land Use Barriers

Local regulatory burdens and land-use restrictions increase the cost of development and constrain the ability of the private market to serve middle-income renters, especially in markets with significant growth in demand for housing. These barriers increase costs, resulting in higher rents and reduced supply.

While reducing local barriers is critical for meeting the housing needs of middle-income renters, it is insufficient to address the severe shortage of affordable rental homes for people with the lowest incomes. As such, the federal government should prioritize scarce federal resources on solutions that address the severe housing needs of extremely low-income renters, and should encourage and incentivize state and local governments to reduce barriers that increase the supply for renters with relatively higher incomes by requiring communities that receive federal community development and infrastructure funding to reduce regulatory and zoning barriers that limit housing supply.

C. PREVENTING HOUSING INSTABILITY WITH EVICTION PREVENTION

Even before the pandemic, millions of households were one financial shock away from major economic hardship that could quickly spiral out of control. The pandemic has made this crisis more acute, particularly for extremely low-income people, Black families, and single parents.¹³ Temporary assistance can stabilize households experiencing economic shocks before they spiral into housing instability and homelessness, which often require more prolonged and extensive housing assistance.

National Housing Stabilization Fund

The creation of a National Housing Stabilization Fund would bolster President-elect Biden’s plan to “protect tenants from eviction” by helping renters cover the gap between income and rental costs during a financial crisis.

12 National Low Income Housing Coalition. 2019. *Advocates Guide*. Washington, DC: Author. See: https://nlihc.org/sites/default/files/AG-2018/2018_Advocates-Guide.pdf

13 Long, H., Van Dam, A., Fowers, A., & Shapiro, L. 2020. “The COVID-19 Recession is the Most Unequal in Modern US History.” *The Washington Post*. <https://www.washingtonpost.com/graphics/2020/business/coronavirus-recession-equality/>

When combined with housing stability services like legal aid and housing counselors, short-term housing assistance can significantly reduce evictions and homelessness, but this aid is not available at the scale needed. Federal, state, and local programs may offer some form of emergency assistance and/or legal services but create an uneven patchwork of support for households at risk of eviction.

The [Eviction Crisis Act](#), introduced by Senators Michael Bennet (D-CO) and Rob Portman (R-OH), along with Senators Todd Young (R-IN) and Sherrod Brown (D-OH), could garner broad, bipartisan support from Congress. If enacted, the bill would create an Emergency Assistance Fund to provide direct financial assistance and stability services to help the lowest income households overcome an unforeseen economic shock. It would also create a grant program for states and local jurisdictions to support landlord-tenant focused community courts to help divert evictions and create a national evictions database.

Right to Counsel and “Just Cause” Protections

NLIHC urges the administration to work with Congress to enact federal legislation to establish a national right to counsel and “just cause” protections for renters. An estimated 90 percent of renters do not have representation in housing court and, as a result, are far too likely to lose their cases and face eviction. Establishing a federal right to counsel would help more renters stay in their homes and mitigate harm when eviction is unavoidable. Moreover, establishing “just cause” protections in federal law would ensure greater housing stability and prevent arbitrary and harmful actions by landlords.

D. ADDRESSING CLIMATE CHANGE AND ENSURING EQUITABLE DISASTER RECOVERY

Climate change is causing disasters to be more frequent and destructive, impacting more communities. Left unchecked, climate disasters – including wildfires, hurricanes, flooding, and tornadoes – will continue to devastate the country and leave hundreds of thousands of people without homes. The lowest income and most marginalized people are susceptible to the greatest harm from disasters.

Our nation’s current disaster housing recovery framework is ill-prepared to meet the threat of climate change, exacerbating and reinforcing racial, income, and accessibility inequities at every stage of response and recovery. Major reforms and investments are needed.

Permanent Authorization

The Biden administration should work with Congress to permanently authorize and reform the Community Development Block Grant-Disaster Recovery (CDBG-DR) program. CDBG-DR is the federal government’s primary long-term disaster rebuilding program that provides states and communities with the flexible resources needed to rebuild affordable housing and infrastructure after a disaster. Authorizing the CDBGDR program would allow resources to reach communities and households in need more quickly, and reforms can ensure that all survivors have an equitable and complete recovery.

The “[Reforming Disaster Recovery Act](#),” introduced by Senators Brian Schatz (D-HI) and Todd Young (R-IN), and Representatives Ann Wagner (R-MO) and Al Green (D-TX), permanently authorizes the CDBG-DR program and passed the House with strong bipartisan support.

Disaster Housing Assistance Program (DHAP)

One of the top priorities after any disaster is ensuring households are stably housed. Despite the urgent need, however, FEMA-administered programs fail to serve the lowest-income and most marginalized survivors, resulting in increased housing instability and, in worst cases, homelessness. While past Republican and Democratic administrations activated the Disaster Housing Assistance Program (DHAP) to provide longer-term rental assistance and wrap-around services for survivors with the greatest needs, the Trump administration refused to do so.

The Biden administration should prioritize DHAP as a best practice and activate it after every major disaster to ensure housing stability for low-income households as they work to recover and get back on their feet.

