Memo To Members & Partners
A weekly newsletter from the National Low Income Housing Coalition

Volume 26, Issue 41
October 18, 2021

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- NLIHC in the News for the Week of October 10

HoUSed Campaign

"Dear Colleague" Letters Urge Congressional Leadership and White House to Maintain Targeted Affordable Housing Investments in "Build Back Better Act"

Negotiations between congressional leaders and the White House continue over what provisions will be included in the pared-down "Build Back Better Act." Representative Ritchie Torres (D-NY) and Senators Jeff Merkley (D-MA), Dianne Feinstein (D-CA), and Alex Padilla (D-CA) led "Dear Colleague" letters in the House and Senate to show widespread congressional support for the HoUSed campaign's essential investments to end homelessness, including $90 billion to expand rental assistance to households with the lowest incomes; $80 billion to make desperately needed repairs to public housing; and $37 billion for the national Housing Trust Fund to build, preserve, and operate deeply affordable, accessible housing. Thanks to the hard work of advocates across the country urging their members of Congress to join, 36 senators joined the Senate letter and 125 representatives signed on to the House letter!

The current $3.5 trillion Build Back Better Act that includes $327 billion in affordable housing and community development funding is likely to be reduced to a total of $1.5-2 trillion to secure the votes of Senate moderates Krysten Sinema (D-AZ) and Joe Manchin (D-WV). Because of the equal divide between Democrats and Republicans in the Senate, every Democrat must vote for the Build Back Better Act for the bill to pass the chamber.

NLIHC, advocates around the country, and affordable housing champions in Congress have mobilized to stop negotiators from squandering this once-in-a-generation opportunity to end homelessness. In addition to leading a letter to President Biden, House Speaker Nancy Pelosi (D-CA), and Senate Majority Leader Chuck Schumer signed by every Democrat serving on the House Financial Services Committee (See *Memo*, 10/12), Committee Chair Maxine Waters (D-CA) held a press conference on October 12 to show support for the housing investments in the reconciliation package.

"Housing is infrastructure," Chair Waters stated in her opening remarks. "Housing is also racial equality, housing is climate resilience, housing is childcare and elder care, and housing grows the middle class." NLIHC's Vice President of Public Policy Sarah Saadian also gave remarks. "At the end of the day," she noted, "we know what's at stake. These resources on the table today could end homelessness in America, but only if we're doing it right and only if they make it into the final bill." The Congressional Progressive Caucus also held a press conference on October 12 to support the crucial housing investments in the bill.

There is still no guarantee that essential, targeted affordable housing resources will make it into the final Build Back Better Act. Advocates should contact their senators and representatives TODAY and urge them to ensure that any cuts to the reconciliation bill do not come at the expense of proven housing solutions for those with the greatest needs and to provide the highest possible funding levels for the HoUSed campaign's top priorities. Together **these investments could effectively end homelessness in the United States.** Any cuts to funding for these priority programs means fewer people will be safely and affordably housed.

Take Action

1. **Contact your senators and representatives and urge them to weigh in IMMEDIATELY with the White House, Speaker Pelosi, and Senate Majority Leader Schumer in support of funding the HoUSed campaign's priorities at the highest level.**

2. **Join nearly 1,700 organizations nationwide by signing the HoUSed campaign letter.** This letter is one of the most effective ways to show congressional leaders the broad support for the HoUSed campaign's priorities for the infrastructure/economic recovery bill. Sign on to the letter here.

Thank you for your advocacy!

Join NLIHC's National Call on "HoUSed: Universal, Stable, and Affordable Housing" Today at 2:30 pm ET

Join today's (October 18) national HoUSed campaign call from 2:30-4 pm ET. We will be joined by Barbara Poppe, Alexis Kramer, and Tiffany Haynes, who will share a new resource they authored on addressing family homelessness as part of the *Framework for an Equitable COVID-19 Homelessness Response*. We will also discuss lobbying considerations for 501(c)(3)s; get the latest from NLIHC's ERASE project about immediate federal, state, and local actions needed to protect renters; discuss the latest developments on Capitol Hill and further actions needed to advance the HoUSed campaign's priorities in the "Build Back Better Act;" hear updates from the field; and more. Register for the call at: https://bit.ly/3ub2sWM

Recording Available of October 12 National HoUSed Call

On our most recent (October 12) call on "HoUSed: Universal, Stable, and Affordable Housing," we welcomed Representative Ritchie Torres (D-NY), who highlighted the advocacy needed to ensure the HoUSed campaign's top policy priorities remain the "Build Back Better Act."

Representative Torres led his Democratic colleagues in a Dear Colleague Letter to House Speaker Nancy Pelosi (D-CA) and Senate Majority Leader Chuck Schumer (D-NY) urging the congressional leaders to maintain targeted affordable housing investments in the reconciliation package, including $90 billion to expand housing vouchers; $80 billion to address the capital repair backlog in public housing; and $37 billion to construct, preserve, and operate deeply affordable housing through the national Housing Trust Fund.

Natalie Maxwell from the National Housing Law Project (NHLP) joined to discuss a new resource from NHLP, the Poverty and Race Research Action Council, and the National Homelessness Law Center on using source of income discrimination laws to prevent evictions and increase utilization of emergency rental assistance (ERA). Reem Subei from Advocates for Basic Legal Equality and Joanna Carr from the Arizona Housing Coalition provided field updates.

NLIHC's Sarah Gallagher and Emma Foley reported on the new guidance from Treasury on ERA recapture and reallocation, and provided updates on ERA expenditure rates as of August 31. NLIHC's Sarah Saadian gave the latest update on the reconciliation package and shared action steps for advocates.

Our next national call will be on today, October 18 at 2:30 pm ET. We will hear about a new resource on family homelessness, provide the latest updates on Build Back Better Act negotiations, hear updates from the field, and more.

