

NATIONAL LOW INCOME HOUSING COALITION

2013 ADVOCATES' GUIDE

TO HOUSING & COMMUNITY DEVELOPMENT POLICY

NATIONAL HOUSING TRU
PU
END HOMELESSNE
ACTION 811 S
MINIMUM WAGE
HOUSING
DISASTER
ERAL HOUSING TAX R
MOVING TO WORK

MADE POSSIBLE
THROUGH THE
GENEROSITY OF





NATIONAL LOW INCOME HOUSING COALITION

727 15TH STREET NW, 6TH FLOOR // WASHINGTON, D.C. 20005
(Phone) 202.662.1530 // (Fax) 202.393.1973
WWW.NLIHC.ORG

MADE POSSIBLE THROUGH
THE GENEROSITY OF



NLIHC STAFF

Megan Bolton, Research Director
Elina Bravve, Research Analyst
Sarah Brundage, Communications Project Manager
Amy Clark, Communications Director
Linda Couch, Senior Vice President of Policy and Research
Sheila Crowley, President and CEO
Ed Gramlich, Director of Regulatory Affairs
Mary Kolar, Outreach Associate
Linda Leaks, Outreach Associate
Joseph Lindstrom, Outreach Associate
Sham Manglik, Policy Analyst
Khara Norris, Director of Administration
Melissa Quirk, Senior Policy Analyst
Bill Shields, Vice President of Operations
Christina Sin, Executive Assistant
La'Teashia Sykes, State Coalition Project Director
Kate Traynor, Development Coordinator

NLIHC BOARD OF DIRECTORS

Christine Allamanno, Gulf Coast Legal Services, Saint Petersburg, FL
Mark Allison, *Chair*, Center for Social Innovation, Albuquerque, NM
William C. Apgar, Joint Center for Housing Studies, Harvard University, Cambridge, MA
David Bowers, Enterprise Community Partners, Washington, DC
Mary Brooks, Housing Trust Fund Project, Center for Community Change, Frazier Park, CA
Maria Cabildo, East LA Community Corporation, Los Angeles, CA
Delorise Calhoun, Jurisdiction-Wide Resident Advisory Board, Cincinnati Housing Authority, Cincinnati, OH
Brenda J. Clement, Citizens' Housing and Planning Association, Boston, MA
Emma "Pinky" Clifford, Oglala Sioux Tribe Partnership for Housing, Pine Ridge, SD
Marcie Cohen, Community CoNexus, Washington, DC
Lot Diaz, National Council of La Raza, Washington, DC
Chris Estes, National Housing Conference, Washington, DC
Bill Faith, Coalition on Housing and Homelessness in Ohio, Columbus, OH
Daisy Franklin, Publically-Assisted Housing Residents Network, Norwalk, CT
Matt Gerard, Minneapolis Highrise Representative Council, Minneapolis, MN
Lisa Hasegawa, National Coalition for Asian Pacific American Community Development, Washington, DC
Moises Loza, Housing Assistance Council, Washington, DC
Rachael Myers, Washington Low Income Housing Alliance, Seattle, WA
Marla Newman, Louisiana Housing Alliance, Baton Rouge, LA
Reymundo Ocañas, BBVA Compass, Houston, TX
Ann O'Hara, Technical Assistance Collaborative, Boston, MA
Greg Payne, Maine Affordable Housing Coalition, Portland, ME
Tara Rollins, Utah Housing Coalition, Salt Lake City, UT
Martha Weatherspoon, Lincoln Home Resident Council, Clarksville, TN
Paul Weech, Housing Partnership Network, Washington, DC
Leonard Williams, Buffalo Municipal Housing Authority, Buffalo, NY



NATIONAL LOW INCOME HOUSING COALITION

**2013
ADVOCATES'
GUIDE**

TO HOUSING & COMMUNITY DEVELOPMENT POLICY



CONTENTS

INTRODUCTION

- 2 Introduction
- 3 How This Book Will Help You Become a Better Affordable Housing Advocate
- 4 National Low Income Housing Coalition 2013-2014 Public Policy Agenda
- 7 Affordable Rental Housing: How It Works
- 12 The Year In Federal Housing Policy, 2012
- 15 Housing Need
- 18 Housing as A Human Right
- 21 The Federal Budget and Appropriations Process
- 25 NLIHC Budget Chart for Select HUD and USDA Housing Programs

ADVOCACY TOOLS

- 28 How Laws Are Made
- 30 Introduction to the Federal Regulatory Process
- 32 Lobbying by 501(c)(3) Organizations
- 35 Lobbying and Advocacy Tips
- 39 Federal Data Sources for Housing Advocacy
- 45 Contacting Congress, The White House and Federal Agencies
- 46 Freedom of Information Act (FOIA)
- 50 HUD Organizational Chart
- 51 White House Offices
- 53 Key Congressional Committees

HOUSING PROGRAMS AND ISSUES

- 60 The National Housing Trust Fund
- 66 National Housing Trust Fund Proposed Regulations
- 72 The Mortgage Interest Deduction
- 76 Assisted Housing Preservation
- 82 Capital Magnet Fund
- 84 Choice Neighborhoods Initiative and HOPE VI
- 87 Community Development Block Grant Program
- 90 Community Development Financial Institutions Fund
- 94 The Community Reinvestment Act
- 97 Disaster Housing Programs
- 101 Fair Housing Programs
- 106 Family Self-Sufficiency
- 109 Family Unification Program
- 112 The Federal Home Loan Banks
- 115 Federal Housing Administration
- 117 Foreclosure Intervention: Protecting Homeowners
- 121 Foreclosure Intervention: Protecting Renters
- 125 The Future of Housing Finance

128	Healthy Housing and Lead Hazard Control
133	HOME Investment Partnerships Program
137	Housing Bonds
140	Housing Choice Vouchers
144	The Housing Needs of Victims of Domestic Violence, Sexual Assault, Dating Violence and Stalking
148	Housing Opportunities for Persons with AIDS
151	Housing Plus Services
154	Housing Plus Services Typology
156	Interagency Council on Homelessness
158	The Low Income Home Energy Assistance Program (LIHEAP)
162	Low Income Housing Tax Credits
167	Manufactured Housing
171	McKinney-Vento Homeless Assistance Programs
174	Moving to Work Demonstration Program
178	Native American, Alaska Native and Native Hawaiian Housing Programs
182	Public Housing
187	Resident Participation in Federally Subsidized Housing
191	Resource-Efficient (Affordable) Housing
195	Section 202 Supportive Housing for the Elderly
198	Section 3: Job Training, Employment and Business Opportunities Related to HUD Funding
202	Section 811 Supportive Housing for Persons with Disabilities Program
205	Self-Help Homeownership Opportunity Program
207	Service Coordinators in Multifamily Housing
210	Sustainable Communities and Livability Initiatives
212	Title V: Providing Federal Surplus Property to Homeless Service Providers
214	USDA Rural Rental Housing Programs
217	Veterans Affairs Supportive Housing Vouchers

