Memo TO Members

Volume 21, Issue 20
May 23, 2016

In This Issue:

- NLIHC Seeking Director of Public Policy

National Housing Trust Fund

New Resources on Developing and Operating HTF Housing for Extremely Low Income Households

NLIHC has produced two new resources for advocates, state agencies and developers related to developing and operating housing affordable to extremely low income (ELI) households with national Housing Trust Fund (HTF) resources. They are posted on the NLIHC HTF website at: http://nlihc.org/issues/nhtf

The two new resources are:

1. **Funding Strategies for Developing and Operating Extremely Low Income Housing:** The rents that ELI households can afford to pay often do not cover the operating costs of a rental project. Two recent studies by the Technical Assistance Collaborative (TAC) and NLIHC identify state and local funding strategies for ELI housing to address this issue. The strategies include cross subsidization, capitalizing operating reserves, rent subsidies or operating assistance, reducing mortgage debt, and layered funding streams. States can adapt these strategies when considering how to utilize HTF funds.

2. **Options and Considerations Related to HTF Operating Assistance and Operating Assistance Reserves:** The national HTF Developers Advisory Group (see below and http://bit.ly/1Sj1uOp) created an Operating Assistance Workgroup to develop guidance for how states, advocates and developers should consider employing the operating assistance (OA) and OA reserves that are allowable under the HTF regulations. The first section of this resource provides an overview of the HTF regulations related to operating assistance and operating assistance reserves. The second part is a summary of the OA and OA reserve options and considerations for HTF advocates, developers, and HTF state administering agencies. It explores cross-subsidization in mixed-income projects supported by multiple funding streams, a centrally managed operating assistance approach, a project-level operating reserve approach, and a project capitalization approach.

The national HTF Developers Advisory Group consists of experienced mission-driven affordable housing developers who have agreed to serve as an advisory resource to advocates, state HTF administering agencies, and other developers. Those who would like to dig deeper into the information in the documents described above or ask other questions about developing and operating HTF projects for ELI households can reach out directly to members of the HTF Developers Advisory Group.

A list of HTF Developers Advisory Group members and their contact information is at: http://bit.ly/1Sj1uOp

HUD Letter to HTF Grantees Addresses Geographic Diversity, Fair Housing, and Affordability

Principle Deputy Secretary for Community Planning and Development Harriet Tregoning sent a letter to state agencies responsible for administering the national Housing Trust Fund (HTF), offering several next steps for them to take. The letter covers topics related to HTF public participation, geographic diversity, affirmatively furthering fair housing (AFFH) and affordability.

In her May 17 letter, Ms. Tregoning suggests that states begin the public participation process for developing their HTF Allocation Plan if they have not already included the HTF in the Consolidated Plan (ConPlan) public participation process. She also noted that HTF Allocation Plans must be submitted before August 16.

The statute creating the HTF requires states to give priority in awarding funds to projects based on six factors, one of which is geographic diversity. The interim regulations clarify that geographic diversity is as defined in the state ConPlan. The HUD letter stresses the importance of providing funding based on geographic diversity, adding that distribution priorities must be consistent with the obligation to affirmatively further fair housing.

The letter reminds states that the regulations' site and neighborhood standards must be followed. NLIHC interprets HUD's intention to be that states should consider AFFH when evaluating the location of HTF-assisted projects in 2016. However, the letter might be misconstrued given the regulations' direction to consider geographic diversity as defined in their ConPlan; some states have expressed concern about how to comply with state-wide geographic diversity with such small HTF allocations in 2016.

Addressing affordability, Ms. Tregoning states, "I strongly urge you to take all available steps to ensure the affordability of HTF units to extremely low income households as you are selecting projects for HTF funding and setting rent levels for these units." The letter continues by citing a second statutory priority factor, the extent to which rents will be affordable, especially to extremely low income households. HUD's regulations and the letter narrow the statutory language by phrasing this priority factor as "the extent to which the project has federal, state, or local project-based rental assistance that will make HTF units affordable to extremely low income households." If project-based rental assistance is not available, the letter encourages states to use other mechanisms, such as locating HTF units in market-rate housing projects that can generate internal subsidies for HTF units, often referred to as cross-subsidization.

NLIHC appreciates the emphasis on ensuring affordability to extremely low income renters. The letter falls short, however, in addressing a problem NLIHC has asked HUD to rectify for more than a year. The interim rule says that to qualify as "affordable," rents shall not exceed 30% of 30% of the area median income (AMI) or 30% of the federal poverty level, whichever is greater. There is no basis in the statute for setting rents at 30% of the poverty level. In 83% of the fair market rent (FMR) areas in the nation where 72% of all people live, 30% of AMI is lower than the federal poverty line. Consequently if rents are set at 30% of the poverty level in these areas, HTF-assisted households are much more likely to be cost-burdened, spending more than 30% of their income for rent and utilities. NLIHC strongly encourages states to establish rents at 30% of a household's income or at levels below 30% of 30% of AMI, so that ELI households are not cost-burdened.

The HUD letter is at http://bit.ly/23Yw1GV

HUD Issues HTF Rehabilitation Standards FAQ

HUD published an FAQ describing the elements that must be included in a state's set of rehabilitation standards for housing assisted with national Housing Trust Fund (HTF) funds. If a state intends to award HTF money to rehabilitate housing, it must establish rehabilitation standards and include those standards as part of its HTF Allocation Plan. HUD's interim regulations spell out the rehabilitation standards requirements at 24 CFR part 93.301(b). The FAQ repeats the text from the regulation, with one exception.

As presented in the regulations and the FAQ, the rehabilitation standards must be sufficiently detailed to determine the rehabilitation work required and the methods and materials that must be used. A state's standards may refer to existing codes or may establish requirements that exceed the minimum requirements of existing codes. At a minimum, the standards must address health and safety, major systems (such as structural support, roofing, and plumbing), lead-based paint, physical accessibility, disaster mitigation, meeting state and local codes or the International Existing Building Code of the International Code Council, and uniform physical condition standards (UPCS).