Register for the upcoming call at: tinyurl.com/ru73qan

Watch the recording and view presentation slides at: tinyurl.com/9vbmmues

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Emergency Rental Assistance

Programs Begin Using Second Round of Emergency Rental Assistance Funds

NLIHC has been closely tracking Treasury Emergency Rental Assistance (ERA) programs funded through the $25 billion appropriated for ERA under the Consolidated Appropriations Act of 2021 (ERA1) and the $21.55 billion appropriated by the American Rescue Plan Act (ERA2). As of October 14, 2021, NLIHC identified 501 Treasury ERA programs set up by state and local grantees, 56 of which are now administering ERA2 funds. Some programs have begun to use ERA2 funds concurrently with ERA1 funds to reach a larger number of households who may qualify for ERA2 but not ERA1, or to extend the duration of assistance offered to 18 months. Some programs, like the one in New Orleans, began implementing ERA2 funds after exhausting the first tranche of funding. Additionally, six programs were set up by grantees that did not previously administer ERA1 funds but elected to run their own programs for ERA2.

As more programs begin using ERA2 funds, NLIHC is monitoring important programmatic changes allowable under ERA2, including providing assistance for up to 18 months, opening up eligibility to households that faced financial hardship during the pandemic, and requiring (rather than allowing) programs to offer direct-to-tenant assistance when landlords refuse to participate in the program.

Between April and October 1, many ERA program administrators have made several key changes to their programs, including explicitly adopting self-attestation and direct-to-tenant payments in response to continued advocacy and improved guidance issued by the Department of Treasury. In late April, only 27% of ERA programs explicitly allowed for self-attestation for some eligibility criteria instead of asking for source documentation; by October 1, nearly 59% of programs explicitly allowed for self-attestation. Similarly, the share of programs explicitly allowing payments to be made directly to tenants increased from 15% in April to 29% by October. With ERA2, programs are required to provide assistance directly to tenants if landlords refuse to participate. More programs must implement these critical measures to ensure they help the most marginalized tenants.

Programs can also use ERA funds to cover other housing-related expenses, such as relocation assistance and hotel and motel stays to assist those who are at risk of or have already experienced eviction or displacement. ERA funds can even be used to assist tenants living in precarious housing situations move to a new housing situation, through a combination of forward rent, security deposits, and housing stability services. As of October 1, only half of all ERA programs explicitly offer coverage for other housing expenses, of which only 40% cover relocation expenses. As the pandemic endures, some renter-households may be forced to move due to rent hikes or lease non-renewals. With a total of $46.55 billion available for ERA, programs need to adopt all the flexibilities provided by the guidance mitigate all forms of housing instability.

To learn more about ERA programs, NLIHC's searchable database and rental assistance resources are available here, with new programs added to the database frequently. NLIHC also regularly updates an ERA Dashboard and ERA Resource Hub to monitor program implementation and facilitate resource sharing across programs.

Coronavirus, Disasters, Housing, and Homelessness

New Resource on Family Homelessness Available from *Framework for an Equitable COVID-19 Homelessness Response*

Partners from the *Framework for an Equitable COVID-19 Homelessness Response* released a new resource on addressing child and family homelessness. The resource, developed in consultation with experts who have the lived experience of homelessness, can be replicated, adapted, and scaled to meet community needs and capacity.

The brief spotlights nine programs from around the country that have leveraged lessons learned throughout the pandemic to reimagine their crisis response systems using a racial justice and equity focus. The brief provides guidance for how other communities can adapt their crisis response system to ensure they:

- Have the capacity to serve all families
- Center equity and culture throughout planning and programming
- Utilize hotels, vouchers, and master-lease units strategically and effectively
- Implement system-wide homelessness diversion strategies
- Connect sheltering to rehousing assistance
- Embed homelessness assistance within broader community services and support systems

The *Framework* team released accompanying videos to compliment the guidance provided in the brief.

View the new resources at: tinyurl.com/5hv58cyr

Access *Framework* resources at: housingequityframework.org/

Additional Coronavirus Updates – October 18, 2021

National Updates

Department of Housing and Urban Development (HUD)

HUD's Office of Block Grant Assistance is hosting a four-part webinar series for Community Development Block Grant CARES Act (CDBG-CV) grantees on best practices of CDBG-CV project implementation. Learn more here.

U.S. Interagency Council on Homelessness (USICH)

The USICH hosted a webinar with HUD's Office of Special Needs Assistance Programs (SNAPS) and FEMA's Public Assistance (PA) Division to discuss joint guidance HUD and FEMA published in September about strategies for transitioning people out of non-congregate shelter as a result of the pandemic and into safe, stable permanent housing. Watch the webinar and view the slides and transcript.

Reporting

NPR's Planet Money examines the slow distribution of federal emergency rental assistance (ERA) across the country, highlighting issues like burdensome documentation requirements and landlords refusing to participate. *NPR* notes that Treasury will begin recapturing funds from ERA programs not using the funds.

The Hill and the *Associated Press* report that the U.S. Department of Housing and Urban Development (HUD) issued an interim final rule prohibiting individuals living in HUD-subsidized housing from being evicted for nonpayment of rent unless the tenants are given a 30-day notice and provided information about federal emergency rental assistance. "This rule is a significant step in raising tenant awareness about the availability of funds that can assist them with past due rent and allowing them additional time to access relief that may stave off eviction entirely," said HUD Secretary Marcia Fudge.

A new national poll from *NPR*, the Robert Wood Johnson Foundation, and the Harvard T. H. Chan School of Public Health founds more than a quarter of renters reported serious problems paying their rent in the past several months. The poll looked at the four largest cities in the U.S. and found that Houston's rent crisis was by far the worst, with 53% of renters reporting issues paying rent. The poll found that families of color bear a disproportionate share of the pandemic's socioeconomic impacts.

Stateline discusses why states with small populations say the Treasury Department's plan to recapture unspent emergency rent relief and redistribute it elsewhere is unfair, potentially depriving them of millions of dollars to address affordable housing issues.

Bloomberg Law reports that President Biden's options to prevent a wave of evictions when the pandemic subsidies will be limited if Congress does not include the housing voucher expansion included in the Build Back Better Act.

State and Local News

Alabama

AL.com reports Alabama has spent only $6.2 million out of $23.3 million in federal emergency rental assistance (ERA) as of September 30. The Alabama Housing Finance Authority is contracting with HorneLLP, a Mississippi-based contractor, to administer the program. Invoices from HorneLLP show that most of the $6.2 million have been spent on paying the employees administering the program. Horne has awarded funds to just 3,451 households.

California

As thousands of San Jose residents brace for a wave of evictions after California's moratorium expired, the city has opened two centers to help renters navigate emergency rental assistance (ERA) applications. As of October 4, the centers have helped about 500 households. Most of the renters seek help because of the lengthy, complicated application process and language barriers. More than half of renters who came to the East San Jose center speak only Spanish.