INCOME PROGRAMS

222	Earned Income Tax Credit
226	The Minimum Wage
229	Supplemental Security Income
232	Temporary Assistance for Needy Families

LOCAL TOOLS

236	Affirmatively Furthering Fair Housing and the Analysis of Impediments to Fair Housing Choice
242	Consolidated Plan
248	Continuum of Care Planning Process
250	Inclusionary Housing Programs
253	NIMBYism: Overcoming Community Opposition to Affordable Housing
258	The U.S. Supreme Court's <i>Olmstead</i> Decision
261	Public Housing Agency Plan
266	What is in the Annual PHA Plan?
267	Qualified Allocation Plan
270	State and Local Housing Trust Funds
275	Ten-Year Plans to End Homelessness

ABOUT NLIHC

278	Accessing NLIHC Resources
281	NLIHC State Coalition Partners
288	NLIHC Direct Assistance Program

APPENDICES

290	List of Abbreviated Statutory References
291	Selected List of Major Housing and Housing-Related Laws
292	Glossary
304	<i>Advocates' Guide</i> Authors
313	2013 <i>Advocates' Guide</i> Reader Feedback Form

INTRODUCTION

Introduction

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

At the end of each workday, I leave my office near the White House and head to the closest Metro station to catch the subway home. Every night, there are 10 or 15 people in the covered entrance to the station, preparing to bed down for the night. It is a tragic sight. In spite of all the work we do every day, homelessness continues.

I know that you could tell a similar story about the place where you live and work. The shortage of housing affordable to the lowest income people is everywhere in this country, from a quiet corner of rural America to a subway station three blocks from the President's home. This is the challenge that motivates advocates like you and me to work as hard as we do for change.

The *Advocates' Guide to Housing and Community Development Policy* is full of information on important programs that help meet the housing needs in our communities. These programs all play a role in bringing us closer to one day ending homelessness and ensuring decent, affordable housing for all Americans, and we must work to make certain they are well-funded, well-managed, and meeting the intended need. But as articles in this book show, the data supports what our eyes, and hearts, tell us: there is still more work to be done.

This is why the National Low Income Housing Coalition is going "all-in" on the National Housing Trust Fund this year. The NHTF will be the first program in 30 years to create new housing units that are affordable to the lowest income Americans. We just need to get it funded.

NLIHC proposes to fund the NHTF with a modification to the mortgage interest deduction that would make home ownership tax breaks more beneficial to the middle and lower income homeowners who need them. Our proposal creates a mortgage interest tax credit that would save the federal government money and thus make resources available to invest in the National Housing Trust Fund to build, rehabilitate, preserve, and operate housing affordable to extremely low income renters.

This is our moment for action. Economists, lawmakers and a broad swath of the American public all agree that federal housing policy has put too much emphasis on homeownership and too little emphasis on rental housing. It is time to tilt the balance of housing policy toward the segment of our population that cannot afford to rent even a modest apartment in their communities. But to do so will require you to take action.

I invite you to learn more about this proposal by visiting www.housingtaxreform.org and by reading the articles on the National Housing Trust Fund and Housing Tax Reform in this book. Get educated and decide for yourself if you believe it is time for housing tax policy to reflect the true housing needs of the American people. If you are on board with our proposal, I hope you will encourage your organization or community group to endorse it, and that you will speak with your Members of Congress about it and encourage others in your community to endorse as well.

Getting the National Housing Trust Fund funded is not an easy goal to achieve. But every housing program detailed in this book is the result of the hard work of housing advocates like you. If we advocate together, you and I can ensure our nation will build the housing that will help end homelessness in America.

How This Book Will Help You Become A Better Affordable Housing Advocate

Every year, the National Low Income Housing Coalition publishes the *Advocates' Guide to Housing and Community Development Programs* to educate advocates of all kinds about the programs and policies that make housing affordable to low income people across America. Whether you are a new employee at a housing agency, a student in an urban planning program, or a seasoned affordable housing advocate looking for a refresher on key programs, this book will give you the overview of housing programs and advocacy tools you need to be a leader in the affordable housing movement.

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

The next few sections cover housing and income programs and tools: the core affordable housing programs you need to understand. The section on local tools introduces the programs and policies that make housing and community development programs work on the ground. We close the *Guide* with information about NLIHC itself, as well as a glossary of laws and terms and biographies of our authors.

Over the years, we've heard from our readers how much they value this book. If you find the *Advocates' Guide* useful, you are in good company. We hear from our members, from Administration and Congressional staffers, and even from *Advocates' Guide* authors themselves that they depend on this publication to keep them informed about the many housing and community development programs that are a part of our work.

NLIHC believes in the power of advocacy to create public policy change, and we believe that with the right information and a little know-how, all of us can effectively advocate for housing programs with our Members of Congress and other policymakers. Creating this *Guide* every year entails significant effort from our staff and from volunteer authors, but what makes that effort worthwhile is knowing the impact it can make when you use it to advocate for socially just housing policy for the lowest income Americans.

This *Guide* belongs to you. Take it with you to meetings with lawmakers. Make notes in the margins. Send an email to us at outreach@nlihc.org to ask a question about something you've read. And please, let us know how we're doing. Take a moment to fill out and return the short survey at the back of the *Guide* (or online) to tell us how we are doing and what we can do to improve.

Thank you for being part of the important work of affordable housing advocacy.

A NOTE OF GRATITUDE

The *Guide* was compiled with the help of many of our partner organizations. We are deeply grateful to each of the authors for their assistance; the *Guide* would not be possible without them. Several articles build on the work of authors from previous versions of the *Guide*, and we appreciate and acknowledge their contributions as well.



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

National Low Income Housing Coalition

2013-14 Public Policy Agenda

Approved November 11, 2012

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

Our mission is to achieve socially just public policy that assures people with the lowest incomes in the United States have affordable and decent homes.

Our three goals are:

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

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

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

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

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

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

In 2013 and 2014, NLIHC will focus on achieving the policy outcomes detailed below. NLIHC will also monitor the federal policy environment and respond to emerging issues as needed.

National Housing Trust Fund (NHTF)

- Obtain funding for the NHTF of at least \$5 billion a year, with a goal of \$30 billion a year for 10 years.
- Advance legislation to fund the NHTF with savings gained from reform of the mortgage interest deduction (MID).
- Monitor and influence federal housing finance reform legislation to:
 - (1) Ensure that dedicated funding for NHTF is in final bill.
 - (2) Protect the statutory authority for the NHTF.
- Monitor and influence use of current and future Fannie Mae and Freddie Mac profits to go to NHTF if possible.
- Develop and advance legislation to direct 20% of profits of Federal Home Loan Banks into NHTF after they have reached required levels of reserves.
- Develop and advance legislation to ensure that rents for NHTF units are affordable for all extremely low income (ELI) households and that the units remain affordable for the longest possible period.
- Monitor and influence implementation of NHTF once funding has been secured.