The last standard, UPCS, is the only one that the FAQ discusses beyond what is in the interim rule. Section 301(b)(viii) indicates that HUD would establish the minimum deficiencies that must be corrected under a state's rehabilitation standards based on inspectable items and inspected areas from HUD-prescribed UPCS physical inspection procedures. The FAQ states that the standards must include the UPCS inspectable items and observable deficiencies for the site, building exterior, building systems, common areas, and units, all as identified on charts in appendices to the FAQ. The rehabilitation standards must identify the type and degree of deficiency that must be addressed.

The rehabilitation standards FAQ is at http://bit.ly/23W2Q7s

The FAQ appendices are at http://bit.ly/1sv1gy1

HUD Posts Sample HTF Allocation Plan Form

HUD has developed a sample national Housing Trust Fund (HTF) Allocation Plan form, called *Housing Trust Fund Allocation Plan Guide 2016*. States may use the sample form to submit their HTF Allocation Plans or use another format as long as all elements required by the interim HTF rule are included. The sample form covers all of the required elements.

Because the HTF Allocation Plan is part of the Consolidated Plan (ConPlan), states are required to submit their HTF Allocation Plan as a component of their annual Action Plan and/or long-term ConPlan using HUD's eCon Planning Suite. However, for 2016 the eCon Planning Suite does not yet contain all of the data fields needed to accommodate the HTF Allocation Plan. The sample form as well as Notice CPD-16-07 (see *Memo*, 5/2) notes that some of the HTF Allocation Plan requirements will be completed in the eCon Planning Suite in IDIS, the management information system used by HUD's Office of Community Planning and Development (CPD). Portions of an HTF Allocation Plan not submitted with the eCon Planning Suite will be submitted using a Word document or PDF file. The 2016 HTF Allocation Plan must be submitted by August 16 to the local HUD CPD Field Office and to HUD Headquarters.

If a state has already conducted its ConPlan public participation and included the HTF in any public participation performed for the other HUD formula grant programs (such as HOME and CDBG), that state does not need to conduct additional public participation for the HTF. If a state has not yet conducted public participation or did not include the HTF in the public participation it performed for other HUD formula grant programs, the state must conduct additional public participation to include the HTF as part of its ConPlan.

The HTF authorizing statute requires states to give priority in awarding HTF money to applicants based on six factors:

1. Geographic diversity;
2. Ability to obligate HTF funds and undertake HTF eligible activities in a timely manner;
3. The extent to which rental units will be affordable, particularly to extremely low income households, which HUD's interim defines as the extent to which federal, state, or local project-based rental assistance is used;
4. The length of time rental units will remain affordable (a minimum of 30 years);
5. The merits of the proposed project in meeting the priority housing needs in the state's ConPlan; and
6. The extent to which the applicant will make use of non-federal funding sources.

The sample form asks states to describe all of these criteria and to indicate their relative importance. The sample form is the first indication in HUD guidance that relative importance should be given to each of the six priority factors. NLIHC's Model HTF Allocation Plan proposes a 100-point system, with 40 points assigned to rent affordability and 25 points assigned to the merit of the project (see *Memo*, 5/2).

HUD's sample form indicates which IDIS screens to complete or amend for the HTF Allocation Plan and adds a series of questions for which a state can check a box and add text in order to address HTF elements not yet activated in IDIS.

The Housing Trust Fund Allocation Plan Guide 2016 is at http://bit.ly/1XAIEs1

Federal Budget

Senate Passes THUD Spending Bill, Rejects Anti-Fair Housing Amendment

After days of debate, the Senate passed a spending package that included the FY17 Transportation, Housing and Urban Development, and Related Agencies (THUD) appropriations bill on May 19 by a vote of 89 to 9. NLIHC supported passage of the bill that includes no significant funding cuts, ensures households currently served by HUD programs will continue to receive assistance, and protects the Affirmatively Furthering Fair Housing rule.

The Senate THUD bill will:

- Provide sufficient funding to renew existing project-based rental assistance contracts;
- Allocate enough funds to renew existing Housing Choice vouchers and provide additional funds for new vouchers targeted to the HUD-Veterans Affairs Supportive Housing program and the Family Unification program;
- Increase funding for public housing;
- Provide new resources to homeless assistance programs, including targeted funds to address youth homelessness;
- Level-fund the HOME Investment Partnerships program, the Community Development Block Grant program, and the Housing Opportunities for People with AIDS program;
- Increase funding for the Section 202 Housing for the Elderly program and the Section 811 Housing for People with Disabilities program; and
- Provide more resources to the Office of Lead Hazard Control and Healthy Homes grants.

Housing and civil rights advocates sprang into action when Senators Mike Lee (R-UT), Tom Cotton (R-AR), Richard Shelby (R-AL), and David Vitter (R-LA) filed an amendment attacking the Fair Housing Act. Their amendment would prohibit HUD from implementing the AFFH rule and its assessment tool. The senators argued that the rule turns HUD into a national zoning board with the power to overturn or rewrite local zoning laws.

NLIHC defended the AFFH rule in a letter sent to the Senate, explaining that the rule simply clarifies existing fair housing obligations and allows states and local governments to more fairly and effectively invest federal funds in their communities. NLIHC and our members and state partners made calls, sent letters, and issued action alerts to defeat the amendment.

Senators took to the floor to speak about the importance of the AFFH rule in realizing the promise of the 1968 Fair Housing Act, with some recounting their own experiences facing or witnessing housing discrimination. Senator Cory Booker (D-NJ), a former mayor, spoke of the discrimination his parents faced when trying to buy a home and how the Fair Housing Act came to their aid. “Legislation that this body passed empowered my family to move into the home of their dreams in an all-white neighborhood with incredibly good schools that I went through from K through 12,” Senator Booker said. “I am the beneficiary of work this body did to ensure that our American values are preserved, our values of inclusion and integration, to make sure fair housing is the law of the land. That work gave me my start in life. The activism of local activists, combined with the law of the land as passed by us, defined my path.”

Senators also explained that the AFFH rule empowers local communities to better address the housing needs of all residents and does not allow "federal bureaucrats to dictate where a community's low income residents will live," as Senator Lee argued. Senator Johnny Isakson (R-GA) spoke about how the rule will allow communities to gather "more information to try and find ways we can end the lack of housing availability for certain Americans by bringing in data and trying to create new ways to [address the problem]." He referred to the housing discrimination faced by many people with disabilities, as more than 50 percent of fair housing complaints filed each year are disability-related.