The *Los Angeles Times* editorial board argues there should be a way for the court system to ensure landlords have done the bare minimum they are required to do before eviction court proceedings start. California landlords are required to apply for rental assistance before moving to evict a tenant, but court officials say clerks processing eviction requests are not equipped to determine whether landlords have filed the required paperwork.

Colorado

The *Colorado Newsline* reports that members of a state subpanel tasked with recommending ways to spend $400 million in ARPA State and Local Fiscal Recovery Funds for affordable housing are struggling with the time crunch and ideological differences. The subpanel is comprised of 15 people from organizations ranging from a landlord association to a nonprofit that serves people experiencing homelessness.

Florida

WFLA reports on the most recent emergency rental assistance (ERA) program data, which show that ERA1 and ERA2 programs in Florida have ramped up distribution since July, but some Tampa Bay communities have slowed down their payments. Fewer households have been assisted by some of the programs administered by Tampa Bay municipalities.

Georgia

The City of Atlanta and United Way of Greater Atlanta announced that the Emergency Housing Assistance Program reopened on October 4 to distribute an additional $12 million in federal emergency rental assistance. The program is on track to distribute all funds – totaling $15.2 million – by mid-October.

The Southern Poverty Law Center reports on an increased number of evictions in extended stay hotels in Atlanta. Long-term residential hotels are often the only source of stable, safe housing for low-income people, disproportionately people of color, who would otherwise be homeless. The Atlanta Legal Aid Society filed a lawsuit against the owners of the Efficiency Lodge in Decatur after they forced tenants from the hotel. The lawsuit argued that because the residents lived there for months and even years, they should be given the same rights as tenants in apartments or homes. A Superior Court judge ruled they must be considered tenants under the law.

The *Atlanta Journal-Constitution* reports Henry County has spent $6.35 million in federal emergency rental assistance funds.

Illinois

Renters at risk for eviction may be eligible to receive aid through the Illinois Court-Based Rental Assistance Program. The program launched last month across Illinois except in Cook County, which will join the program this week.

Indiana

Two Indianapolis state representatives sent a letter to Governor Eric Holcomb urging him to accelerate the state's distribution of federal emergency rental assistance (ERA). The letter highlights the importance of spending the remaining $544 million in federal ERA before funding expires and will be at risk of being recaptured by the federal government.

The *Indianapolis Star* outlines how Hoosiers can apply for federal emergency rental assistance.

An op-ed in the *Indy Star* argues that Indiana's eviction court system is rigged, with landlords' rights enshrined in the system. Monroe County established a pre-eviction diversion program to slow down the eviction process and provide more time for rental assistance to reach tenants. The program lasted one week before the Indiana Office of Court Services for the Supreme Court suggested it would not make it a mandatory program.

Iowa

With nearly 10,000 Iowans at risk of eviction in the next two months, *Axios Des Moines* reports Iowa could lose millions of dollars in federal emergency rental assistance (ERA) since the state has disbursed less than 10% of the funds.

Maine

Bangor Daily News and other small states say the federal government's emergency rental assistance (ERA) recapture and reallocation plan is unfair. ERA grantees in states with smaller populations say their slow spending pace does not reflect a lack of need; instead, the initial ERA allocations provided too much money for small states to spend quickly.

Maryland

State and local governments in Maryland distributed $32.3 million in federal emergency rental assistance (ERA1) funding in August. By the end of August, Maryland had spent less than half of its total ERA1 allocation. Under Treasury's reallocation guidance, ERA grantees in Maryland will have the opportunity to work with federal officials before reallocations take place.

Minnesota

Starting October 12, Minnesotans must apply for emergency rental assistance (ERA) to be protected from eviction. All lease terminations and eviction protections are lifted unless tenants are eligible for rental assistance and file an application. Under the law, tenants with pending ERA applications cannot be evicted for nonpayment until June 1, 2022.

Tenants in need of assistance can apply for aid from RentHelpMN. The Minneapolis City Council has approved legal assistance for low-income residents going through the eviction process. Minnesota Housing has staff available at many courts to help renters prove their application status.

Axios Twin Cities reports another wave of Minnesotans behind on rent could face evictions since starting October 12, landlords can file to evict tenants who are behind on rent but haven't applied to the state's rental assistance program. The slow distribution of federal ERA funds is frustrating renters and landlords. As of October 7, Minnesota had distributed ERA for about 30% of the roughly 49,000 applications via the RentHelpMN program.

New Jersey

Approximately one-third of the more than $6 billion New Jersey received through the American Rescue Plan Act's State and Local Fiscal Recovery Fund has been allocated by Governor Phil Murphy and lawmakers for specific purposes, including $500 million for rental assistance and $250 million for utility assistance. The state is currently deciding whether to spend the money now or slowly dole it out until 2024. Governor Phil Murphy has been holding virtual events to collect input on how to invest in the state's low-income communities.

North Carolina

The Greensboro Housing Coalition is seeing an increase in the number of people seeking utility assistance. Substandard housing is partially to blame for the increase in need. The coalition is receiving about 1,400 calls for assistance each week.

Rhode Island

Governor Dan McKee announced on October 5 that $50 million in federal rental assistance has been approved in Rhode Island, with nearly 4,600 rental households receiving aid.

South Carolina

Charleston County temporarily stopped taking applications for rental assistance on October 7 after distributing nearly all available funds. The pause is meant to prevent a backlog of applications that exceeds the amount of available assistance. The county expects to resume accepting applications when it receives additional federal funds.

Texas

Evictions in Dallas have increase since the federal eviction moratorium was overturned. While federal rental assistance has helped keep many tenants in their homes, advocates fear a wave of evictions may occur when rental aid runs out.

Washington

King County's Eviction Prevention and Rent Assistance Program is urging renters to apply for aid now, despite a backlog in applications. County officials hope to assist 12,000 households by the end of October when Washington state's eviction moratorium bridge is set to expire. The program has helped more than 4,650 households, but the county has received over 18,000 applications for aid.

Washington, D.C.

The *Washington Post* reports more than $649 million in federal emergency rental assistance (ERA) funds were distributed to renters in the Washington area ahead of the September 30 federal deadline. That number accounts for nearly 60% of the more than $1.1 billion allocated to D.C., Maryland, and Virginia, and several of the states' largest counties.