Federal Tax Reform

- Advance legislation to fund the NHTF with savings gained from reform of the MID; advocate for reform that lowers the cap to \$500,000 and converts the deduction to a credit.

NLIHC 2013-2014 Policy Agenda

- Monitor and influence all proposals to change MID or other homeowner tax subsidies to assure that maximum savings are directed to housing purposes that benefit ELI households.
- Oppose deficit reduction plans that are not balanced with revenue-raisers.
- Oppose adverse changes to federal tax expenditures that benefit low income people, including the low income housing tax credit program, the earned income tax credit, and the child tax credit.
- Support tax reform proposals that improve the economic conditions of low income people.

Housing Choice Vouchers

- Advance the next iteration of voucher reform legislation, without time limits, MTW expansion beyond what is in stakeholder agreement, or minimum rent increases without strong improvements to hardship exemptions.
- Develop and advance legislation to incentivize state and regional voucher administration.
- Advocate for increase in incremental vouchers and ensure full funding for all current vouchers in FY14 HUD budget; increase VASH, FUP, and NED vouchers.
- Monitor Small Area Fair Market Rent demonstration; seek additional resources so as to encourage PHA participation in demonstration.

Preservation of Public and Assisted Housing

- Advocate for sufficient funding to meet annual public housing operating and capital costs, as well as increased funding to address backlog of public housing capital needs.
- Advocate for full funding of existing Section 8 project-based contracts.
- Monitor the Rental Assistance Demonstration to assure compliance with tenant protections and maintaining public ownership of public housing.
- Oppose expansion of MTW beyond what is in stakeholder agreement.
- Develop and advance legislation and regulations that minimally will include the following:
 - 1) A required unique identifier for each federally assisted housing property (includes public housing).
 - 2) Establishment of a national preservation inventory.
 - 3) Full resident participation, enhanced voucher protections, and resident first right to purchase their buildings.
 - 4) Alternatives to converting to market rate for properties with expiring contracts or maturing mortgages.
 - 5) Tools and resources for residents and advocates to work on preservation of public and assisted housing.
 - 6) Prohibition of involuntary displacement.
 - 7) Requirement of one-for-one replacement when demolition is unavoidable.

Federal Budget

- Advocate for completion of an FY13 appropriations bill at the highest funding level before the FY13 continuing resolution expires on March 27, 2013. Ensure that the bill provides sufficient funding to preserve all existing affordable housing units, rental assistance, and resources for extremely low income households.
- Advocate for the highest level of FY14 funding for HUD and USDA Rural Housing Service, ensuring sufficient funding to preserve all existing affordable low income housing units, rental assistance, and resources for extremely low income households.
- Advocate to restore HOME funding to \$2 billion.
- Advocate for sufficient funding for U.S. Census, including the American Community Survey.
- Explore moving discretionary rent assistance programs to mandatory side of federal budget.
- Support canceling sequestration and replacing it with a deficit reduction plan that will protect all affordable housing and other programs that serve low income people.

NLIHC 2013-2014 Policy Agenda

- Oppose sequestration replacement plans that are not balanced with increased revenues or that implement across-the-board or other cuts to non-defense discretionary and mandatory programs serving low income households.

Foreclosure Intervention

- Advance legislation to make permanent the Protecting Tenants in Foreclosure Act (PTFA), to give tenants a private right of action, and to require monitoring and enforcement by federal agencies.
- Monitor and influence implementation of PTFA by federal agencies and GSEs.
- Disaster Housing
- Advocate for reintroduction of Disaster Recovery Act in 113th Congress; advance legislation.
- Monitor housing needs of low income people displaced by Hurricane Sandy and intervene as needed.

Planning for Just Communities

- Monitor and influence improvements to the Consolidated Plan process, including attention to environmental justice implications.
- Monitor and influence the regulations to Affirmatively Further Fair Housing, including attention to environmental justice implications.
- Develop and advance legislation to incentivize state and regional voucher administration.
- Develop and advance legislation and administrative reforms to prohibit involuntary displacement.

Housing Plus Services

- Monitor and influence implementation of HEARTH Act.
- Monitor and influence implementation of Section 811 and Section 202 legislation.
- Advance legislation to improve the Section 3 program if new version of Affordable Communities Employment Act of 2011 is introduced in 113th Congress.
- Monitor and influence proposed changes to the Section 3 regulations.
- Support efforts to integrate housing and service programs across federal agencies with special focus on VA, HHS, and DOL.
- Support renewal of Violence Against Women Act.
- Support improved formula for distribution of HOPWA funds.

Aligning Federal Housing Resources with Need

- Develop and advance legislation to require that a minimum of 30% of units subsidized by LIHTC, HOME, or the Affordable Housing Program of the Federal Home Loan Banks be affordable to and occupied by ELI households, including veterans, people with special needs, and people who are or have been homeless, without relying on Section 8 vouchers in any form.

Affordable Rental Housing: How It Works

By Amy Clark, Communications Director, National Low Income Housing Coalition

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

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

A BRIEF OVERVIEW OF FEDERAL INTERVENTION IN HOUSING

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

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

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

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

Affordable Rental Housing: How It Works

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

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

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

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

Waves of opt-outs by private affordable housing owners under contract with HUD occurred in the 1980s and 1990s. Housing advocates-- including PHAs, nonprofit affordable housing developers, local government officials, nonprofit advocacy organizations and low income renters-- organized to preserve this disappearing stock of affordable housing using whatever funding and financing was available to them.

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

The Cranston-Gonzales Affordable Housing Act of 1990 created the HOME program, which provides block grants to state and local governments for housing, and the Section 811 program, which has provided production and operating subsidies to nonprofits for housing persons with disabilities.

Beyond changes to the structure of many federal housing programs, no significant investment in new housing affordable to the lowest income Americans has been made in more than 30 years, and there still exists a great shortage of housing affordable to that population. Since the creation of the Section 8 programs in the early 1970s, no new federal program has the deep income targeting necessary to meet the needs of people with the greatest housing affordability burdens. As studies from NLIHC show, the

Affordable Rental Housing: How It Works

federal investment in housing has not increased at pace with the overall increase in the federal budget, and expenditures on housing go overwhelmingly to homeownership, not to rental housing for people in need.

Housing advocates have worked for over a decade for the establishment and funding of the National Housing Trust Fund, which will, once funded, build, preserve and rehabilitate housing affordable to extremely low income people. The National Housing Trust Fund was signed into law by President George W. Bush in 2008 as a part of the Housing and Economic Recovery Act, but the original source of funding was suspended and the program is not yet in operation.