THUD Appropriations Subcommittee Chair Susan Collins (R-ME) and others pointed out that the rule was a direct response to a Government Accountability Office (GAO) report that criticized HUD for not effectively enforcing the Fair Housing Act. "[The AFFH rule] wasn't some wild scheme that was dreamed up by bureaucrats at HUD, as some have claimed," Senator Collins said. "This was in response to a report from the Government Accountability Office. We talk about how we want more efficiency, better accountability. That is why we have the GAO. This rule that was directly adopted in response to the GAO's report surely is significant."

Senators noted that in responding to the GAO, HUD worked diligently to craft a rule that addressed the needs and concerns of many stakeholder groups, a process that spanned years and involved input from the public, including mayors and county executives.

Senators opposing the Lee-Cotton amendment secured the votes needed to set the amendment aside, defeating efforts to have it included in the THUD bill by a vote of 60 to 37.

Senator Collins, Appropriations Chair Thad Cochran (R-MS), and THUD Appropriations Subcommittee Ranking Member Jack Reed (D-RI) offered an amendment that made clear that the new rule does not provide local zoning authority to HUD. That amendment was adopted on an 87-9 vote.

It was important for the Senate to block the AFFH amendment from being included in the THUD bill, given that the House has included a similar provision in its THUD spending bill the past two years and may do so again. If both the House and Senate bills were to include language blocking the AFFH rule, the likelihood would increase that such language would be incorporated in a final THUD bill negotiated between the two chambers. NLIHC and our coalition partners will continue to monitor the appropriations process and work to protect the AFFH rule.

The Senate adopted a number of other housing-related amendments by voice vote. Those included:

- An amendment from Senators Diane Feinstein (D-CA) and Robert Portman (R-OH) that provides a four-year suspension of the 24-month funding commitment deadline under the HOME Investment Partnerships Program.

- An amendment from Senator Dean Heller (R-NV) that prohibits funds being used to provide housing assistance to individuals convicted of certain criminal offenses.

- An amendment from Senator Marco Rubio (R-FL) that shortens the time given to a property owner to respond to physical deficiencies in HUD-assisted housing.

- An amendment from Senator John Barasso (R-WY) that allows Indian tribes to use certain funds to construct housing for specified skilled workers.

- An amendment from Senator Kelly Ayotte (R-NH) that prohibits the use of funds for the Continuum of Care program unless the program allows for zero-tolerance recovery housing.

- An amendment from Senator Bill Nelson (D-FL) that ensures the safety of properties covered under a housing assistance payment contract.

Read NLIHC's call to action on the AFFH amendment at: http://bit.ly/1W6u5Ni

Read the text of the Lee-Cotton amendment at: http://1.usa.gov/1W6ujny

Read the text of the Collins-Reed-Cochran amendment at: http://1.usa.gov/1WGxzpB

House Subcommittee Advances FY17 THUD Spending Bill

The House Appropriations Subcommittee on Transportation, Housing and Urban Development, and Related Agencies (THUD) approved its FY17 spending bill on May 18 by a voice vote. Much like the Senate version of the bill, the House proposal is better than expected and should provide sufficient funding to ensure continued assistance to all households currently served by HUD. House appropriators were able to avoid major cuts and increased funding for a few programs.

The House THUD Subcommittee received an allocation of $58.2 billion to fund important housing and transportation programs, an increase of $889 million over the FY16 allocation. THUD Appropriations Subcommittee Chair Mario Diaz-Balart stated, "We were able to make these vital investments in transportation systems and communities because of the very generous allocation to this subcommittee." HUD will receive $38.7 billion, $384 million more than last year's level but below the $39.2 billion provided in the Senate bill.

The funding levels for HUD programs proposed in the bill are similar to those included in the Senate bill, with some notable exceptions that reflect different priorities in the two chambers. Unlike in the Senate, the House THUD Subcommittee largely excluded from its bill policy proposals like the expansion of the Rental Assistance Demonstration (RAD) and requirements to reduce lead paint hazards. The bill includes no negative policy or funding decisions related to the national Housing Trust Fund (HTF), a departure from last year's House THUD Subcommittee bill which proposed raiding the HTF to fill a funding gap.

Homelessness

Homeless assistance programs received a significant increase in funding compared to the Senate bill: $2.487 billion versus $2.3 billion. The House bill provides a $237 million increase over FY16 funding levels. The bill does not specifically target funds to address youth homelessness but does require HUD to collect performance measures of each Continuum of Care that will influence how future funds are distributed.

Tenant Based Rental Assistance

Despite providing less funding than the Senate ($18.312 billion compared to $18.355 billion), House appropriators maintain that this amount is sufficient to renew existing housing choice vouchers. The House also chose not to allocate any money towards new Family Unification Program (FUP) vouchers, and provided just $7 million towards Veterans Affairs Supportive Housing (VASH) vouchers specifically targeted to Native American veterans.

The bill does not include funding for the Obama Administration's proposed housing choice voucher mobility demonstration designed to help families move to lower-poverty communities and gain access to areas of opportunity. The Senate provided $11 million for the demonstration.

Project Based Rental Housing

Like the Senate version of the bill, the House bill provides $10.901 billion to renew all project-based rental assistance contracts for calendar year 2017, an increase of $85 million from FY16.

Public Housing

The House decided to flat-fund both public housing accounts in FY17. The Senate proposed increasing funding for both. Under the House bill, the operating fund would receive $4.5 billion and capital account $1.9 billion.

The bill does not increase the number of public housing units that can convert under RAD.

Other Housing Programs

For a number of housing programs, the House bill provides the same level of funding proposed in the Senate bill. This includes $505 million for the Section 202 Housing for the Elderly program, enough to renew all contracts, and $154 million for the Section 811 Housing for People with Disabilities program, $3 million over the FY16 level. The House bill does not include language allowing Section 202 Project Rental Assistance Contract (PRAC) properties to convert under RAD.