Disaster Housing Recovery Updates – October 18, 2021

Federal Updates

The application period for the fiscal year 2021 Building Resilient Infrastructure and Communities (BRIC) and Flood Mitigation Assistance (FMA) grant programs opened on September 30. For FY21, $1 billion is available for the BRIC grant and $160 million is available for FMA. The application period closes on January 28, 2022. Learn more here.

Reporting and Advocacy

The *DC Line* reports that, as extreme weather intensifies across the county, increased flooding and excessive heat in Washington, D.C. disproportionately harm unhoused individuals and people of color. The United States' disaster recovery system is broken and in need of reform, says NLIHC Vice President of Public Policy Sarah Saadian. The article highlights the DHRC and its recommendations for improving the disaster recovery system.

Texas Housers, joined by several community organizations, submitted comments to the Texas General Land Office regarding the CDBG Mitigation (CDBG-MIT) funds and the Amendment 1 proposal. The initial CDBG-MIT Action Plan did not award funds to the largest and most impacted jurisdictions, which disproportionately denied these funds to Black and Latino residents. The new amendment continues this pattern, failing to meaningfully address the clear and historic needs of the communities most impacted by disasters and most at risk.

Hurricane Ida

More than 7,000 Terrebonne and Lafourche households have registered for temporary housing through the state of Louisiana's Hurricane Ida Sheltering Program, a program offering travel trailers and other temporary housing for residents displaced by Ida. Parish officials and residents have criticized FEMA for acting far too slowly to address the needs of thousands of residents whose homes were destroyed by the hurricane.

Residents of two apartment complexes in Hammond are in limbo after receiving eviction notices because of damage from Hurricane Ida and then having those notices rescinded. At the Terrace Apartment complex, damage from Ida is visible everywhere you look. The complex has also been unclear on if their water and electricity will continue through the week. Many residents don't have the money to move out but also cannot live in substandard conditions.

Revised preliminary Flood Insurance Rate Maps (FIRMs) are available for review by residents and business owners in portions of the city of Houma and unincorporated areas of Terrebonne Parish, Louisiana. Learn more here.

Wildfires

In Northern California, fire crews worked to contain a fire that destroyed 25 mobile homes, 16 RVs, and a park building at the Rancho Marina RV Park in Sacramento County. Five mobile homes were damaged by a fire that swept through a mobile home park in San Joaquin County.

Between 1,500 and 2,000 people were displaced in Talent due to the 2020 fires that destroyed an estimated 600 homes, many in low-income Latino neighborhoods. *High Country News* reports the city of Talent is working to provide stability to children displaced by wildfires through a new initiative: providing long-term affordable housing in the local school district. There are currently 53 temporary housing units available for local families who are not eligible for FEMA aid, with priority given to households with school-aged children. Families will start moving into the transitional housing this month.

The Coalición Fortaleza is a Latino-led, intergenerational coalition of community members, leaders, volunteers, and organizations in the Rogue Valley that formed in the aftermath of the Almeda Fire. The organization advocates for the Latinx community that lived in manufactured home parks and federally funded apartment complexes impacted by the Almeda Fire. The Coalición Fortaleza is working to ensure that rebuilding efforts do not recreate the systems that have kept their communities in poverty and without access to life-saving information and resources.

Marketplace seeks to answer the question: how quickly can communities recover from wildfires? A new report from CoreLogic finds that Wyoming and Idaho would likely take the longest to recover from a major wildfire that destroyed a large portion of homes due to the underdeveloped state of the housing market in those states.

While less populated, states with fewer affordable housing units face more prolonged wildfire recovery risks, according to a new CoreLogic report. When analyzing wildfires through the lens of available affordable housing, Wyoming, Idaho, New Mexico, Utah, and Nevada face the most risk for prolonged wildfire recoveries.

Residents and California Utility PG&E are at odds over the company's three-month-old initiative to automatically shut off powerlines when they are touched by tree branches. While the initiative has anecdotally led to a decrease in fires, the program has also caused sudden blackouts that leave residents without power for hours.

Grist examines the growing wildfire housing crisis in California. Instead of simply stopping building homes in fire-prone areas, most state and local policies prioritize fixing burned homes, enacting stricter building codes, and improving evacuation routes. And as wildfires have increased in intensity and frequency, many insurance companies have started refusing to renew policies for at-risk homes – forcing many low-income renters to live uninsured.

About DHRC
NLIHC's Disaster Housing Recovery Coalition (DHRC) is a group of over 850 local, state, and national organizations working to secure disaster recovery funding and key reforms to ensure every survivor, including those with the lowest incomes and those most marginalized, receives the assistance they need to fully recover and ensure that their communities can withstand future disasters. Read the DHRC's full list of priorities here.

To find out more and get involved with the effort to approve disaster recovery funding and pass DHRC-supported reforms, join our Disaster Recovery Working Group that meets weekly on Tuesdays at 3 pm ET. If you haven't joined already, become a member of the DHRC!

Take Action

Protect Immigrant Families by Sending Comment Letter on Public Charge Rule

The Department of Homeland Security (DHS) published an advanced notice of proposed rulemaking on the Public Charge Rule titled "Public Charge Ground of Inadmissibility." This is the first of three steps in the larger reform process that would lead to a final rule. The Keep Families Together Campaign and the Protecting

Immigrant Families (PIF) campaign are encouraging advocates to submit comment letters. Letters should focus on the need to define public charge for inadmissibility purposes as a person who is "likely to become primarily and permanently reliant on the federal government to avoid destitution" and to spell out what programs are or are not considered in a public charge determination. It is important that programs related to housing, homelessness, and disaster benefits are not counted.

Letters should respond to one or more categories in the "Request for Information" section of the notice:

- Purpose and Definition of Public Charge
- Prospective Nature of the Public Charge Inadmissibility Determination
- Statutory Factors
- Affidavit of Support Under Section 213A of the INA
- Other Factors to Consider
- Public Benefits Considered
- Previous Rulemaking Efforts
- Bond and Bond Procedures
- Specific Questions for State, Territorial, Local, and Tribal Benefit Granting Agencies and Nonprofit Organizations

The deadline to submit a comment is **Friday, October 22**. Housing and homelessness advocates are encouraged to use this template and submit their letters to regulations.gov before the deadline. Instructions on how to use the template and submit letters can be found in the document.