STATE AND LOCAL HOUSING PROGRAMS

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

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

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

PROVIDING AFFORDABLE HOUSING AT THE LOCAL LEVEL

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

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

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

Affordable Rental Housing: How It Works

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

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

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

THE FUTURE OF AFFORDABLE HOUSING

There are serious issues facing those who believe everyone in the U.S. has the right to safe, decent, affordable housing. The need for affordable housing continues to grow, particularly the need for housing affordable to the lowest income people. Nationwide, there are only 30 units of housing affordable and available for every 100 extremely low income Americans. Federal housing assistance only serves one quarter of those who qualify for it. And special populations, like disabled veterans returning from combat or lower income seniors, are increasing in number and need.

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

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

THE ROLE OF ADVOCATES

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

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

Affordable Rental Housing: How It Works

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

FOR MORE INFORMATION

HUD Historical Background

<http://1.usa.gov/11P11P2>

NLIHC's *Changing Priorities: The Federal Government and Housing Assistance, 1976-2007*

<http://nlihc.org/library/other/periodic/changing-priorities-1976-2007>

NLIHC's *Housing Assistance for Low Income Households: States Do Not Fill the Gap*

<http://nlihc.org/library/other/periodic/housingassistance>

National Housing Trust Fund

www.nhtf.org

NLIHC's *Preservation Guide*

<http://nlihc.org/library/other/preservation/guides/2010>

The Housing Trust Fund Project

<http://housingtrustfundproject.org>

National Housing Preservation Database

www.preservationdatabase.org

The Year In Federal Housing Policy, 2012

By Melissa Quirk, Senior Policy Analyst, National Low Income Housing Coalition

The past year was fraught with conflict between Democrats and Republicans that left the House and Senate at a stalemate over critical issues facing the nation. Several times during the second session of 112th Congress, the Administration intervened in negotiations between the House and Senate to bring about resolutions that Congress may not have otherwise reached. These resolutions, however, left neither party satisfied and did not improve the House and Senate's next attempts at negotiation.

Instead of a productive session of lawmaking, Congress put on hold major pieces of legislation, including housing bills, which should have been addressed. Congress did pass several critical laws related to the fiscal challenge the nation faced; however, these bills only provided partial fixes to the fiscal challenges because there was scant agreement between lawmakers on how to proceed. Each bill postponed a comprehensive solution. Congress punted the remaining complicated fiscal decisions to the 113th Congress.

Trends

The November elections wielded significant influence over policymaking and the positions lawmakers chose to take in anticipation of the elections. For some Members, the elections were an opportunity to champion a hot topic, such as the nation's debt challenges, while most Members up for reelection receded from taking strong positions until after votes were cast.

This retreat from engaging on controversial issues until after the election left Congress with a slew of policy issues to address in the final two months of 2012. Consequently, decisions were rushed, time sensitive issues were given a quick fix and postponed, and many policy decisions were left unaddressed. The issues that Congress did debate and eventually address were related to the nation's fiscal concerns. The trajectory of the debt, the deficit, the debt ceiling, level of revenue, and spending dominated the political realm in 2012. Few other policy issues were urgent enough to compete with these fiscal challenges.

Unfinished Policy

While Members of Congress introduced legislation that would have advanced several of NLIHC's 2012 policy priorities, Congress ultimately failed to pass these bills. For several priorities, Congress's inability to find consensus on housing policy averted passing bills that could have been damaging to low income renters. In other cases, Congress missed opportunities to improve housing programs and policies through its inaction.

National Housing Trust Fund. Congress did not pass inaugural funding for NLIHC's highest policy priority, funding the National Housing Trust Fund (NHTF), despite members of Congress introducing several funding bills in the House and Senate. The Preserving Homes and Communities Act of 2011, S. 489 and H.R. 1477, would have funded the NHTF at \$1 billion from profits made on the sale of warrants from the Troubled Asset Relief Program.

At the close of the Congressional session, the Common Sense Housing Investment Act, H.R. 6677, was introduced but there was not time for Congress to consider the bill. The legislation would have funded the NHTF by converting the mortgage interest tax deduction to a credit, lowering the mortgage eligibility cap from \$1 million to \$500,000, and re-directing unspent funds to the NHTF.

By statute, the government sponsored enterprises (GSEs) were designated to fund the NHTF, however, Fannie Mae and Freddie Mac remained unable to make contributions during 2012. Congress began discussions on comprehensive GSE reform but did not advance legislation.

The Year In Federal Housing Policy, 2012

The President did include \$1 billion in mandatory funding for the NHTF in his FY13 budget, but as it was not offset by cuts or revenue, it is not expected to be funded by Congress in the final FY13 appropriations.

Public housing reform. A reform bill that would streamline, make more efficient, and save money in the Housing Choice Voucher program, as well as in other HUD rental assistance programs, has long been on Congress's agenda. Work advanced on a piece of draft legislation, the Affordable Housing and Self-Sufficiency Improvement Act (AHSSIA), but no bills were introduced.

Preservation of public and assisted housing. Congress did not pass legislation to authorize the Choice Neighborhoods Initiative, the successor program to the HOPE VI program. Legislation could have established policies beneficial to public housing residents including protecting residents' rights to return to rehabilitated public housing and expanding their participation in planning. Broad assisted housing preservation legislation was not reintroduced in the 112th Congress, but advocates saw some helpful provisions included in the FY12 appropriations bill.

Foreclosure intervention. Congress failed to extend the Protecting Tenants in Foreclosure Act of 2009, which will sunset in 2014. A House bill, H.R. 3619, would have permanently extended the act and enhanced protections for tenants.

Disaster Housing. Congress also failed to pass disaster recovery reform legislation. The Senate introduced a bill with bipartisan support, S. 1630, which would have made critical reforms to the Stafford Act based upon lessons learned after hurricanes Katrina and Rita.

Housing Plus Services. Members of Congress introduced numerous pieces of legislation to address the housing needs of people experiencing homelessness, people with disabilities, and others with combined service and rental housing needs, but very few of these advanced.

- Legislation to make improvements to the Family Self-Sufficiency (FSS) program was introduced in the House and Senate with bipartisan support, but H.R. 34 and S. 3513 were not passed. House legislation on inclusive home design to improve accessibility for people with disabilities, H.R. 5781, also did not advance.
- A bill to expand the definition of homelessness under the McKinney-Vento Homeless Assistance Act to include children and youth, H.R. 32, did not advance. House and Senate bills S. 3494 and H.R. 3076, to make formerly homeless full-time students eligible for Low Income Housing Tax Credit-financed housing also did not pass. A plethora of House and Senate bills to address the plight of veterans experiencing homelessness through rental housing and other assistance were introduced but did not advance.

Fiscal Challenges

Appropriations. Congress passed funding for FY12 in 2012 but only after a protracted battle that repeatedly threatened to shut down the federal government. The fiscal year beginning October 2011 was funded by a series of continuing resolutions (CRs) until Congress could agree to pass FY12 funding in an omnibus appropriations bill.