Resiliency in Affordable Housing

Resiliency is a key component of the Biden administration’s housing platform, which recognizes the direct connection between affordable housing and climate change policy. The Biden administration should invest significant resources to ensure that affordable housing is energy-efficient and resilient, and it should prioritize the critical need to rehabilitate and retrofit public housing.

Efforts to ensure affordable housing can withstand the threat of climate change should start with public housing. As discussed above, the federal government has already invested significant resources to develop, maintain, and operate public housing. By providing greater resiliency in public housing, the Biden administration can help ensure that communities do not lose an important asset and the federal government will not lose its previous investment.

E. ADDRESSING FAIR HOUSING AND RACIAL AND INCOME EQUITY

Affordable, accessible housing and robust housing choice are the foundation upon which just and equitable communities are built. Evidence shows that access to stable, affordable homes in communities of opportunity has broad, positive impacts, leading to better health and educational outcomes and higher lifetime earnings, particularly for children raised in high-opportunity areas.

Expansion and Enforcement of Fair Housing Protections

A key promise of the Biden administration’s housing platform is to roll back Trump administration policies gutting fair housing protections and to “vigorously enforce” these standards.

The Biden administration should also work to expand the Fair Housing Act to ban discrimination based on sexual orientation, gender identity, marital status, and source of income.

Moreover, federal protections are needed to ensure survivors of domestic violence, dating violence, sexual assault, or stalking have access to safe, accessible homes and the ability to leave unsafe housing situations without risking possible homelessness.

Federally assisted housing providers should be barred from screening out applicants or evicting tenants because of the criminal activity of an abuser and from retaliating against a tenant for calling emergency assistance for help.

Access to Opportunity

Increasing access to high-opportunity areas and revitalizing historically disinvested communities through targeted investments can increase racial and economic equity and help bridge longstanding disparities. New allocations of mobility vouchers – housing vouchers paired with mobility counseling – and the continued implementation of HUD Small Area Fair Market Rents (SAFMRs) would help reduce the barriers low-income families face when using HCVs to move into higher-opportunity areas.

Resources for People Exiting the Criminal Justice System

The Biden administration’s housing platform sets an ambitious goal to ensure “100% of formerly incarcerated individuals have housing upon reentry” and commits to eliminate barriers keeping these individuals from accessing public assistance, including housing support.

Safe, stable, affordable, and accessible housing is vitally important for people who have been involved with the criminal or juvenile legal system to successfully reintegrate into their communities. However, formerly incarcerated individuals face tremendous barriers to accessing housing, putting them at risk of homelessness and recidivism. Because Black and Latino people, people with a disability, and members of the LGBTQ community are disproportionately represented in the criminal legal system, they are also the most impacted by these barriers and more likely get caught in the revolving door between incarceration and homelessness.

IV. Legislative Opportunities to Increase Affordable Housing Resources for Families with the Greatest Needs

Under a Biden administration, there will be legislative opportunities to expand much-needed affordable housing resources: (1) an infrastructure or stimulus package; (2) a criminal justice reform or racial justice bill; (3) climate change legislation; (4) tax reform; and (5) appropriations bills.

A. INFRASTRUCTURE OR STIMULUS PACKAGE

President-elect Biden has emphasized the necessity of large-scale infrastructure investments that would increase the supply of safe, stable, accessible, affordable and energy efficient housing. These investments must include resources to preserve and build homes affordable to the lowest-income people to maximize the proposal's impact on long-term economic growth.

NLIHC's top priorities for an infrastructure or stimulus package include: At least \$20 billion invested in the national Housing Trust Fund (HTF); \$70 billion to repair and rehabilitate public housing to preserve homes for current tenants and future generations; and \$2 billion to address critical housing needs in rural and tribal areas through USDA's multifamily preservation and revitalization (MPR) program and programs authorized by the Native American Housing Assistance and Self-Determination Act (NAHASDA). Infrastructure dollars can also be used to encourage state and local governments to reduce or eliminate zoning and land-use barriers to housing development.

Like roads and bridges, affordable, accessible housing is a long-term asset that helps communities and families thrive; it is foundational to creating vibrant, well-functioning communities and ensuring the nation not only recovers from the pandemic but is stronger and more equitable in its wake. Investments in affordable homes are a proven catalyst for economic growth, job creation, increased government revenue, and increased consumer spending. According to the National Associations of Home Builders, building 100 affordable homes generates \$11.7 million in local income, 161 local jobs, and \$2.2 million in taxes and other revenues for local government.¹⁴

Increasing the supply of affordable housing, especially in areas connected to good schools, well-paying jobs, healthcare, and transportation, helps people climb the economic ladder and leads to stronger, more inclusive communities. Children in low-income families who are able to access affordable homes located in neighborhoods with lower poverty rates are more likely to attend college, less likely to become single parents, and typically earn more as adults.¹⁵ Expanding housing subsidies for low-income families would reduce child poverty by an estimated 20.8% and lift an estimated 2.3 million children out of poverty.¹⁶