PIF has also developed an organizational sign-on letter with the goal to send a strong signal to the administration that issuing a public charge Notice of Proposed Rulemaking and Final Rule is a high priority and that there is substantial consensus among organizations around the country on which direction the policy should go. The deadline to sign on your organization is due by Wednesday, October 20. The sign-on comment urges DHS to:

- Prevent abuses like those we saw under the Trump administration by clearly defining the term "public charge" as a person who is "likely to become primarily and permanently reliant on the federal government to avoid destitution"
- Secure access to programs that help immigrants and their families thrive by affirmatively:
  - Considering only federally funded Supplemental Security Income (SSI) and Temporary Assistance for Needy Families (TANF) in a public charge determination
  - Clarifying that qualifying immigrants and their families can safely use a range of federal programs, including all types of Medicaid, SNAP, and Section 8, as well as state- and locally funded programs for which they are eligible
  - Excluding family members' and sponsors' use of any program
- Exempting the use of any program by a child, by a survivor of domestic violence or other serious crime, or by anyone during national emergencies
- Direct immigration officers that an affidavit of support creates a presumption that the applicant overcomes the public charge ground of inadmissibility
- If immigration officers identify a circumstance that might meet the definition of a public charge, examine the totality of circumstances to see if there is evidence to overcome the circumstance

Read the notice on "Public Charge Ground of Inadmissibility" at: https://bit.ly/3j80tzs

The Keep Families Together's comment template is at: https://bit.ly/KFT_Template

PIF's Organizational Sign-on Letter can be found at: https://bit.ly/3mWBvnT

Visit the Keep Families Together Campaign website at: https://www.keep-families-together.org/

To learn more about the housing impact of the Public Charge Rule, visit NHLP's Public Charge Resource page.

To learn about the rule more generally, read the What Advocates Need to Know Now Fact Sheet.

HUD

NLIHC Signs Letter Urging HUD Programs to Address Radon Contamination

NLIHC signed on to a letter urging HUD Secretary Marcia Fudge to expedite a HUD-wide policy to ensure that all HUD housing programs test for and mitigate radon contamination. Radon is a colorless, odorless radioactive substance that that can accumulate in buildings where it can damage human DNA and cause lung cancer. The organizations signing the letter agree with HUD's Office of the Inspector General (OIG) recommendation that HUD's Office of Environment and Energy develop and issue a consistent radon testing and mitigation policy across all HUD housing programs. The OIG report, HUD Program Offices' Policies and Approaches for Radon, found that HUD does not have a department-wide policy for dealing with radon contamination. Instead, HUD relies on each program office to develop radon policies that align with HUD's environmental regulations.

Only HUD's Office of Multifamily Housing Programs has radon a policy that includes radon testing and mitigation requirements. The Office of Public and Indian Housing (PIH) policy encourages but does not require public housing agencies (PHA) to test for radon and to mitigate excessive radon levels if possible. The Office of Community Planning and Development (CPD), which administers the HOME Investment Partnerships, national Housing Trust Fund, Community Development Block Grant (CDBG), and Housing Opportunities for Persons with AIDS (HOPWA) programs, does not have a radon policy.

OIG noted that absent a HUD-wide radon policy, each program office has developed a radon policy or approach with varying degrees of testing and mitigation requirements. This inconsistent approach does not align with statements in HUD's environmental regulations or support industry standards that recommend radon testing every two years after a mitigation system is installed. Consequently, HUD cannot ensure that residents receive consistent and sufficient protection from the hazardous health effects of radon exposure, as testing is the only way to determine indoor radon levels.

Read the letter at: https://bit.ly/3p05bTW

The OIG report, *HUD Program Offices' Policies and Approaches for Radon* [OIG 2020-OE-0003, April 8, 2021] is at: https://bit.ly/3DDP5mH

HUD Multifamily Posts FAQs on COVID-19 Supplemental Payments

HUD's Office of Multifamily Programs (Multifamily) posted "Frequently Asked Questions: COVID-19 Supplemental Payments, Housing Notice H 2021-05" addressing 20 questions arising from Notice 2021-05 (see *Memo*, 9/27). Most of the frequently asked questions (FAQs) will be of interest only to private owners of properties receiving assistance from one of Multifamily's programs. Two FAQs might be of interest to resident leaders and advocates.

The October 7 FAQ clarifies (page 1) that owners may request "COVID-19 Supplemental Payments" (CSP) reimbursement for the purchase of all internet infrastructure equipment and the installation costs to establish internet availability to staff and residents in buildings where broadband infrastructure does not currently exist. Equipment costs include hardware, such as modems, routers, extenders, and repeaters.

The FAQ (page 4) addresses a question regarding the eligibility of using CSP for emergency generators when an owner considers them necessary to address critical medical needs and a documented risk of recurring power outages. Two criteria are listed:

- **A property is serving vulnerable elderly residents**. Designation as an elderly property is sufficient. If a property serves families, the owner justification must discuss the presence of an elderly resident population, for instance, by stating the percentage of units occupied by elderly residents.
- **A property has a documented risk of power outages that may necessitate temporary relocations**. This may be established in two ways:
    1. There has been at least one break in the supply of electrical service to a property of four hours or more since January 1, 2019, or
    2. The property is in an area covered by a Presidential Disaster Declaration issued since January 1, 2019.

HUD may also consider other evidence of risk of recurring outages on a case-by-case basis.

Congress appropriated supplemental funds through the CARES Act to prevent, prepare for, and respond to the coronavirus for properties assisted by Multifamily's Section 8, Section 202, and Section 811 programs: $1 billion for the Project-Based Rental Assistance program (PBRA), $50 million for Section 202, and $15 million for Section 811 (see *Memo*, 3/30/20). Multifamily calls this funding "COVID-19 Supplemental Payments" (CSP).

New eligible expenditures allowed by Notice H 2021-05 include:

- Incremental costs for HVAC system ventilation and filtration upgrades
- Emergency generators to protect vulnerable elderly residents from the exposure risk associated with evacuations/displacement
- Broadband Wi-Fi infrastructure
- Incremental costs of upgrading disposable HVAC air filters to include those with higher Minimum Efficiency Reporting Value ratings

The October 7, 2021 FAQ is at: https://bit.ly/2YRo4xi

Notice H 2021-05 is at: https://bit.ly/3AxRBtS

Multifamily has a one-page fact sheet about CSP funds announced through Notice H 2021-05 at: https://bit.ly/2XOmVX3

More information about CSP is on page 10-1 of NLIHC's *2021 Advocates' Guide*.