Like the Senate bill, the House bill flat-funds the HOME Investments Partnerships program at $950 million, the Community Development Block Grant program at $3 billion, and the Housing Opportunities for People With AIDS (HOPWA) program at $335 million. The House bill does not update the HOPWA formula.

While both House and Senate bills cut funding for the Choice Neighborhoods Initiative, the House provided $100 million for the program in FY17 compared to the Senate's $80 million. The program received $125 million in FY16.

The House bill provides $130 million to the Office of Lead Hazard Control and Healthy Homes' grants, a $20 million increase from FY16.

Next Steps

The full Appropriations Committee will debate the bill and amendments offered by committee members on May 24 at 10:30 am ET in the Rayburn House Office Building, room 2359. Policy riders will loom large, possibly including ones related to trucking safety provisions and to preventing HUD from implementing its Affirmatively Furthering Fair Housing rule.

Read the House THUD bill at: http://1.usa.gov/1W5Y2wM

See NLIHC's budget chart at: http://bit.ly/1SowzjU

Senate Committee Passes FY17 USDA Spending Bill

The Senate Committee on Appropriations approved by a vote of 30-0 its FY17 spending bill for the U.S. Department of Agriculture (USDA) on May 19.

The bill would fund the Section 521 Rental Assistance program at $1.405 billion for FY17, the amount requested by President Obama and $15.3 million more than was appropriated for FY16. The proposed bill would increase the Multifamily Preservation and Revitalization (MPR) program, which would receive an additional $3 million for housing vouchers.

The Committee included in the report accompanying the bill concerns about the number of multi-family mortgages that are scheduled to mature over the next few years. "In spite of numerous requests from the Committee, the [USDA] has failed to identify and develop potential solutions to this looming crisis." The Committee directs the USDA Secretary "to engage affordable housing advocates, project owners, and others as practicable, to find acceptable and effective long term solutions that will retain projects in the affordable rural housing program." The Committee also provided short-term stopgap assistance to delay the loss of affordable housing units while USDA develops a comprehensive long-term solution. That assistance includes a $11.6 million increase in the Section 515 Rural Rental Housing Loan Program, regulatory relief from self-imposed requirements, and a pilot project to provide technical assistance to facilitate transfers of projects to new owners.

Read more about the bill here: http://1.usa.gov/1Wv1EJr

Congress

Senators Introduce Bill to Expand LIHTC

Senator Maria Cantwell (D-WA) and Senate Finance Committee Chair Orrin Hatch (R-UT) introduced the "Affordable Housing Credit Improvement Act of 2016." The bill would increase the allocation of Low Income Housing Tax Credits (LIHTCs) by 50% over a five-year period, make the 4% tax credit rate floor permanent for acquisition and bond-financed projects, and establish an income averaging provision. Senate Finance Committee Ranking Member Ron Wyden (D-OR) and Senator Charles Schumer (D-NY) joined as original co-sponsors of the bill introduced on May 19.

The 50% increase in LIHTC authority would be phased in by 10% increments from 2016 to 2020. The per capital amount of tax credits states would receive would increase from $2.35 in 2016 to $3.53 in 2021. The minimum tax credit amount a state could receive would increase from $2,690,000 in 2016 to $4,035,000 in 2021.

Currently, projects seeking LIHTC benefits must choose one of two options: ensuring at least 20% of the units are rent-restricted and occupied by households with incomes less than 50% of the area median income (AMI), or ensuring at least 40% of the units are rent-restricted and occupied by households with income less than 60% of AMI. The Cantwell-Hatch bill would introduce a third "income averaging" option, requiring at least 40% of the units in a project are occupied by residents with incomes that average no more than 60% of AMI, with no rent-restricted units occupied by households with incomes greater than 80% of AMI.

On March 24, Senator Cantwell announced plans to introduce legislation to expand and reform the LIHTC program that, along with the provisions in the May 19 bill, would also provide for a 50% basis boost for projects targeting extremely low income (ELI) or homeless families (see *Memo*, 4/4). A basis boost results in more investment in a project. The bill introduced on May 19 did not include the ELI targeting option, which would result in an increase in the supply of rental units for ELI households, the population with the greatest need for affordable homes. NLIHC looks forward to working with Senators Cantwell and Hatch on accompanying legislation to be introduced in coming weeks that would provide incentives for deeper targeting.

The bill is at: http://bit.ly/1TK05k4

More information about LIHTC is on page 5-32 of NLIHC's *2016 Advocates' Guide* at: http://bit.ly/1Tn9sqm

House Hearings on Reducing Poverty and Need for Tax Reform

The House Committee on Ways and Means will hold a hearing titled, "Moving America's Families Forward: Setting Priorities for Reducing Poverty and Expanding Opportunity." The hearing will be held on May 24, at 10 am ET in the Longworth House Office Building, room 1100.

The House Ways and Means Subcommittee on Tax Policy will hold a hearing that will focus on perspectives and considerations that drive the need for tax reform. The hearing will be held on May 25, at 2 pm ET in the Longworth House Office Building, room 1100.

For more information about the hearing focused on reducing poverty, go to: http://1.usa.gov/1TkbxZk

For more information about the hearing focused on tax reform, go to: http://1.usa.gov/1XFkIUh

HUD

Proposed Rule Requires Broadband at HUD-Funded Properties

HUD published a proposed rule that would require, when feasible, broadband infrastructure to be installed at the time of new construction or substantial rehabilitation of multifamily rental housing funded or supported by HUD programs.

For HUD-assisted buildings with more than four rental units, the new construction or substantial rehabilitation must include installation of broadband infrastructure, except when the jurisdiction documents that:

1. The location makes installing broadband infrastructure infeasible (as in some rural areas); or

2. The cost of installing infrastructure would result in a fundamental alteration in the nature of its program or activity or cause an undue financial burden; or

3. In the case of substantial rehabilitation, the structure of the housing makes installing broadband infrastructure infeasible.

The preamble to the proposed rule states that recipients of HUD housing program funds are not required to provide broadband service subscriptions to households.