Congress used the FY12 funding bill to authorize some HUD programs that would otherwise have not been passed through authorization channels. Congress authorized a Rental Assistance Demonstration (RAD) to preserve public housing units and included portions of the draft Section Eight Voucher Reform Act (SEVRA) legislation through the FY12 omnibus appropriations bill.

The Year In Federal Housing Policy, 2012

Congress did not pass any of its FY13 appropriations bills in 2012 and, following the pattern of FY12, passed a six-month CR giving it until March 27, 2013 to decide upon funding levels.

Sequestration. Much of lawmakers focus in 2012 was consumed by the impending sequestering of discretionary funds required by the Budget Control Act of 2011 (BCA). The BCA required that if a Congressional “super committee” did not identify \$1.2 trillion deficit reduction measures that this amount would be automatically cut from discretionary programs in January 2013. These cuts, known as sequestration, would be divided between defense and non-defense spending. The anticipation of these cuts, bundled with other fiscal challenges, such as the expiring Bush-era tax cuts and expiration of numerous benefits, was felt throughout the year. Congress, however, did not begin to grapple with alternatives until the summer. After the presidential election, Congress finally passed a bill that addressed these and other tax concerns but, instead of crafting a solution to sequestration, postponed the implementation date by two months to March 2013.

Forecast For 2013

In 2013, Congress and the Administration must continue to address the country’s still-looming fiscal challenges. Sequestration has not been addressed, and the nation will reach the debt ceiling again in summer 2013. Congress has yet to construct a long-term plan for addressing the nation’s debt that satisfies lawmakers on both sides of the aisle, as well as the Administration.

Should lawmakers successfully address these fiscal challenges, Members will be able to address other critical policy issues that were tabled during 2012. Congress is expected to begin work on comprehensive tax reform and to consider GSE reform. These two issues present opportunities for Congress to fund the National Housing Trust Fund. The mortgage interest deduction is expected to continue to come under fire in both the debate over broader fiscal challenges and in the context of comprehensive tax reform. The prominence of the interest deduction in these debates would allow Congress openings to reform the tax deduction and redirect savings to the NHTF in 2012.

Housing Need

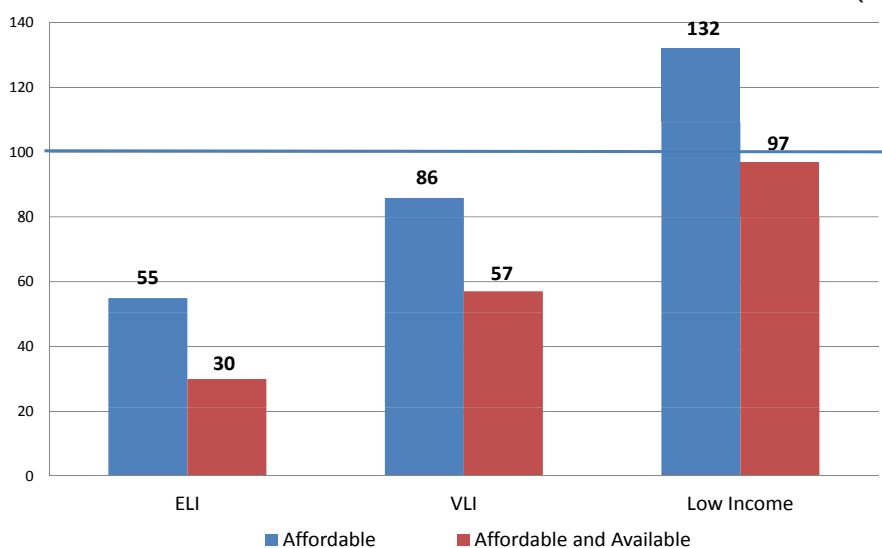
By Megan Bolton, Research Director, National Low Income Housing Coalition

In this space last year we noted that there are a variety of ways to measure the need for affordable housing in the United States, and regardless which measurement is used, advocates will find that the need, especially among the lowest income households, is staggering. While there are some signs that the housing market and economy are starting to rebound, these are still extremely difficult times for many Americans and the demand for low-cost rental housing continues to grow while the supply of rental units affordable to the lowest income households shrinks. This has further exacerbated the persistent mismatch these families face between their incomes and the costs of available housing in the United States.

According to NLIHC analysis of the 2011 American Community Survey (ACS), there were 10.1 million extremely low income (ELI) renter households (earning at or below 30% of the area median income [AMI]) and only 5.6 million units affordable to them, using the standard affordability measure of spending no more than 30% of household income on housing costs. This leads to an absolute shortage of 4.6 million rental homes for these households nationwide. Another way of describing the gap is that for every 100 ELI renters in 2010, there were only 55 units they could potentially live in without spending more than 30% of their income on housing and utility costs (Chart 1). The comparable number in 2010 was 56.

The shortage of affordable housing is most severe among ELI households, but a need also exists among other income groups. Households at or below the very low income (VLI) threshold (50% of AMI) face an absolute deficit of 2.5 million affordable rental units. It is important to note, however, that a surplus of 8.2 million affordable units was found for households at the low income (LI) level (80% of AMI). This surplus indicates that many more units have been built for this income category than for the lowest income households.

Chart 1: Affordable Units and Affordable and Available Units for Every 100 Renter Households At or Below Income Threshold (MMFA 2011)



Source: NLIHC tabulations of 2011 ACS PUMS data

In actuality, the situation is much worse for ELI renters, because many of the units affordable to ELI households are in fact rented and occupied by higher income households. Thus, on a nationwide basis, the shortage of affordable and available rental homes for ELI households is 7.1 million. Nationally, there are only 30 affordable and available rental homes for every 100 ELI renter households.

Housing Need

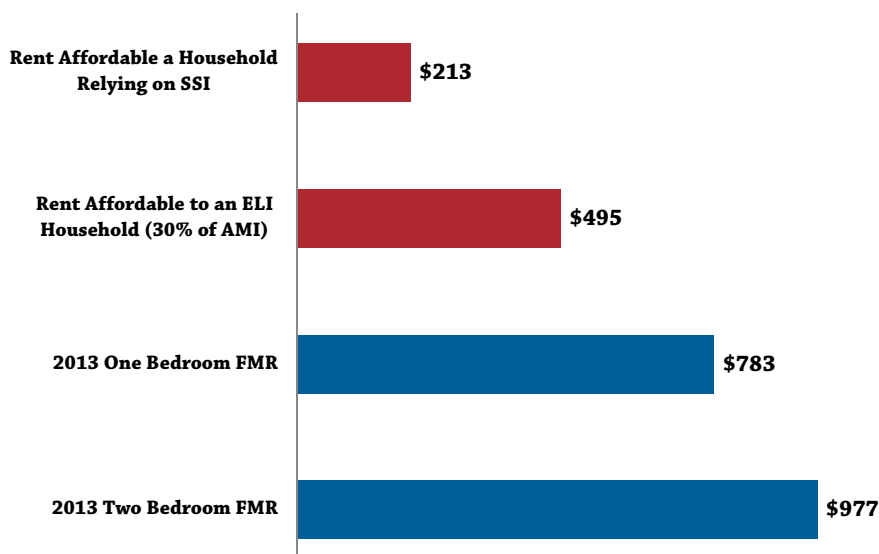
Yet again, it is not just ELI households who face this problem. Though the situation improves somewhat when the income threshold is increased, households at the VLI level still face a shortage, with just 57 affordable and available units per 100 renter households at the VLI threshold or below. Finally, while in 2009, there was a slight surplus of affordable and available units for renter households at or below the LI threshold (101 units), there was a slight deficit in 2011, with 97 affordable and available units per 100 LI renters.