More information about Project-Based Section 8 is on page 4-64 of NLIHC's *2021 Advocates' Guide*.

More information about Section 202 Housing for the Elderly is on page 4-70 of NLIHC's *2021 Advocates' Guide*.

More information about Section 811 Housing for Persons with Disabilities is on page 4-71 of NLIHC's *2021 Advocates' Guide*.

HUD Provides Language for PHAs and PBRA Owners to Inform Tenants of Eviction Notices

HUD issued joint Notice PIH 2021-29/H 2021-06 providing supplemental guidance to implement the requirements of the interim final rule titled "Extension of Time and Required Disclosures for Notification of Nonpayment of Rent" (see *Memo*, 10/12). The most important component of the joint notice is an appendix containing language that public housing agencies (PHAs) and private owners of properties with Project-Based Rental Assistance (PBRA) must include in the required 30-day advance notice before an assisted tenant can be evicted for nonpayment of rent.

The interim final rule applies when there is a national emergency such the current pandemic and when federal funding is available to assist public housing- and PBRA-assisted tenants facing eviction for nonpayment of rent. HUD is requiring providers of public and PBRA housing to give tenants facing eviction for nonpayment of rent at least 30 days' advance notice before evicting them. The interim final rule states that the notice must give tenants information about the availability of federal emergency funding intended to prevent eviction. In addition, PHAs must provide all public housing tenants information about the availability of federal emergency rental assistance. The appendix to Joint Notice PIH 2021-29/H 2021-06 provides the text of the notice to be used in in the current context of the availability of the Treasury Department's Emergency Rental Assistance Program, ERA (see NLIHC's COVID-19 State and Local Assistance webpage).

The interim final rule applies to public housing and private, multifamily properties with project-based rental assistance (PBRA), which includes:

- Section 8 Project-Based Rental Assistance
- Section 8 Moderate Rehabilitation
- Section 202 Supportive Housing for the Elderly programs (Section 202/162 Project Assistance Contract and Section 202 Project Rental Assistance Contract (PRAC))
- Section 811/PRAC Supportive Housing for People with Disabilities
- Section 236 Rental Housing Assistance Program and Rent Supplement

Note that the interim final rule does not apply to Housing Choice Vouchers.

The one-page appendix containing the minimum text a 30-day notice must contain is written in a bureaucratic manner that is not tenant-friendly. In addition, it includes a reference to a PIH frequently asked question (FAQ) clarifying for PHAs and Housing Choice Voucher (HCV) landlords that ERA assistance can be used to cover rent arrearages and utilities owed that exceed utility allowances. However, the appendix text fails to include a similar Office of Multifamily Question and Answer (Q&A) for PBRA properties.

The appendix text also fails to include references to a PIH FAQ and a Multifamily Q&A clearly stating that ERA may be used to cover late fees assessed to residents. In addition, while the text accurately states that HCV-assisted tenants may receive ERA, it fails to clearly state that the 30-day notice provision of the interim final rule does not apply for HCV-assisted tenants.

On page 7 of the joint notice is a link intended to go to PIH FAQs related to how ERA interacts with the public housing and HCV programs; instead, it links to now outdated CDC Moratorium FAQs. The proper link is: https://bit.ly/3mUHKIJ

Also on page 7, the joint notice indicates that Multifamily has Q&As on page 51 related to how ERA interacts with its programs. The relevant Q&As are on page 57.

As NLIHC previously indicated (see *Memo*, 10/12), HUD considered imposing a requirement on PHAs and PBRA owners to apply for emergency funding on behalf of tenants before proceeding with eviction, but HUD chose not to do so even though some jurisdictions administering ERA require it. In addition, HUD considered requiring retroactive income recertifications and repayment plans for tenants who would qualify for ERA assistance – policies NLIHC and the National Housing Law Project urged HUD to do at the outset of the pandemic. While HUD has encouraged PHAs and PBRA owners to carry out such policies, it decided to not require them because "implementing these changes by regulation would be overly burdensome and create multiple implementation challenges."

Joint Notice PIH 2021-29/H 2021-06 is at: https://bit.ly/3oUZc2B

More information about public housing is on page 4-30 of NLIHC's *2021 Advocates' Guide*.

More information about Project-Based Rental Assistance is on page 4-64 of NLIHC's *2021 Advocates' Guide*.

More information about the Section 202 Supportive Housing for the Elderly program is on page 4-71 of NLIHC's *2021 Advocates' Guide.*

More information about the Section 811 Supportive Housing for Persons with Disabilities program is on page 4-74 of NLIHC's *2021 Advocates' Guide.*

Congress

NLIHC Participates in House Committee Roundtable on Food Insecurity

House Rules Committee Chairman Jim McGovern (D-MA) held a roundtable on October 13 to examine family budgets and food insecurity in America. This event was the tenth in a series on food insecurity, with the goal of finding solutions to end hunger by 2030. Speakers included policy experts in health, transportation, and housing, including NLIHC's Vice President of Public Policy Sarah Saadian. Sarah's testimony focused on the intersection of hunger and housing instability for renters with the lowest incomes. "In order to end food insecurity, Congress must also end homelessness and housing poverty," she said. "We must understand how central housing affordability is to other national priorities, including food security, healthcare, education and more."

Sarah explained how severely housing cost-burdened families – those who spend over 50% of their monthly incomes on housing costs alone – have few resources left over for other basic needs, including nutritious food. Expanding programs like housing vouchers, which help families better afford housing by making up the difference between 30% of household income and the cost of rent and investing in the construction of deeply affordable housing can improve both housing stability and food security for households with low incomes.

"Rent is the single biggest cost for most workers and its going one direction, and that is up," said Chairman McGovern. "Family budgets are being stretched thin, and it is my goal and the goal of this committee to examine this reality, and to discuss how many families worry every month about whether they can afford quality, healthy food."