Research shows that the shortage of affordable housing in major metropolitan areas costs the American economy about \$2 trillion a year in lower wages and productivity. The lack of affordable housing acts as a barrier to entry, preventing lower-income households from moving into communities with greater economic opportunities. High housing costs constrain opportunities to increase earnings, causing slower GDP growth – in fact, researchers estimate the growth in GDP between 1964 and 2009 would have been 13.5% higher if families had better access to affordable housing, which would have led to an increase

14 National Association of Home Builders. 2015. The Economic Impact Home Building in a Typical Area. <https://www.nahb.org/-/media/NAHB/news-and-economics/docs/housing-economics/economic-impact/economic-impact-local-area-2015.pdf>

15 Chetty, R., Hendren, N., & Katz, L. 2015. The Effects of Exposure to Better Neighborhoods on Children: New Evidence from the Moving to Opportunity Experiment. Cambridge, MA: National Bureau of Economic Research. Retrieved from http://www.nber.org/mtopublic/final/MTO_IRS_2015.pdf

16 Children's Defense Fund and Urban Institute. 2015. Ending Child Poverty Now. Retrieved from: <https://www.childrensdefense.org/wp-content/uploads/2018/06/Ending-Child-Poverty-Now.pdf>

in wages of \$8,775 per worker.¹⁷ Without the burden of higher housing costs, these families would be better able to move into areas with growing local economies and improved wage and employment prospects. Housing infrastructure investments can also help create more inclusive communities.

Historically, federal transportation infrastructure policies reinforced racial segregation by allowing the construction of highways and railroads to separate communities, contain their expansion, and physically isolate them from economic opportunity and community resources. By investing in affordable, accessible housing and transportation infrastructure that is equitable for and accessible to everyone, we can create more robust, stable local economies that bolster historically disinvested communities.

B. RACIAL JUSTICE AND/OR CRIMINAL JUSTICE LEGISLATION

The Biden administration and Congress must address our nation's clear need for racial justice and criminal justice reform.

President-elect Biden proposed a national goal of ensuring 100% of formerly incarcerated people have housing upon reentry. In order to meet this ambitious objective, it is crucial that the Biden administration work with Congress to enact comprehensive criminal justice reform legislation.

NLIHC's priorities include providing those exiting incarceration with the support they need to obtain stable, permanent, affordable and accessible housing through targeted financial investments as well as policy changes that decrease barriers to obtaining housing. To reach this national goal, Congress should eliminate barriers keeping individuals from accessing public assistance, including housing support, and create Reentry Housing Voucher Assistance Program to provide housing vouchers to individuals released from local, state, or federal criminal facilities. A federal ban on source of income discrimination, as well as increasing the supply of deeply affordable, accessible housing for the lowest-income people are needed.

To reach this national goal, Congress should eliminate barriers keeping individuals from accessing public assistance, including housing support, and create Reentry Housing Voucher Assistance Program to provide housing vouchers to individuals released from local, state, or federal criminal facilities. A federal ban on source of income discrimination, as well as increasing the supply of deeply affordable, accessible housing for the lowest-income people are needed.

As many as one in three Americans has a criminal record, and Black and Latino people, people with a disability, and members of the LGBTQ community are disproportionately represented in the criminal justice system. Every year, over 600,000 people return to their communities from prison and face a myriad of challenges to successfully reintegrating, including profound housing insecurity.¹⁸ As more communities move toward decarceration, it is imperative to address the structural inequities that allow people exiting incarceration to go unhoused. Resources must be invested in affordable, accessible housing to ensure stability for justice-involved individuals, their families, and their communities.

People exiting incarceration often return to the same neighborhoods that have been subject to generational disinvestment, over-policing, and that lack access to safe, stable, affordable and accessible homes.¹⁹ The difficulties many people face in finding affordable, accessible housing are compounded for those with a criminal record, placing them at risk of housing instability, homelessness, and ultimately recidivism. A study from the US Interagency Council on Homelessness (USICH) found that roughly 48,000 people entering shelters every year had recently left incarceration;²⁰ another study indicated that

17 Moretti, E. & Hsieh, C. 2015. Housing Constraints and Spatial Misallocation. American Economic Journal: Macroeconomics. Retrieved: <https://www.nber.org/papers/w21154.pdf>

18 Couloute, L. 2018. *Nowhere to Go: Homelessness Among Formerly Incarcerated People*. Prison Policy Institute. <https://www.prisonpolicy.org/reports/housing.html>

19 Newkirk II, V. 2019. "'Human Frailty' is a Byproduct of Mass Incarceration." The Atlantic. <https://www.theatlantic.com/politics/archive/2018/05/mass-incarceration-is-a-public-health-problem/559904/>

20 United States Interagency Council on Homelessness. 2017. *United States Interagency Council on Homelessness Fiscal Year 2017 Congressional Budget Justification*. https://www.usich.gov/resources/uploads/asset_library/ FIN_USICH_FY_2017_CJ_Final.pdf

unhoused people with a criminal record were rearrested at twice the rate of individuals with a criminal history who were able to obtain stable housing.²¹

Racial justice is long overdue and must be a major focus of the Biden administration. Any racial justice reform legislation should include investments in affordable housing and measures to ensure these resources are provided in an equitable manner to create more robust and stable local economies and to transform historically disadvantaged communities of color into ones of opportunity where all people have the stability they need to thrive.