The proposed rule defines "broadband infrastructure." It also defines "substantial rehabilitation" for HUD programs that do not already have a program-specific definition to mean:

1. Significant work on the electrical system of the multifamily rental housing. "Significant work" means complete replacement of the electrical system or other work that is equal to or greater than 75% of the cost of replacing the entire electrical system. In the case of multifamily rental housing with multiple buildings with more than four units, "entire system" refers to the electrical system of the building undergoing rehabilitation; or

2. Rehabilitation of the multifamily rental housing in which the estimated cost of the rehabilitation is equal to or greater than 75% of the total estimated cost of replacing the multifamily rental housing after the rehabilitation is complete. In the case of multifamily rental housing with multiple buildings with more than four units, the replacement cost must be that of the building undergoing rehabilitation.

The proposed rule, published in the *Federal Register* on May 18, would apply to the national Housing Trust Fund (HTF), HOME Investment Partnerships program, Continuum of Care program, Housing Opportunities for Persons with AIDS program, Community Development Block Grant program, Project-Based Voucher program, Public Housing Capital Fund program, Choice Neighborhood Implementation Grant program, Section 8 project-based housing assistance programs (including Section 8 New Construction, Substantial Rehabilitation, Loan Management Set-Aside, and Property Disposition programs), and the Supportive Housing for the Elderly and Persons with Disabilities program.

The requirements of the proposed rule would not apply to multifamily rental housing that only has a mortgage insured by the Federal Housing Administration or has a loan guaranteed under a HUD loan guarantee program.

Comments are due July 18. The proposed rule is at http://1.usa.gov/1quh9mk

HUD Issues HOME Utility Allowance Guidance

HUD issued guidance regarding methods Participating Jurisdictions (PJs) may use for determining utility allowances (UAs) at rental properties assisted with HOME Investment Partnerships program funds. If residents of HOME-assisted rental units pay their own utilities, the HOME regulations require PJs to establish maximum monthly utility allowances and to annually update them. The 2013 changes to the HOME regulations included changes to the UA requirements. The new guidance provided by the Office of Affordable Housing Programs is in HOMEfires Volume 13, Number 2.

The 2013 HOME rule requires PJs to use the HUD Utility Schedule Model (HUSM) or to determine UA using a project-specific methodology. HOMEfires Vol. 13 No. 2 reviews the HUSM and five other methods that meet HOME's regulations: HUD's Multifamily Housing Utility Analysis, utility company estimates, Low Income Housing Tax Credit (LIHTC) allocating agency estimates, and the Energy Consumption Model. A PJ may adopt one or more of the options.

Although the revised UA regulations were implemented on August 23, 2013, HUSM had technical problems preventing its use. Those technical problems have been rectified, so PJs must immediately take steps to implement the 2013 UA regulation changes for projects for which HOME funds were committed on or after August 23, 2013.

HOMEfires Vol. 13 No. 2 states that PJs are no longer allowed to use utility allowances established by local public housing agencies (PHAs) unless the HOME funds were committed before August 23, 2013. The guidance also indicates that a PJ may request a waiver for HOME units occupied by households with a Housing Choice voucher because the voucher program requires utility allowances be calculated by the PHA.

Homefires Vol. 13 No. 2 is at http://bit.ly/1WBt9Bd

Changes Proposed for ConPlan Rule Related to Broadband and Natural Disaster Resilience

HUD proposes two changes to the Consolidated Plan (ConPlan) regulations, requiring jurisdictions to describe broadband access in housing occupied by low and moderate income households and to consider incorporating the need for policies and programs to address natural disaster hazards.

The consultation and public participation sections of the ConPlan regulations would be amended to require jurisdictions to consult with and encourage participation of public and private organizations that include broadband internet service providers, organizations engaged in narrowing the digital divide, and agencies that have as primary responsibilities the management of flood-prone areas, public land or water resources, and emergency management practices.

The housing market sections of the ConPlan regulations would require jurisdictions to describe the broadband needs of housing occupied by low and moderate income households based on an analysis of data for low and moderate income neighborhoods in the National Broadband Map. Jurisdictions could also use broadband availability data from the Federal Communications Commission Form 477 or other sources. The analysis should include the need for broadband wiring and for connection to broadband service in household units and the need for increased competition among broadband providers.

The housing market sections would require a description of the vulnerability of housing occupied by low and moderate income households to increased natural hazard risks associated with climate change. The description should be based on an analysis of data, findings, and methods in the National Climate Assessment, the Climate Resilience Toolkit, the Impact of Climate Change and Population Growth on the National Flood Insurance Program, or the NIST Community Resilience Planning Guide for Buildings and Infrastructure Systems. The analysis may include other climate risk-related data published by the federal government or other state or local government entity, including data included in hazard mitigation plans approved by the Federal Emergency Management Agency.

Comments are due July 18. The proposed rule, published in the *Federal Register* on May 18, is at: http://1.usa.gov/1quh9mk

NLIHC Submits Comments on MTW Expansion

NLIHC offered comments in response to HUD's request for recommendations for specific policy proposals to be implemented as part of the expansion of the Moving to Work (MTW) demonstration (see *Memo*, 4/4).

The "Consolidated Appropriations Act of 2016" authorizes HUD to expand the MTW demonstration program by an additional 100 public housing agencies (PHAs) over a period of seven years (see *Memo*, 12/21/15). PHAs will be added to the MTW demonstration by cohort, each of which will be overseen by a research advisory committee to ensure the demonstrations are evaluated with rigorous research protocols. Each year's cohort of MTW sites will be directed by HUD to test one specific policy change.

HUD asked for recommendations regarding work requirements, time limits, and alternative rent-setting methods. NLIHC has long opposed such MTW policies because of the potential harm to residents.

NLIHC wrote that if work requirements are permitted for one of the cohorts, the demonstration should consider the type and level of training or preparation, job search assistance, and child care needed and provided. Wages and benefits, hours worked per week, and job turnover should be monitored and reported for three to five years. In order to compare outcomes among cohort PHAs, the job market for the type of employment likely to be available to residents should be assessed and reported each year. There should be provisions to protect residents who encounter temporary layoffs through no fault of their own.