In light of this significant shortage of affordable and available housing, low income renters must sacrifice in order to make ends meet. Many end up spending a significant proportion of their income on rent. Seventy-six percent of ELI renters and 73% of ELI owners spent more than half of their incomes on housing costs in 2011, according to the ACS, leaving very little for other basic necessities such as food, health care, and transportation. HUD estimated that in 2011 there were 8.5 million households with worst-case housing needs, which HUD defines as households earning at or below 50% of AMI who do not receive any housing assistance from the government and who spend over half of their income on housing costs, live in severely substandard housing conditions or both. The number of households with worst case housing needs grew by 19% since 2009 and by 43% since 2007.

Beyond paying more than they can afford and living in substandard housing, many households also cope with unaffordable housing costs by doubling and tripling up in units, creating overcrowding and stress for individuals and families. A recent HUD analysis found that in 2009 the rate at which households were moving in with other households had increased 25% from the height of the housing bubble in 2005.

Further indication that renters are struggling to find affordable housing comes from NLIHC's annual research report, *Out of Reach*, which compares the average wages earned by households to the average rents where they live. This provides a clear picture of how difficult it is to find a decent rental home on local wages. According to *Out of Reach 2013*, there are only a handful of counties in Washington and Oregon in which a full-time worker earning the locally prevailing minimum wage could afford a one-bedroom apartment at the Fair Market Rent (FMR). A worker would need to earn an hourly wage of \$18.79 in order to afford a two-bedroom rental home at the nation's FMR of \$977, and the estimated average renter wage among all U.S. private sector workers is only \$14.77. An ELI household can only afford a rent of \$495 a month (Chart 2).

Chart 2: Rent Affordable to ELI Households and Households on SSI Compared to Fair Market Rents, 2013.



Source: National Low Income Housing Coalition. (2013). *Out of Reach 2013*.

ELI households include people who work at the low-wage jobs that are so critical to a healthy economy. They are child care providers, nursing home aides, hotel housekeepers, office cleaners, retail clerks, and receptionists. In Denver, CO, families with a total annual income of \$23,340 or less are considered extremely low income. In Birmingham, AL, the annual income of an ELI household is \$17,130 or less, and in Boston, MA, it is \$28,320 or less. ELI households are often made up of elderly or disabled people whose income is limited to Supplemental Security Income (SSI); the federal SSI benefit level is \$8,520 annually in 2013 for an individual and \$12,792 for a couple.

Whatever measurement is used, the available data confirm that there is a critical and continual need to expand the supply of affordable housing and it is imperative that researchers and advocates continue to work together to ensure this need is met. Unfortunately, the situation appears to be getting worse, not better. The U.S. housing market remains in considerable flux, the unemployment rate remains high at 7.9%, and in 2011 the poverty rate remained at 15%. Increases in poverty are directly correlated with increases in homelessness and housing instability. With more and more Americans facing poverty in 2013 and a Congress focused on cutting domestic spending, it seems likely the United States will continue to see an intensifying affordable housing crisis punctuated by rising homelessness.

Housing As A Human Right

By Eric Tars, Director of Human Rights and Children's Rights Programs,
National Law Center on Homelessness & Poverty

Recent polling indicates that three-quarters of Americans believe that adequate housing is a human right, and two-thirds believe that government programs need to be expanded to ensure this right. Indeed, as President Obama has stated, "it is not acceptable for children and families to be without a roof over their heads in a country as wealthy as ours."

Housing advocates in the United States can and should use international human rights standards to reframe public debate, craft and support legislative proposals, supplement legal claims in court, advocate in international fora and support community organizing efforts. Numerous United Nations (UN) human rights experts have recently visited the United States or made comments directly bearing on domestic housing issues including affordable and public housing, homelessness and the foreclosure crisis, often providing detailed recommendations for federal- and local-level policy reforms. In recent years, both the federal and local governments have embraced the language of housing as a human right. In 2013, advocates will work to consolidate these gains and push for action to accompany the rhetoric.

HISTORY

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

The Universal Declaration is just a non-binding declaration, so the right to housing was codified in binding treaty law in the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1966. The United States has signed, but not ratified, the ICESCR, and thus is not strictly bound to uphold the right to housing as framed in that document. However, the United States ratified the International Covenant on Civil and Political Rights (ICCPR) in 1992 and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) in 1994, both of which recognize the right to be free from discrimination, including in housing, on the basis of race, gender, disability, and other status.

The United States signed another declaratory document, the Habitat Agenda, in 1996, committing itself to more than 100 housing-related goals. In 2006, the United States approved the UN Basic Principles and Guidelines on Development-Based Evictions, which provides useful standards for ensuring participation of poor and minority groups in zoning and development decisions affecting them.

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

In 2012, the U.S. Interagency Council on Homelessness (USICH) and Department of Justice (DOJ) issued a report, *Searching Out Solutions: Constructive Alternatives to the Criminalization of Homelessness*, which recognizes that, in addition to possible violations under the U.S. Constitution, the criminalization

Housing As A Human Right

of homelessness may implicate our human rights treaty obligations under ICCPR and Convention Against Torture. This is the first time any domestic agency report has addressed a domestic issue as a potential human rights violation, and demonstrates advocates are successfully advancing the human rights frame in policy dialogue.

Other countries have made significant headway in making the right to housing real and legally enforceable. France, Scotland, South Africa and other countries have adopted a right to housing in their constitutions or legislation, leading to improved housing conditions, and should serve as models for domestic advocates.

ISSUE SUMMARY

According to the UN Committee on Economic, Social and Cultural Rights, which oversees the ICESCR, the human right to housing consists of seven elements: (1) security of tenure; (2) availability of services, materials, and infrastructure; (3) affordability; (4) accessibility; (5) habitability; (6) location; and (7) cultural adequacy.

In the human rights framework, every right creates a corresponding duty on the part of the government to respect, protect and fulfill the right. Having the right to housing does not mean that the government must build a house for every person in America and give it to them free of charge. It does, however, allocate ultimate responsibility to the government for ensuring all people have access to adequate housing, whether through devoting resources to public housing and vouchers, by creating incentives for private development of affordable housing such as inclusionary zoning or the Low Income Housing Tax Credit, through market regulation such as rent control, through legal due process protections from eviction or foreclosure, ensuring habitable conditions through housing codes and inspections or by other means. Contrary to our current framework which views housing as a commodity to be determined primarily by the market, the right to housing framework gives advocates a tool for holding each level of government accountable if all those elements are not satisfied.