People of color have faced decades of ongoing racist discrimination in not only accessing affordable housing, but in accessing tools to build economic security. Federal, state, and local policies and practices have created a system of de facto segregation, filtering money and resources into white neighborhoods and concentrating Black, Latino, and Native families in neighborhoods with less access to nutritious food, quality housing, and well-paying jobs, and greater exposure to environmental pollution. As a result of these policies, today one in four Black families and one in six Hispanic families live in neighborhoods with concentrated poverty, compared to only one in 13 white families. These longstanding issues have contributed to the disproportionate rate of coronavirus infections and fatalities among Black, Latino, and Native people.

C. CLIMATE CHANGE LEGISLATION

As discussed above, our nation's current disaster housing recovery framework exacerbates and reinforces racial, income, and accessibility inequities at every stage of response and recovery. Low-income communities and communities of color are disproportionately impacted and suffer the greatest consequences from increasingly extreme weather due to climate change – they often live in the most risk-prone locations and most vulnerable structures, and they are least likely to receive assistance after recovering from climate events.

Despite the clear need, federal efforts frequently leave the lowest-income and most marginalized survivors without the assistance needed to get back on their feet and leave the lowest-income communities less resilient to future disasters. NLIHC's top priorities for any climate change legislation include: authorizing the Community Development Block Grant – Disaster Recovery (CDBG-DR) program; enacting legislation to automatically authorize housing vouchers for disaster survivors; and enacting major structural reforms to the Federal Emergency Management Association (FEMA).

Failing to account for the needs of the lowest-income disaster survivors directly impacts a disaster's human toll, and excluding housing from a broader plan to tackle climate change misses an opportunity to reduce greenhouse gas emissions while also building sustainable, equitable communities.

D. TAX REFORM LEGISLATION

Comprehensive tax reform provides a key opportunity to protect and expand federal investments in affordable housing resources in order to spur economic recovery and growth, create jobs, and provide much-needed assistance to families with the greatest needs. NLIHC's top priorities for any tax reform legislation is the creation of a new renters' tax credit and expanding and reforming the Low Income Housing Tax Credit to better serve households with the greatest needs.

Establishing a renters' tax credit would help ensure more extremely low-income families are able to find safe, stable, accessible housing they can reasonably afford. Any renters' credit should be tailored to primarily benefit families with the lowest incomes and could be designed to provide the benefit direct to renters or to property owners in exchange for lowering rents to rates affordable to extremely low-income renters.

²¹ Peterson, R. 2016. "Re-Arrests of Homeless Defendants in New York City." Criminal Justice Agency, Inc. <https://issuu.com/csdesignworks/docs/researchbrief39>

Additionally, improvements should be made to the Low Income Housing Tax Credit (LIHTC) to provide needed flexibility to states and communities to serve households with the greatest needs, including people and families experiencing homelessness, extremely low-income seniors, families with children, people with disabilities, and Native and rural communities. The Biden administration should tie any expansion of the LIHTC program to reforms to strengthen and streamline this resource, encourage development in challenging markets like rural and Native communities, and increase its ability to serve extremely low-income people.

E. APPROPRIATIONS BILLS

To fully address our nation's housing affordability crisis, the Biden administration must significantly increase appropriated resources for federal housing programs.

The shortage of affordable rental homes is caused by market failure and chronic underfunding of solutions. Without government intervention, decent, affordable, accessible homes cannot be reliably built, operated and maintained at a price the lowest-income seniors, people with disabilities, and workers can afford. The private market cannot on its own solve this persistent market failure.

Despite a proven track record of ensuring low-income people are stable, affordably, and accessibly housed, affordable housing programs have been chronically underfunded for decades. Despite relatively stable funding from fiscal year (FY) 1977 to FY2018, HUD assistance has failed to keep pace with inflation, and as a result has failed to reach at least 70% of eligible households since the early 1980s.

HUD's budget has declined dramatically over the last ten years since the Budget Control Act was enacted – inflation-adjusted federal funding for public housing, housing for the elderly, housing for persons with disabilities, and other important programs has fallen precipitously since FY2010. Only funding for tenant-based rental assistance and project-based rental assistance programs has modestly increased to keep up with the rising operating cost for previously authorized assistance.