NLIHC recommends that the demonstration track for three to five years any household subject to a work requirement that is displaced through no fault of their own, recording whether the displaced household's replacement home meets Housing Quality Standards (HQS), causes the household to be cost burdened or severely cost burdened, and is located in a racially or ethnically concentrated area of poverty. The evaluation should also record the number of times the household moves during the study period, any period of homelessness, and the impact of such housing instability on the educational attainment and physical health of any children in the household. PHAs should also be required to report the composition of families affected (i.e. family size, family member with a disability, etc.)

If time limits are permitted for one of the cohorts, NLIHC recommends that the demonstration track for three to five years households displaced due to the policy, recording the same information described for displacement due to work requirements.

If a cohort is allowed to experiment with alternative rent-setting methods (such as higher minimum rents, flat rents that do not adjust downward when a household's income declines, tiered rents unrelated to household income, and shallow subsidies that result in households spending more than 30% of their income for their federally-assisted homes) NLIHC recommends the demonstration track the impact on households for three to five years, assessing changes in household expenditures for essentials such as food and healthcare. If an alternative rent-setting policy causes a household to leave public housing or the voucher program in order to lower their housing costs, the demonstration should track the household for three to five years, recording the same information described for displacement due to work requirements and time limits

Households displaced due to MTW waivers should be provided with relocation assistance, including housing search assistance and help finding housing in areas of higher opportunity. In addition, the PHA should pay for the household's moving costs, including costs such as utility hook ups and advance rent payments required by the landlord. PHAs should report the costs of implementing and monitoring a time limit policy annually.

NLIHC recommends increasing the percentage of an MTW agency's voucher allocation that may be used to project base vouchers (PBV) from 20% to 35% if the extra 15% is used to project base vouchers in areas of high opportunity or in areas that are gentrifying or are at risk of gentrifying, or when the PBV preserves existing affordable housing in other areas if that housing is at risk of leaving the affordable stock. Increasing or preserving the stock of housing affordable to extremely low income households through augmented PBV capacity can help offset the difficulty many voucher holders experience in utilizing their voucher due to landlords' reluctance or refusal to accept vouchers.

To help low income families move to high-opportunity neighborhoods, NLIHC recommends allowing MTW agencies to set payment standards at levels that reflect market rates up to a maximum of 140% of the fair market rent.

NLIHC recommends that the research and evaluation of the new MTW agencies must ensure that they comply with the statutory language that requires PHAs substantially serve the same number of families and maintain a comparable mix of families by family size as would have been assisted prior to the MTW designation. The evaluations should also ensure that, as required by the authorizing statue, at least 75% of the families assisted have incomes less than 50% of the area median income (AMI), and as required by the Quality Housing and Work Responsibility Act of 1998, 75% of new voucher households and 40% of new public housing households have incomes less than 30% of AMI.

NLIHC's comment letter is at: http://bit.ly/1XnKCeH

Research

Loss of Thousands of Low-Cost Rental Homes in Eight Southeastern Cities

A paper written by Dan Immergluck, Ann Carpenter, and Abram Lueders for the Federal Reserve Bank of Atlanta, *Declines in Low-Cost Rented Housing Units in Eight Large Southeastern Cities*, explores the decline of low-cost rental housing in eight Southeastern cities: Atlanta, Birmingham, Jacksonville, Memphis, Miami, Nashville, Orlando, and Tampa. The eight cities experienced a combined loss of 30,626 low-cost units (gross monthly rent of $750 or less) between 2010 and 2014. The cities experienced a combined increase of 31,719 rental units with gross monthly rents at or above $1,500. Low-cost rental units have been lost because of disinvestment and the upgrading of apartments to higher priced units.

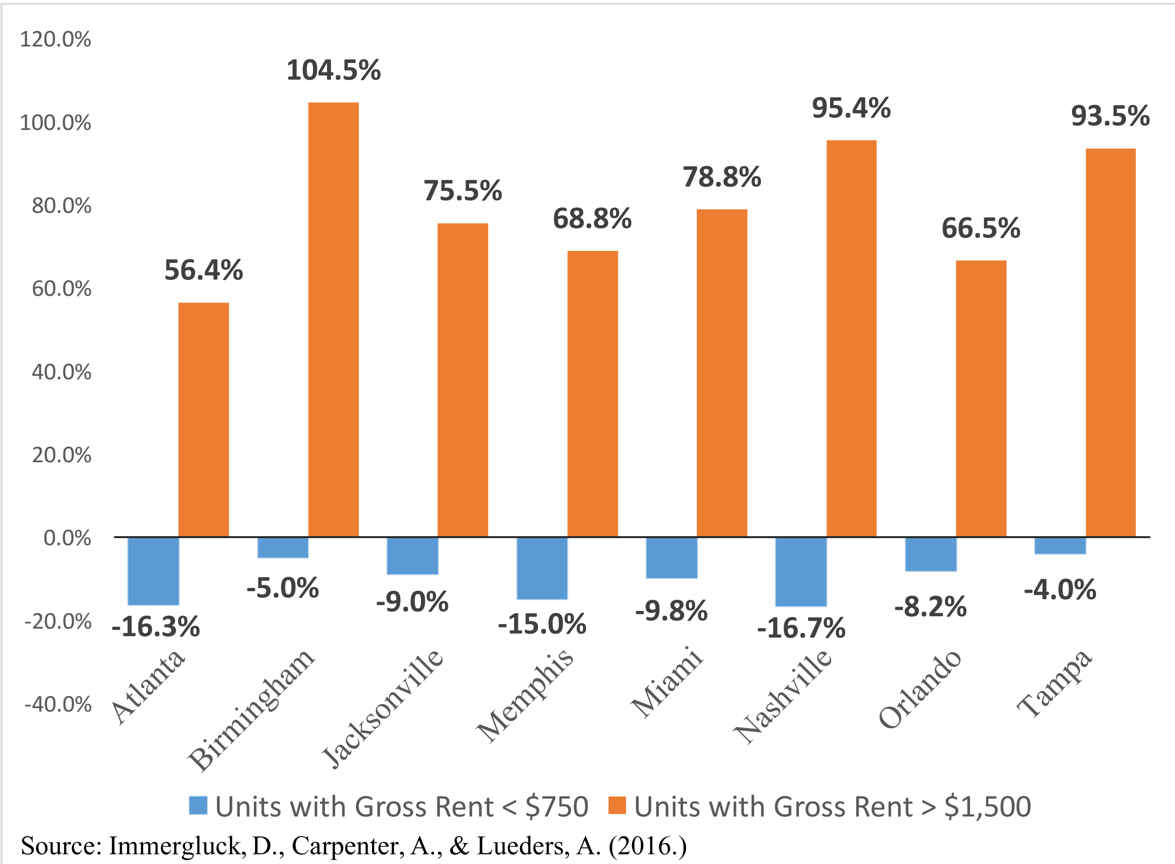
Neighborhoods with lower poverty rates, a newer housing stock, and a higher percentage of residents between the ages of 25 and 34 in 2010 saw a greater loss of low-cost rental homes by 2014. Neighborhoods with higher poverty rates, older housing, and few young adults did not necessarily gain low-cost rental housing but their losses were not as severe. Neighborhoods with a higher number of low-cost rental homes in 2010 saw large declines by 2014 because they had more units to lose. All other neighborhood characteristics being equal, including the number of existing low-cost units in 2010, neighborhoods with higher poverty rates in 2010 tended to see increases in low-cost rental units by 2014.