Read Sarah's testimony at: https://bit.ly/2XdYguC

Find the press release at: https://bit.ly/3aGfPXC

Watch a recording of the roundtable at: https://bit.ly/3FQr79J

Opportunity Starts at Home

Campaign Partner Community Catalyst Releases Article on How Ending the CDC Eviction Moratorium Impacts Health Outcomes

Community Catalyst released an article on October 12 about how ending the Centers for Disease Control and Prevention (CDC) eviction moratorium has negative impacts on health outcomes. The article explores the link between evictions and poor maternal health outcomes, increased hospitalizations, worse self-reported health, poor caregiver health and depression, increased drug use, worse mental health, and other negative health outcomes. The author makes the case that housing is a key element of health protection and how supporters can assist households at risk of evictions. Community Catalyst is a Steering Committee member of the Opportunity Starts at Home multisector affordable homes campaign.

"Evictions pose a long-lasting threat to the health and wellbeing of individuals, families, and society at large," states Lola Akintobi, who wrote the piece. "In order to boost health protective factors, reduce chronic conditions, and move toward health equity, it is vitally important that policymakers at all levels look to these and other solutions to increase housing stability. The Build Better Act has the potential to provide security for millions by lowering housing costs, providing tax cuts for workers, and creating more jobs. It is time to pass the Build Better Act to prevent evictions and protect the health of the nation."

To read the article, click here.

Follow the *Opportunity Starts at Home* campaign on social media: Twitter, Instagram, Facebook, and LinkedIn. Be sure to sign up for our e-newsletter to get the latest updates about the campaign, including new multi-sector partners, calls to action, events, and research.

Research

Study Examines Impact of HUD's Rental Assistance Demonstration on Tenants

An article in *Cityscape*, "Impact of Rental Assistance Demonstration Program Conversions on Public Housing Tenants," examines short-term tenant outcomes in HUD's Rental Assistance Demonstration (RAD) program. The report finds that, overall, tenants reported either a positive or neutral experience with the RAD program. Tenants were generally satisfied with public housing agency (PHA) communication about and management of the RAD conversion process. A majority tenants thought maintenance and property management were as good or better than before conversion, while most also reported improvements to the quality of their units. RAD tenants, however, more frequently reported certain issues with housing quality, both before and after the conversion process, than public housing tenants in general, raising important questions about the RAD program.

HUD launched the RAD program in 2012 to address preservation needs in the public housing stock and other, older HUD project-based rental housing. The program converts public housing units, and some older HUD project-based subsidies, to project-based Section 8. The number of public housing units eligible for conversion was initially capped at 65,000 and raised to the current cap of 455,000 units in 2018. The current cap accounts for nearly 45% of the country's public housing stock. As of September 2020, almost 140,000 public housing units had been converted through RAD.

The research team surveyed a sample of 522 tenants in 18 properties of varying sizes undergoing RAD conversions from June 2015 through March 2016. Researchers selected the tenant sample to represent each property's population regarding race and ethnicity, gender, age, and disability status. Administrative data and interviews with PHA staff supplemented the survey.

Eighty percent of respondents indicated satisfaction with PHA communications concerning RAD, but roughly 18% expressed dissatisfaction. The majority (53%) of respondents indicated no perceived change in property maintenance or management after conversions. Tenants were more likely to report better property maintenance (34%) or management (32%) than worse property maintenance (9%) or management (12%). Approximately 44% of respondents indicated the quality of their housing unit was about the same (35%) or much worse or somewhat worse (9%) than before the conversion. Fifty-five percent of respondents reported much better or somewhat better housing quality.

RAD tenants, both before and after the conversion process, were more likely to report housing quality problems like holes and cracks in walls, peeling paint or broken plaster, or signs of mold than public housing tenants surveyed in the American Housing Survey (AHS). Although the sampled RAD units were not representative of all public housing, these disparities in housing quality, coupled with the perceived changes in maintenance and unit quality, raise concerns about whether RAD sufficiently improves the physical quality of public housing units.

Read the article at: https://bit.ly/3j50Hrk

Rental Assistance Demonstration Could Constrain Future Tax Credits

An article in *Cityscape* examines the role of the Low-Income Housing Tax Credit (LIHTC) in the conversion of public housing to project-based Section 8 in HUD's Rental Assistance Demonstration (RAD) program. The article, "The Rental Assistance Demonstration Program and Its Current and Projected Consumption of Low-Income Housing Tax Credits," finds that RAD makes significant use of LIHTC and, if current trends continue, RAD could significantly constrain future LIHTC preservation and production efforts outside of the RAD program.

The RAD program was launched in 2012 to preserve public housing units in the face of mounting preservation needs and declining support for appropriations in Congress. RAD allows public housing agencies (PHAs) to convert public housing and some housing from older HUD project-based programs to project-based Section 8. Operating public housing under project-based Section 8 allows properties to access private loans and other funding sources such as LIHTC to finance the cost of capital improvements. Congress initially limited the number of public housing units eligible for RAD conversion to 60,000 in 2012, then expanded to 455,000 units in 2018.

The authors report that 139,694 public housing units completed RAD conversion between 2013 and 2020, accounting for 88% of the total decrease in the public housing stock during that period. Texas, Georgia, North Carolina, and Tennessee, the four states with the most conversions, account for 31% of all public housing units converted through RAD. The authors further estimate that the public housing stock will have declined by 41% once the RAD program reaches its current 455,000-unit limit.

RAD relies heavily on LIHTC funding: approximately 43% of public housing units converted by 2020 were in properties that received LIHTC. Thirty-three percent were in properties with allocations of 4% credits and tax-exempt bond financing, while 11% of converted public housing units were in properties that received 9% credits.