F. OTHER LEGISLATIVE OPPORTUNITIES

The Biden administration should consider all opportunities to attach other critical bills to larger legislative vehicles in 2021. NLIHC's top priorities for key legislation that can be attached to larger vehicles includes:

- **Fulfilling the Promise of the Housing Trust Fund Act:** Introduced by Representative Denny Heck (D-WA), with Representatives Wm. Lacy Clay (D-MO), Earl Blumenauer (D-OR), and Ed Perlmutter (D-CO). The bill would increase funding for the national Housing Trust Fund by billions of dollars every year by redirecting a 10-basis point "guarantee fee" currently levied by Fannie Mae and Freddie Mac to the HTF. Because the HTF would be funded through a fee on lending activity, it would impose no costs to the federal government.
- **Eviction Crisis Act:** Introduced by Senators Michael Bennet (D-CO) and Rob Portman (R-OH), with Senators Todd Young (R-IN) and Sherrod Brown (D-OH). The bipartisan bill would create an Emergency Assistance Fund to provide direct financial assistance and stability services to help the lowest income households overcome an unforeseen economic shock. It would also create a grant program for states and local jurisdictions to support landlord-tenant focused community courts to help divert evictions and create a national evictions database.
- **Ending Homelessness Act:** Introduced by Representative Maxine Waters (D-CA). The bill proposes to invest more than \$13 billion over five years to address the shortage of affordable housing and to combat homelessness. The bill would provide \$1 billion annually to the national Housing Trust Fund and \$50 million each year for rental assistance to be used in conjunction with HTF housing. This investment would result in the creation of more than 410,000 new rental homes affordable to the lowest income households.

- **Reforming Disaster Recovery Act:** Introduced by Senators Brian Schatz (D-HI) and Todd Young (R-IN), and Representatives Ann Wagner (R-MO) and Al Green (D-TX). The bill permanently authorizes and reforms the federal government’s primary long-term disaster rebuilding program, the Community Development Block Grant-Disaster Recovery program, which provides states and communities with the flexible resources needed to rebuild affordable housing and infrastructure after a disaster. The bill passed the House with strong bipartisan support.
- **Housing Survivors of Major Disasters Act:** Introduced by Senators Warren (D-MA) and Rep. Espaillat (D-NY). This bill would require FEMA to activate the Disaster Housing Assistance Program to provide temporary rental assistance and wrap-around services to those households displaced by disasters. The bill passed out of the House Transportation and Infrastructure Committee unanimously in 2020 with full bipartisan support.

V. Regulatory Priorities

President-elect Biden's administration promoted ideas that would help create a more just and equitable society, where everyone has access to economic and educational opportunities as well as affordable housing. Over the past four years, the Trump administration worked to undermine the progress made in advancing racial equity in housing. Federal leadership is desperately needed to undo the harms caused by these policies and continue the crucial work of furthering equity.

A. FAIR HOUSING AND ANTI-DISCRIMINATION PROTECTIONS

For over 50 years, the Fair Housing Act has barred housing discrimination on the basis of race, color, religion, sex, familial status, national origin, or disability, and it required communities to take active steps to end racial segregation. The previous administration, however, has worked to weaken critical fair housing protections and policies. [The Biden administration should immediately reverse the Trump administration's harmful changes to the 2015 Affirmatively Furthering Fair Housing \(AFFH\) rule, the 2013 Disparate Impact rule, and the 2016 rule to provide Equal Access in Accordance with an Individual's Gender Identity.](#) These policies are designed to help promote more equitable communities, prevent hidden discrimination through biased policies or practices, and ensure appropriate access to services regardless of race, sexual orientation or gender identity.

[Moreover, the Biden administration should immediately reverse President Trump's anti-immigrant proposal to prohibit "mixed status" families from living in public and other HUD- or USDA-subsidized housing.](#)

[Affirmatively Furthering Fair Housing](#)

The Trump administration's changes to the 2015 AFFH rule is a complete retreat from efforts to undo historic, government-driven patterns of housing discrimination and segregation throughout the U.S. The proposal allows communities to ignore the essential racial desegregation obligations of the Fair Housing Act of 1968. It is based on a misguided supply-side ideology that falsely assumed an overall increase in the supply of housing will trickle down to become "affordable" without consideration of jurisdictional policies and practices affecting people in protected classes.

In September 2020, the Trump Administration abruptly issued a final rule without comment. The rule reduces "AFFH" to a mere three lines, concluding that "affirmatively furthering" fair housing means to "take any action rationally related to promoting any attribute or attributes of fair housing." In short, a jurisdiction could far too easily "certify" that it is meeting the statutory obligation without taking meaningful, substantive measures. Under the Biden administration, HUD must roll back the previous administration's disastrous violation of the AFFH rule.

Additionally, HUD must ensure landlords who fail to stop housing discrimination and harassment at their properties are held accountable by maintaining the 2016 approach to Fair Housing Act liability. These regulations allow landlords to be held accountable for the conduct of a tenant who engages in discriminatory conduct against another tenant, if the landlord knew or reasonably should have known about the conduct but failed to take steps within their power to stop it. Under the Biden administration, HUD must maintain the 2016 Fair Housing Act liability rule.

[Disparate Impact](#)

The Trump Administration further sought to undermine fair housing protections by implementing changes to the 2013 Disparate Impact Rule. While implementation of the changes is tied up in legal proceedings, they are designed to make it virtually impossible for people experiencing various forms of discrimination to challenge the policies and practices of businesses, governments, and housing providers. The goal of the 2013 rule was to allow individuals to show a housing policy or program has a discriminatory impact based on their race, national origin, sex, disability, family status, or religion, even if the policy or

program appears to apply to everyone equally. The Trump administration's changes tip the scale in favor of those accused of discrimination and shift the burden of proof to victims of discrimination. The Biden administration should immediately rescind these harmful changes and reinstate the well-crafted and time-tested three-part burden shifting standard originally implemented in 2013.