Detailed policy recommendations were beyond the scope of the paper, but the authors made some broad suggestions. Their suggestions include reducing property taxes for property owners who commit to long-term affordable rents, using real estate recording fees and other fees to generate revenue for affordable housing construction, and passing inclusionary zoning ordinances.

Declines in Low-Cost Rented Housing Units in Eight Large Southeastern Cities is available at http://bit.ly/1rWrIQD.

Fact of the Week

Percent Change in Rented Housing Units in Eight Southern Cities, 2010-2014



Source: Immergluck, D., Carpenter, A. & Lueders, A. (2016.) *Declines in Low-Cost Rented Housing Units in Eight Large Southeastern Cities.* Atlanta, GA: Federal Reserve Bank of Atlanta. Available at http://bit.ly/1rWrIQD

From the Field

Vermont Advocates Defend State Housing Trust Fund, Other Housing Programs

Housing advocates in Vermont have much to celebrate as the state's General Assembly adjourned its annual Legislative session this month. Vermont faces a political environment familiar to many states, including an overall state budget shortfall and an aversion to raising new revenues through tax increases. This year, Vermont advocates conducted a Legislative Action Day and coordinated testimony before 13 committees of the State Legislature. They succeeded in preventing funding cuts and achieving modest increases to statewide housing programs, including the state housing trust fund. "Preventing funding cuts to established housing programs is in itself a success to celebrate," says Erhard Mahnke, executive director of the Vermont Affordable Housing Coalition, a NLIHC state partner.

Vermont created its statewide housing trust fund, called the Vermont Housing and Conservation Board (VHCB), in 1987, and established as its funding source a 50% share of a real estate transfer tax. Revenue generated by the transfer tax goes first to the state's General Fund before being appropriated to the trust fund by the General Assembly. Although the trust fund enjoys broad legislative support, chronic state budget shortfalls have led to the diversion of funds intended for the trust fund toward other programs and priorities. Assembly members are able to add "notwithstanding" clauses to the legislation appropriating money to the trust fund that allow for annual draws of revenue away from the trust fund toward other, non-housing-related initiatives and programs. Mr. Mahnke estimates that the trust fund has lost as much as $41 million over the last 15 years due to notwithstanding clauses, which could have built or rehabilitated approximately 1,000 homes for low-income Vermonters.

VHCB will lose an additional $5.5 million in FY 2017 due to notwithstanding clauses and will be level-funded at the $14 million appropriated in FY 2016. Advocates pushed for full funding at the $19.5 million level they believe to be obligated for VHCB by statute. They also continue their call for an additional funding source for the trust fund and for recapturing during the next four years the $41 million lost in past years.

In addition to the appropriation of the real estate transfer tax, VHCB received an additional $1.2 million of capital bond funding for community redevelopment in Vermont's Northeast Kingdom. The Northeast Kingdom, comprised of Vermont's northeastern most Essex, Orleans and Caledonia counties, is considered to be the most rural and economically disadvantaged part of the state, home to some of the most vulnerable, low-income Vermonters.

In another notable funding increase, a statewide weatherization program for low-income homeowners saw an increase of $2.5 million, which was the result of collaborative organizing between housing and environmental justice advocates. All other housing programs were either level-funded or received modest increases.

Mr. Mahnke points to Vermont's most recent Point-In-Time report, compiled by the Vermont Coalition to End Homelessness and the Chittenden County Homeless Alliance, as evidence that statewide investments in housing and homelessness programs are working. Vermont's 2016 Point-In-Time report showed statewide decrease in homelessness by 28% after several years of increases. The report also demonstrated a 25% decrease in chronic homelessness and a 22% decrease in homeless among families and children.

"This was yet another difficult budget year, but housing and homelessness did relatively well, all things considered," said Mr. Mahnke. "Of course, we're disappointed at the chronic underfunding of our trust fund and another year without increases for state rental assistance and other programs that reduce homelessness, but in this fiscal environment, level-funding is a win. We were especially pleased to gain a major increase that helps low-income Vermonters reduce their heating costs by buttoning up their homes, while also reducing the state's carbon footprint."

For more information, contact Erhard Mahnke at erhardm@vtaffordablehousing.org.

Events

Webinar on Protecting Fair Housing Rights of People with Criminal Records

A webinar will discuss strategies advocates can pursue to help obtain and maintain housing for people with criminal records using recent HUD guidance on this issue (see *Memo*, 4/11). The webinar will delve into the technical aspects of HUD's guidance and include practical advocacy tips to improve tenant screening and eviction policies at the local level. The webinar will be held on May 25 at 2:00 pm ET. Presenters will be Marie

Claire Tran-Leung, staff attorney at the Sargent Shriver National Center on Poverty Law, and Deborah Thrope, staff attorney at the National Housing Law Project. Register for the webinar at: http://bit.ly/1SNixL1

Detroit NeighborWorks Training Institute

The next NeighborWorks Training Institute (NTI) takes place August 8-12 in Detroit, MI. The NTI offers more than 100 course offerings in affordable housing development and financing, housing asset management, community engagement, community revitalization, housing counseling, nonprofit management and leadership, and many other areas. The Wednesday symposium at the NTI is titled "Creating Places of Opportunity: Investing in Neighborhoods" and will involve a day-long exploration of innovative strategies for restoring competitiveness to distressed areas, catalyzing investment in neighborhoods, and creating vibrant communities.