Scotland provides a good example of the difference the right to housing approach can make. The Homeless Etc. (Scotland) Act of 2003 includes the right for all homeless persons to be immediately housed and the right to long-term, supportive housing for as long as it is needed. The law also includes an individual right to sue if one believes these rights are not being met, and requires jurisdictions to plan for development of adequate affordable housing supplies. Complementary policies include the right to purchase public housing units and automatic referrals by banks to foreclosure prevention programs to help people remain in their homes. All these elements work together to ensure the right to housing is upheld.

FORECAST FOR 2013

Our country's current struggle with budget deficits is not a reason to defer actions to improve Americans' access to adequate housing. Rather, it is precisely in this time of economic crisis that the need to do so is most acute, and a rights-based approach to budgeting decisions would help generate the will to protect people's basic human dignity first, rather than relegating it to the status of an optional policy. In 2013, housing advocates will be using international mechanisms and standards to promote housing policy goals from the federal to local level.

Several opportunities exist at the international level. The U.S. government is scheduled for a review in October 2013 of its obligations under the ICCPR by the U.N. Human Rights Committee, affording advocates the opportunity to raise concerns, particularly around the criminalization of homelessness and the disparate racial and gender impacts of housing rights violations. In conjunction with the ICCPR review, the U.S. government is convening an ongoing series of interagency meetings (including

Housing As A Human Right

officials from HUD, DOJ, and Health & Human Services, among others) discussing implementation of recommendations from previous international reviews. Additionally, the U.N. Special Rapporteur on the Right to Food is planning a mission to the U.S. for late 2013, and will be addressing hunger issues which often accompany housing, poverty and homelessness. The National Law Center on Homelessness & Poverty (NLCHP) is helping to coordinate non-governmental strategy for all these opportunities.

At the state level, following the passage in Rhode Island of a Homeless Bill of Rights in 2012, California has introduced a similar bill, and Oregon, Delaware and other states are considering similar legislation.

Locally, advocates in many cities are working to pass right to housing resolutions or directly implement the right to housing. Eugene, OR, advocates have successfully used human rights framing to create political will for a safe camping area for homeless persons. Groups such as Take Back the Land are organizing eviction and foreclosure defenses and building takeovers as direct actions to draw attention to, and implement, the human right to housing. The Maryland Legal Aid Bureau and Texas –Rio Grande Legal Services have both hired human rights coordinators to implement human rights strategies across their program areas.

For those looking to learn more, NLCHP, Columbia Law School's Human Rights Institute, and Northeastern Law School's Program on Human Rights and the Global Economy are co-sponsoring a symposium on the human right to housing, taking place April 26, 2013 in New York City.

TIPS FOR LOCAL SUCCESS

Local groups wishing to build the movement to recognize the human right to housing in the United States can use international standards in many different ways to promote policy change, from rallying slogans to concrete legislative proposals. Groups can start with a non-binding resolution stating that their locality recognizes housing as a human right in the context of the ongoing economic and foreclosure crisis, such as that passed by the Madison, WI city council in November 2011. Advocates can then build on that commitment to help pass more substantive legislation, or use international standards to measure local violations of housing rights, as advocates in Sacramento have done around access to water and sanitation. Using international mechanisms, such as the review of the United States by the Human Rights Committee, can also help cast an international spotlight on local issues.

WHAT TO SAY TO LEGISLATORS

It is important for legislators and their staff to hear their constituents say, "Housing is a human right," as an initial step in reframing the conversation around housing. In talking about human rights, it is often helpful to start with the United States' origins and acceptance of these rights in Roosevelt's "Second Bill of Rights" and the polling data above. Using the recommendations made by human rights monitors reinforces advocates' messages by lending international legitimacy. A full list of international recommendations on United States housing concerns including homelessness, public and subsidized housing, fair housing, foreclosures, and many other topics, is available on the NLCHP's website.

FOR MORE INFORMATION

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

The Federal Budget and Appropriations Process

By Melissa Quirk, Senior Policy Analyst, National Low Income Housing Coalition

Both the Administration and Congress participate in the annual process of developing the federal budget to establish the overall framework and maximum dollar amount for government spending annually. The appropriations process is handled entirely by Congress and establishes the amount of funding for individual activities of the federal government. While the budget and appropriations process is designed to start four months into the fiscal year and be completed prior to the start of the next fiscal year, in recent years, Congress has not completed the budget or appropriations processes before the start of the fiscal year.

TYPES OF FEDERAL SPENDING AND REVENUE

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

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

Mandatory spending. This portion of the budget was the largest expenditure in FY12 and is expected to grow as a percentage of the budget in coming years. Mandatory spending is almost entirely made up of spending on entitlements, such as Social Security and Medicaid. Expenditures for entitlements are based on a formula that is applied to the number of households eligible for a benefit. The amount of funding in a given year is determined by formula and so the Administration and Congress do not focus much on this spending in the budget and appropriations process.

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

Budget Process

The federal fiscal year runs from October 1 through September 30, and planning for the upcoming fiscal year begins as early as a year and a half prior to the fiscal year.

President's Budget Request. The budget process officially commences on the first Monday of February when the President is required by law to provide a budget request to Congress for all Administration activities in the coming fiscal year. The President's budget request to Congress includes a funding request for discretionary programs, mandatory programs and taxes. The majority of housing programs are funded through the discretionary portion of the budget. The President's funding request for discretionary programs varies from year to year to reflect the Administration's evolving policy priorities. In 2013, the President's budget request was submitted after the February deadline due to major fiscal decisions made by Congress which delayed the Administration's budget development process.

Congressional budget resolution. Once the President submits a budget to Congress, the House and Senate Committees on the Budget prepare to craft a budget resolution. The budget resolution sets

The Federal Budget & Appropriations Process

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

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

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

APPROPRIATIONS PROCESS

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

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

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

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

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

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

The Federal Budget & Appropriations Process

A CR continues funding for programs funded in the prior fiscal year, usually at the funding level from the year prior. If Congress does not pass a CR and appropriations bills have not been enacted, the government shuts down.

FORECAST FOR 2013

Spending caps. In 2011, Congress passed a law that essentially changes the role of the President and Congressional committees in establishing top-line spending figures for discretionary spending for a ten-year period. The Budget Control Act of 2011 (BCA) established caps on discretionary spending for ten calendar years beginning with FY13. These caps set the maximum amount of discretionary spending for each year, a figure normally determined by the budget resolution. The President's role in establishing the Administration's version of this top-line figure is its budget request to Congress; the BCA establishes limits on this figure and the President has indicated that his budget request will adhere to the enacted caps.