Equal Access

Under a Biden administration, HUD must retain protections for LGBTQ people experiencing homelessness and in need of shelter by reinstating the 2016 rule to provide Equal Access in Accordance with an Individual's Gender Identity. LGBTQ youth are more than twice as likely to experience homelessness than their non-LGBTQ peers, and Black LGBTQ youth have the highest rate of youth homelessness. Additionally, one in three transgender people report experiencing homelessness in their lifetime. Shelters provide a vital lifeline for LGBTQ people experiencing homelessness, but the Trump Administration has sought to limit LGBTQ peoples' access to shelter by weakening the 2016 Equal Access rule and promoting transphobic guidance encouraging providers of HUD-funded shelter to base admissions on "good faith" beliefs about a person's biological sex. The Biden Administration must reinstate the 2016 rule and ensure LGBTQ people have equal access to potentially lifesaving shelter.

Access for Mixed-Status Immigrant Families

It is critical to ensure eligible immigrant families are able to obtain and keep housing benefits. The Biden Administration should immediately reverse President Trump's anti-immigrant proposal to prohibit "mixed status" families from living in public and other HUD- or USDA-subsidized housing to ensure thousands of families, including U.S. citizen children, are not evicted from their homes. HUD's proposed "mixed status" rule would jeopardize the housing stability of over 100,000 individuals, including over 55,000 U.S. citizen children, and place them at risk of homelessness. USDA should also refuse to adopt similar prohibitions on "mixed status" families in USDA-assisted housing.

B. CRIMINAL JUSTICE

As more formerly incarcerated individuals return to their communities, there is growing concern about how they will fare upon reentry. Because of their criminal records, justice-involved individuals face barriers to accessing affordable housing, placing them at risk of homelessness and subsequent recidivism. [The Biden administration should take action to help provide safe, stable, affordable and accessible housing for those who have been involved with the criminal or juvenile justice system.](#)

Much of HUD's guidance on evaluating current and potential tenants is advisory and not mandatory so PHAs and project owners across the country have developed their own criteria, creating additional barriers for people with criminal records and raising fair housing concerns. PHAs and project-owners use unreasonable lookback periods to evaluate applicants' criminal records, sometimes looking back as long as 20 years. Many housing providers utilize overly-broad categories of criminal activity that reach beyond HUD's established categories, casting a wide net over almost any felony and effectively creating a de facto ban on individuals with a criminal record.

Moreover, returning citizens 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. Housing providers' refusal to add returning citizens to a lease places these individuals and their families at risk of losing their housing if something happens to the head of household. PHAs and project owners also frequently adopt "one strike" or "no fault" policies that deny admission to anyone with a criminal record or require families to be automatically evicted any time a household member engages in criminal activity in violation of the lease.

Under the Biden administration, HUD should ensure compliance with and build upon previous guidance that would expand access to federally assisted housing for people with a criminal record, including providing mandatory limits on reasonable lookback periods; placing limitations on what criminal activity housing providers may consider when reviewing applications; and setting minimum standards for the quality and nature of criminal background information that can be used by PHAs and federally assisted housing providers to make leasing decisions. By eliminating the barriers to housing and supporting programs that help formerly incarcerated people successfully reintegrate into their communities, people with criminal records can make the most of their second chance.

C. PUBLIC HOUSING DEMOLITION AND DISPOSITION

The Biden administration should revisit HUD's public housing demolition/disposition rule. During the Obama administration, the Office of Public and Indian Housing (PIH) heard advocates who reported abuses by public housing agencies (PHAs) under the demolition/disposition regulations (24CFR970). To begin to address the issues as fast as possible, PIH issued Notice PIH 2012-07. Eventually PIH published a proposed rule on October 14, 2014 that addressed many of the advocates' recommendations. Unfortunately, the rule was never finalized in time.

The Trump administration discarded the Obama proposed rule and issued Notice PIH 2018-04. The 2018 Notice significantly downplays the role of resident consultation, the PHA Plan, and other resident-oriented features. For example, in the 2012 Notice, HUD terminated its review of a demo/dispo application if it was substantially incomplete or deficient. In addition, HUD would reject such an application and render the application "inactive." After an application was rejected, HUD would not allow a PHA to submit missing items or correct deficiencies. Under the 2018 Notice, however, if an application is substantially incomplete or deficient, HUD will merely return the application and inform the PHA of the deficiencies. The value of the formal rejection and "stop work" process of the 2012 Notice was to serve as a disincentive to PHAs providing residents and HUD with incomplete applications for review and comment.

The Biden administration should review the 2014 proposed rule, meet with advocates and residents, and issue a new demolition/disposition rule.

D. JOB OPPORTUNITIES FOR LOW-INCOME RENTERS

Section 3 of the Housing and Urban Development Act of 1968 ensures that when HUD funds are used to assist housing and community development projects, "to the greatest extent feasible," preference for some of the jobs and other economic opportunities created go to low-income people, "*particularly those who are recipients of government assistance for housing.*" Section 3 also aims to support businesses owned or controlled by low-income people or businesses that hire them.