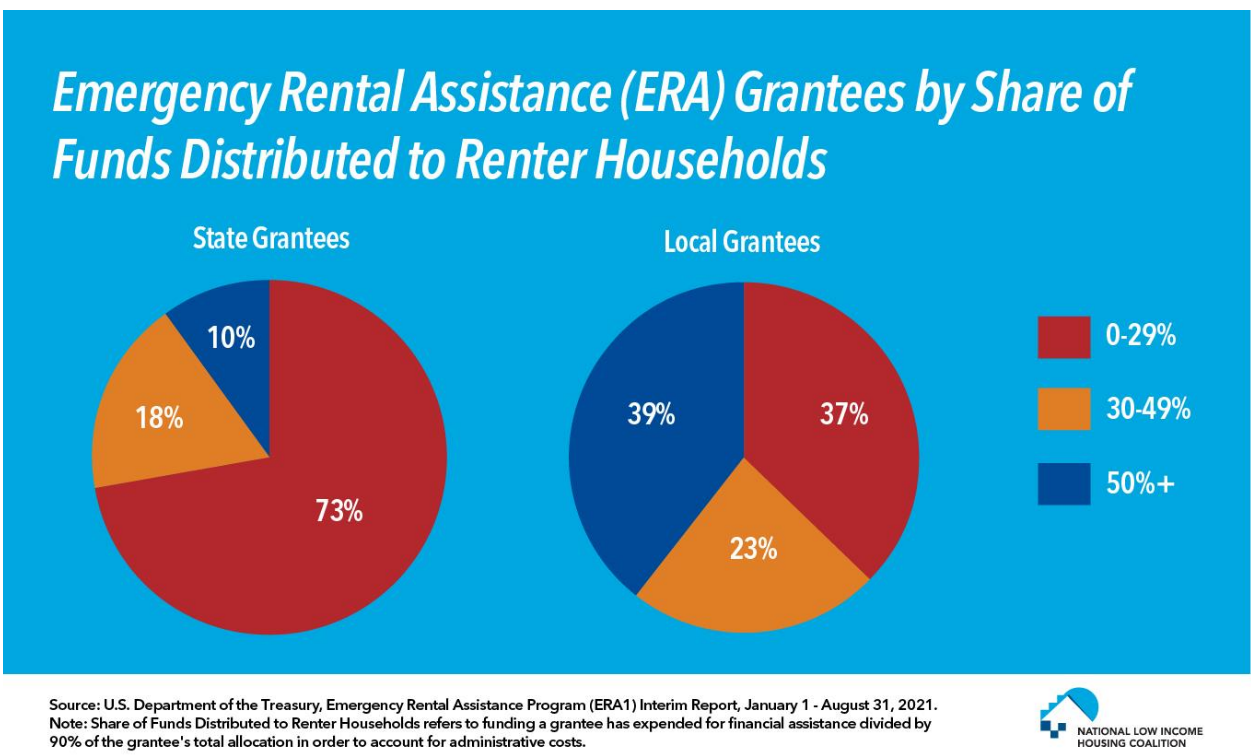
Using RAD and LIHTC data from 2014 to 2017, the latest year for which the authors had LIHTC data, they estimate the RAD program utilized 25% of all 4% credits and 10% of 9% credits. Extrapolating from this, they project that RAD will absorb 26% of all 4% credits and 7% of all 9% credits by the time the program reaches its 455,000-unit limit. If the remaining public housing units were converted, as proposed in the Obama and Trump Administrations, RAD could absorb 61% of 4% credits and 20% of 9% credits over a ten-year period.

The authors conclude that RAD could significantly constrain future LIHTC preservation and production efforts outside of the RAD program at a time when preservation needs are growing within the existing LIHTC stock. Their potential policy responses include states increasing the allocation of tax-exempt private activity bonds used for low-income rental housing, increasing the amount of money available to states for tax-exempt private activity bonds or LIHTC, providing subsidies other than LIHTC to support public housing preservation needs, or directly increasing appropriations for the Public Housing Capital Fund to cover the current $70 billion backlog.

Read the article at: https://bit.ly/2X93Ezc

Fact of the Week

Nearly Three-Quarters of State Emergency Rental Assistance Grantees at Risk of Recapture and Reallocation of Funds



Note: Share of Funds Distributed to Renter Households refers to funding a grantee has expended for financial assistance divided by 90% of the grantee's total allocation to account for administrative costs.

Source: U.S. Department of the Treasury, *Emergency Rental Assistance Program (ERA1) Interim Report*, January 1 - August 31, 2021

From the Field

Connecticut Extends Emergency Declarations to Continue Protecting Renters from Eviction

The Connecticut legislature voted at the end of September to extend Governor Ned Lamont's pandemic-related emergency powers through February 15, 2022. The governor's emergency declarations, including the state's eviction moratorium, were set to expire September 30, along with his emergency powers. The state's eviction moratorium expired on June 30. At that time, Governor Lamont put in place off-ramp measures to ensure renters would receive emergency assistance before an eviction was filed. Executive Order 12D requires landlords to complete an application for Connecticut's emergency rental assistance program, UniteCT, before starting an eviction case for nonpayment of rent and to give a 30-day notice to quit for most types of evictions. Because the legislature extended the emergency declarations, this requirement is now in place until February 15, 2022.

The legislature also extended the emergency declaration allowing Connecticut to qualify for FEMA reimbursement for non-congregate sheltering costs to support individuals who are unhoused. This is critical to ensure that no one is left in the cold this winter, and that we limit the spread of COVID 19 among people experiencing homelessness.

Partnership for Strong Communities, an NLIHC state partner organization, advocated for these necessary protections through its leadership of the Reaching Home and HOMEConnecticut campaigns. Reaching Home and HOMEConnecticut activated their networks to ensure critical declarations that keep renters housed and provide non-congregate shelter for unhoused individuals remain intact during the ongoing pandemic and economic crisis.

"With the eviction moratorium ending, it is critical that tenants, landlords and our judicial system remain as connected as possible to the available financial resources under UniteCT," said Kiley Gosselin, executive director of the Partnership for Strong Communities. "The extension of the governor's authority and the requirement that landlords seeking to evict eligible tenants must first apply to UniteCT will help reduce the number of tenants evicted for nonpayment of rent during the ongoing pandemic. Still, we expect that evictions will increase and the long-term effects of the pandemic on tenants who are evicted or who are forced to move due to economic circumstances will play out for years to come."

For more information about the extension of Connecticut's eviction protections, contact Kayleigh Pratt, senior policy analyst at Partnership for Strong Communities at kayleigh@pschousing.org.

NLIHC in the News

NLIHC in the News for the Week of October 10

The following are some of the news stories that NLIHC contributed to during the week of October 10:

- "When bad weather and bad landlords collide," *The New Republic*, October 11 at: https://bit.ly/2XhO7gH
- "Opinion: Seizing a once in a lifetime opportunity to end homelessness in the U.S.," *The Hill*, October 14 at: https://bit.ly/3aEJsbA
- "As national housing crisis spirals, cities criminalize homeless people, ban tents, close parks," *USA Today*, October 15 at: https://bit.ly/3AX7GZz

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