More information about the NTI and symposium are at: http://bit.ly/1TdZMCQ

Register for the NTI at: https://trainingevents.nw.org/OnlineReg/Login/Login.aspx

Consortium for Housing and Asset Management Annual Conference

Thought-leaders from across the affordable housing movement will explore the challenge of keeping affordable housing sustainable at the Consortium for Housing and Asset Management (CHAM) annual conference in Columbus, Ohio, June 27-29. Presenters and participants will discuss emerging topics and trends within the asset management discipline, focusing on creative and effective strategies to "mind the gap" between income and expenses to ensure long-term sustainability of affordable housing. The keynote speaker will be David Smith, Chairman of Recap Advisors. The event is hosted by NeighborWorks America, Enterprise Community Partners, and the Local Initiatives Support Corporation, and co-sponsored by Ohio Capital Corporation for Housing.

Register for the CHAM conference at: http://www.cham.us/

NLIHC News

NLIHC's *Out of Reach 2016* Report to be Released May 25

NLIHC's *Out of Reach 2016* report will be released on May 25. HUD Secretary Julian Castro wrote the preface to this year's report and will join us for a press call to announce the release of *Out of Reach 2016* on Wednesday, May 25 at 3:00 pm ET.

Out of Reach is an annual analysis of the mismatch between the wages people earn and the cost of modest rental housing in every state, county, and metropolitan area in the United States.

Members of the media seeking more information should contact NLIHC Vice President for Field and Communications Renee Willis at media@nlihc.org or by calling 202-662-1530 x247.

NLIHC Blog: Building Housing for the Poor Increases Housing Availability for All Renters

NLIHC Research Analyst Dan Emmanuel posted a blog on *On the Home Front* titled "The Upshot of Focusing on Extremely Low Income Renters: Expanded Housing Availability for All Renters" that highlights why production of housing affordable to extremely low income (ELI) renters may not only help our lowest income renters, but would also expand the availability of housing for higher income households. Read the post at http://bit.ly/1THZVcU.

NLIHC Seeking Director of Public Policy

NLIHC is seeking a director of public policy to advance the Coalition's policy-related programs and projects. The director will facilitate the Coalition's public policy-setting process, assuring robust engagement of Coalition members, with particular emphasis on the participation of low income people. The director will work closely with members of the Administration and Congress to advance the Coalition's priorities to assure people with the lowest incomes in the United States have affordable and decent homes.

Among the director of public policy's duties and responsibilities:

Policy Development, Analysis, Monitoring, and Influencing: Serving as the point person for selected policy projects and agenda items; tracking, analyzing, influencing, and reporting on them; and advocating Coalition positions to Members of Congress and the Administration through letters, visits, phone calls, and e-mails. Developing and maintaining relationships with legislative and executive branch offices and with other organizations and coalitions; coordinating member lobbying visits and planning and implementing Hill briefings. Staffing the Coalition's policy advisory committee and assuring the committee's timely consideration of and input into emerging policy issues. Identifying the need for field alerts and calls to action (CTAs) on policy issues and collaborating with the Communications and Field teams on alerts and CTAs' content and outreach. Ensuring that the Coalition's housing research work is integrated into policy development, monitoring, and influencing.

Member Communication and Education: Preparing materials that translate proposals and actions into an understandable format for members and state coalition partners, including through our weekly newsletter *Memo to Members*, and responding to information requests. Working with communications and field teams to assist in developing content for the NLIHC resident newsletter and/or online resident forum; writing, reviewing and ensuring accuracy of policy-related articles in the annual *Advocates' Guide*; and assuring timely, accessible, accurate, and engaging presentation of all policy content on the Coalition's website. Planning and implementing webinars and other informational outreach on the Coalition's policy agenda items. Representing the Coalition on boards, committees, task forces and work groups, and with media. Engaging in public speaking on NLIHC priorities at meetings and conferences. Coordinating and moderating policy-related sessions at NLIHC's annual policy forum.

Management and Administration: Supervising and coordinating the work of policy analyst(s) and policy intern. Assisting in policy-related portions of fund development.

Qualifications required for the position include proven outstanding written and verbal communication and policy analysis skills; expertise in federal housing policy, programs and finance; 5-10 years of direct experience with the legislative process at the federal or state level; and a proven commitment to housing and social justice. A Master's degree or JD is required.

An equal opportunity, affirmative action employer, NLIHC offers a competitive salary and benefits package. The position is based in Washington, DC.

Interested candidates should forward a cover letter, salary requirements, resume, and two writing samples to Paul Kealey, Chief Operating Officer, NLIHC, 1000 Vermont Ave., NW, Suite 500, Washington DC 20005 at pkealey@nlihc.org.

NLIHC Staff

Malik Siraj Akbar, Communications Specialist, x239
Andrew Aurand, Vice President for Research, x245
Josephine Clarke, Executive Assistant, x226
Zoe Chapin, Research Intern, x229
Dan Emmanuel, Research Analyst, x316
Ellen Errico, Graphic Design and Web Manager, x246
Ed Gramlich, Senior Advisor, x314
Sarah Jemison, Housing Advocacy Organizer, x244
Paul Kealey, Chief Operating Officer, x232
Joseph Lindstrom, Senior Organizer for Housing Advocacy, x222
Khara Norris, Director of Administration, x242
Julia Rapp, Communications Intern, x 252
James Saucedo, Housing Advocacy Organizer, 233
Christina Sin, Development Coordinator, x234
Elayne Weiss, Housing Policy Analyst, x243
Renee Willis, Vice President for Field and Communications, x247
Diane Yentel, President and CEO, x228