The Obama administration proposed significant changes to the then-interim Section 3 rule from 1994. Many of those changes reflected input from advocates, including NLIHC, after numerous conference calls with HUD staff. That proposed rule never cleared the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget (OMB).

The Trump administration replaced the previous proposed rule with the one now made final. This [final Section 3 rule was published on September 29](#) and adopted most of the very problematic proposed rule. The Biden administration should review the Section 3 proposed rule published by the Obama administration, meet with advocates and residents, and issue a new Section 3 rule.

VI. Key Legislation

With a new Congress comes a new opportunity to enact legislation that will make a meaningful difference in the lives of millions of Americans. The Biden administration should work with the incoming Congress to build upon successes of the 116th Congress and pass legislation that will help end homelessness and housing poverty.

A. INCREASING THE SUPPLY OF AFFORDABLE HOUSING STOCK

[American Housing and Economic Mobility Act](#): Introduced by Senator Elizabeth Warren (D-MA) and Representatives Cedric Richmond (D-LA), Gwen Moore (D-WI), Barbara Lee (D-CA), and Elijah Cummings (D-MD). If enacted, this ambitious proposal would help end housing poverty and homelessness in America by directly addressing the underlying cause of the affordable housing crisis – the severe shortage of affordable rental homes for people with the lowest incomes – through a robust investment of nearly \$45 billion annually in the national Housing Trust Fund. The bill also creates new incentives for local governments to reduce barriers that drive up the cost of housing, thereby encouraging the private sector to do more to address the housing needs of the middle class.

[Pathway to Stable and Affordable Housing for All Act](#): Introduced by Senators Mazie Hirono (D-HI), Kirsten Gillibrand (D-NY), and Cory Booker (D-NJ). This bill would effectively end homelessness through robust investments in the national Housing Trust Fund, fully funding rental assistance, and expanded funding for homelessness programs. It would invest \$400 billion in the national Housing Trust Fund and \$130 billion for McKinney-Vento homeless assistance grants over ten years.

[Ending Homelessness Act](#): Introduced by Representative Maxine Waters (D-CA). The bill proposes to invest more than \$13 billion over five years to address the shortage of affordable housing and to combat homelessness. The bill would provide \$1 billion annually to the national Housing Trust Fund and \$50 million each year for rental assistance to be used in conjunction with HTF housing. This investment would result in the creation of more than 410,000 new rental homes affordable to the lowest income households.

[Housing Is Infrastructure Act](#): Introduced by Senator Kamala Harris (D-CA) and Representative Maxine Waters (D-CA). The bill would provide a one-time infusion of funds, including \$70 billion to fully address the capital-needs backlog of public housing repairs, \$5 billion to create deeply affordable rental homes through the national Housing Trust Fund, \$1 billion to address severe housing needs on tribal lands, and \$5 billion for the HOME Investment Partnerships Program, among other investments. The bill also sets procurement and hiring goals for women- and minority-owned businesses, including developers and construction company owners. The bill was approved by the House of Representatives in June 2020.

[A Better Deal for Public Housing](#): A proposal announced by Senator Ed Markey (D-MA) and Representatives Hakeem Jeffries (D-NY) and Stephen Lynch (D-MA) as part of the Our Homes, Our Voices National Housing Week of Action in 2018. The proposal would reinvest in America's public housing developments and offer solutions to empower residents, while fostering safer neighborhoods and creating economic opportunities.

[Task Force on the Impact of the Affordable Housing Crisis Act](#): introduced in the 115th Congress by Senators Todd Young (R-IN), Maria Cantwell (D-WA), Angus King (I-ME), Dean Heller (R-NV), Tim Kaine (D-VA), Doug Jones (D-AL), Cory Gardner (R-CO), Marco Rubio (R-FL), and Chris Coons (D-DE). If enacted, the legislation would create a bipartisan task force to study the impact of America's affordable housing crisis and provide recommendations to Congress on how to increase affordable housing options to improve the effectiveness of other federal programs.

[Affordable Housing Tax Credit Improvement Act](#): Introduced by Senator Maria Cantwell (D-WA), Ron Wyden (D-OR), Todd Young (R-IN), and Johnny Isakson (R-GA), along with Representatives Susan DelBene (D-WA), Don Beyer (D-VA), Kenny Marchant (R-TX), and Jackie Walorski (R-IN). The bill would expand

the Housing Credit by 50% over five years and make important reforms to enable deeper income targeting in the program.

[Fulfilling the Promise of the Housing Trust Fund Act](#): Introduced by Representative Denny Heck (D-WA), with Representatives Wm. Lacy Clay (D-MO), Earl Blumenauer (D-OR), and Ed Perlmutter (D-CO). The bill would increase funding for the national Housing Trust Fund by billions of dollars every year by redirecting a 10-basis point “guarantee fee” currently levied by Fannie Mae and Freddie Mac to the HTF.

B. BRIDGING THE GAP BETWEEN INCOME AND RENT

[Family Stability and Opportunity Vouchers Act](#): Introduced by Senators Todd Young (R-IN) and Chris Van Hollen (D-MD). This bill would create an additional 500,000 housing vouchers specifically for low-income families with young children in order to expand their access to neighborhoods of opportunity with high-performing schools, strong job prospects, and other vital resources. Vouchers would be coupled with counseling and supportive services that are proven to help families move out of neighborhoods of concentrated poverty.

[Rent Relief Act](#): Introduced by Senators Kamala Harris (D-CA), Richard Blumenthal (D-CT), Kirstin Gillibrand (D-NY), and Maggie Hassan (D-NH). The bill creates a new refundable tax credit to cost-burdened households, making it possible for millions of the lowest-income people to afford roofs over their heads.

[Housing, Opportunity, Mobility, and Equity \(HOME\) Act](#): Introduced by Senator Cory Booker (D-NJ) and Representative Jim Clyburn (D-SC). The bill creates a new, refundable tax credit to eliminate housing cost burdens for millions of the lowest-income people and incentivizes local communities to address regulatory and zoning barriers that restrict supply and drive up housing costs.

C. PREVENTING HOUSING INSTABILITY WITH EMERGENCY ASSISTANCE

[Eviction Crisis Act](#): Introduced by Senators Michael Bennet (D-CO) and Rob Portman (R-OH), with Senators Todd Young (R-IN) and Sherrod Brown (D-OH). The bill would create an Emergency Assistance Fund to provide direct financial assistance and stability services to help the lowest income households overcome an unforeseen economic shock. It would also create a grant program for states and local jurisdictions to support landlord-tenant focused community courts to help divert evictions and create a national evictions database.

D. ADVANCING FAIR HOUSING AND EQUITY

[Keeping Families Together Act of 2019](#): Introduced by Senator Kirstin Gillibrand (D-NY) and Representative Sylvia Garcia (D-TX). The bill would prevent HUD from taking steps to evict mixed status immigrant families – including 55,000 children who are U.S. citizens or legal residents – from federally assisted housing.

[Ensuring Equal Access to Shelter Act of 2019](#): Introduced by Senator Brian Schatz (D-HI) and Representative Jennifer Wexton (D-VA). The bill would prevent HUD from taking steps to roll back protections for transgender people experiencing homelessness and seeking shelter – a move that would literally put lives at risk.

[Fair Housing Improvement Act](#): Introduced by Senator Tim Kaine (D-VA) and Representatives Brian Peters (D-CA), Adam Schiff (D-CA), Raul Grijalva (D-AZ), Jose Serrano (D-NY), and Ayanna Pressley (D-MA). If enacted, the bill would protect veterans and low-income families from housing discrimination by expanding the Fair Housing Act to prohibit housing discrimination based on source of income or veteran status.

[Fair and Equal Housing Act](#): Introduced by Senator Tim Kaine (D-VA) and Representative Brad Schneider (D-IL). The bill would prohibit housing discrimination based on sexual orientation and gender identity.

[Restoring Fair Housing Protections Eliminated by HUD Act](#): Introduced by Representative Maxine Wa-

ters (D-CA). The proposal to enforce fair housing rights was crafted in response to efforts by the Trump administration to scale back fair housing protections.

[Fair Chance at Housing Act](#): Introduced by Representative Alexandria Ocasio-Cortez (D-NY) and Senator Kamala Harris (D-CA). The proposal would reform the ways in which public housing authorities and owners of federally assisted housing screen out applicants or evict tenants based on their involvement with the criminal justice system.

[Tenant Protection Act](#): Introduced by Senator Cory Booker (D-NJ). The proposal would take important steps to reform tenant screening practices to provide people applying for rental homes the necessary protections to ensure a fair and equitable screening process.

E. ENSURING EQUITABLE DISASTER RECOVERY

[Reforming Disaster Recovery Act](#): Introduced by Senators Brian Schatz (D-HI) and Todd Young (R-IN), and Representatives Ann Wagner (R-MO) and Al Green (D-TX). The bill permanently authorizes and reforms the federal government's primary long-term disaster rebuilding program, the Community Development Block Grant-Disaster Recovery program, which provides states and communities with the flexible resources needed to rebuild affordable housing and infrastructure after a disaster.

[Housing Survivors of Major Disasters Act](#): Introduced by Senators Warren (D-MA) and Rep. Espaillat (D-NY). This bill would require FEMA to activate the Disaster Housing Assistance Program to provide temporary rental assistance and wrap-around services to those households displaced by disasters.

VII. Conclusion

NLIHC and our members look forward working with the Biden administration to address the lack of decent, accessible, and affordable housing for people with the lowest incomes, and to begin rectifying the historic and ongoing discrimination that have locked communities of color out of opportunity to build economic security. Together we can end homelessness and housing poverty once and for all and foster stronger, more equitable and more resilient communities.

If you have any questions or need additional information, contact Diane Yentel, President and CEO (dyentel@nlihc.org) or Sarah Saadian (ssaadian@nlihc.org), Vice President of Public Policy.