In 2012, the House of Representatives passed an FY13 budget resolution that set discretionary spending at a lower level than the BCA caps. The Senate interpreted the BCA caps as making a budget resolution unnecessary. Congress did not pass appropriations bills by the start of the fiscal year. The American Taxpayer Relief Act of 2012 (ATRA) set further restrictions on discretionary spending for FY13 and FY14, lowering the caps below the levels set in the BCA for those two fiscal years.

Even though the FY13 appropriations process has not been completed, both chambers of Congress started preparing to craft FY14 budget resolutions early in 2013. For the Senate, this was a departure from the position of leadership in 2012 that a budget resolution was not necessary with caps on spending already in law.

Sequestration. As a result of the BCA, Congress has put into motion the sequestration of \$1.2 trillion in discretionary funding to reduce the national deficit. The across-the-board cuts were set to be enacted on January 2, 2013. However, ATRA postponed these cuts until March 1, 2013. If the Administration was forced to implement sequestration in March, HUD and USDA programs would be cut by around 5%. If Congress were to postpone sequestration, the percentage of the cuts for the remainder of 2013 could be lower.

FY13 and FY14 appropriations. With Congress modifying major fiscal decisions such as sequestration and discretionary spending caps, the customary appropriations and budget development process has been delayed. Congress was not able to finalize FY13 appropriations in timely manner; consequently, federal agencies were unable to accurately estimate the impact that sequestration cuts would have on program operations. Development of the President's FY14 budget request was also delayed and is not expected until March.

WHAT TO SAY TO LEGISLATORS

Advocates should weigh in with the Administration and Congress on all of these intertwined financial issues, including averting or ending sequestration, preventing further lowering of discretionary spending caps, development of the FY14 budget and budget resolutions, and the FY14 appropriations process.

- Advocates should let their Members of Congress know that sequestration cuts will result in serious loss of HUD and USDA rural housing units for extremely low income households. While the result of such cuts may not be evident in the first month, depending on how the Administration implements the cuts, over the course of the year, it will be difficult, if not impossible, to mitigate the impact on households currently housed in or in need of affordable units.

The Federal Budget & Appropriations Process

- Advocates should let lawmakers know the importance of the budget resolution for FY14 including a robust top-line discretionary spending figure. While low discretionary caps have been established, and then were lowered even further, it is still critical for legislators to understand that housing programs, funded through non-defense discretionary spending, need more, not less, funding.
- It is critical for advocates to make Members of Congress aware of the importance of appropriating funds for affordable housing and community development. Advocates should write to and, if possible, meet with their Members of Congress to tell them to provide sufficient funding for HUD and USDA affordable housing programs. If Members of Congress do not hear from advocates, they will not know how important these programs are in their districts and states.
- It is particularly important that Members of Congress understand how much funding for affordable housing programs is needed after the cuts to HUD programs in recent years.
- Advocates should let the Administration know what programs they think are priorities to fund before the President's FY15 budget is crafted starting in summer of 2013. It is also important for advocates to provide feedback after the President's FY14 budget is released in the winter of 2013.

FOR MORE INFORMATION

National Low Income Housing Coalition • 202-662-1530 • www.nlihc.org/issues/budget

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

Center on Budget and Policy Priorities • 202-408-1080 • <http://bit.ly/151BQ9K>

NLIHC Budget Chart For Select HUD & USDA Housing Programs

FY13 Budget Chart for Selected Department of Housing and Urban Development (HUD) Programs (figures in millions)

HUD Program (set asides indented)	FY10 Enacted	FY11 Enacted	FY12 Enacted	FY13 President's Budget 2/13/12	FY13 S. 2322 4/19/12 Passed by Committee	FY13 H.R. 5972 6/29/12 Passed by House
Tenant Based Rental Assistance	18,184	18,371	18,914	19,074	19,396	19,134
<i>Contract Renewals</i>	16,339	16,669	17,242	17,238	17,495	17,238
<i>Tenant Protection Vouchers</i>	120	110	75	75	80	75
<i>Administrative Fees</i>	1,575	1,447	1,350	1,575	1,575	1,575
<i>Family Self Sufficiency Coordinators</i>	60	60	60	60	60	60
<i>Family Unification Program Vouchers</i>	15	---	---	---	---	---
<i>Section 811 Mainstream Vouchers</i>		35	112	111	111	111
<i>Veterans Supportive Housing Vouchers</i>	75	50	75	75	75	75
Project Based Rental Assistance	8,552	9,257	9,340	8,700	9,876	8,700
Public Housing Capital Fund	2,500	2,040	1,875	2,070	1,985	1,985
<i>Emergency/Disaster Grants</i>	20	20	---	---	---	---
<i>Resident Opportunities and Self-Sufficiency</i>	50	50	50	0	50	50
Public Housing Operating Fund	4,775	4,617	3,962	4,524	4,591	4,524
HOPE VI	135	100	---	---	---	---
Choice Neighborhoods Initiative	65	65	120	150	120	---
Native American Housing Block Grants	700	649	650	650	650	650
Native Hawaiian Housing Block Grants	13	13	13	13	13	---
Housing Opportunities for Persons with AIDS	335	334	332	330	330	332
Community Development Fund	4,450	3,501	3,308	3,143	3,210	3,404
<i>CDBG Formula Grants</i>	3,990	3,336	2,948	2,948	3,100	3,344
<i>Economic Development Initiative Grants</i>	173	0	---	---	---	---
<i>Sustainable Communities Initiative</i>	150	100	---	100	50	---
<i>Rural Innovation Fund</i>	25	0	---	---	---	---
Brownfields Redevelopment	18	0	---	---	---	---
Energy Innovation Fund	50	0	---	---	---	---
HOME Investment Partnership Program	1,825	1,607	1,000	1,000	1,000	1,200
<i>HOME Formula Grants</i>	1,825	1,607	998	998	---	---
Self-Help Homeownership Opportunity Program	27	27	14	0	14	20
Homeless Assistance Grants	1,865	1,901	1,901	2,231	2,146	2,005
Housing Counseling Assistance	87.5	0	45	55	55	45
Housing for the Elderly (Section 202)	825	399	375	475	375	425
Housing for Persons with Disabilities (Section 811)	300	150	165	150	150	165
Fair Housing and Equal Opportunity	72	72	71	68	68	68
<i>Fair Housing Assistance Program</i>	29	28	28	26	24	25
<i>Fair Housing Initiatives Program</i>	43	42	43	41	43	43
Healthy Homes & Lead Hazard Control	140	120	120	120	120	120
Policy Development & Research	48	48	46	52	46	52

NLIHC Budget Chart For Select HUD & USDA Housing Programs

FY13 Budget Chart for Selected Department of Agriculture (USDA) (figures in millions)

USDA Program	FY10 Enacted	FY11 Enacted	FY12 Enacted	FY13 President's Budget 2/13/12	FY13 S. 2375 4/26/12 <i>Passed by Committee</i>	FY13 H.R 5973 6/19/12 <i>Passed by Committee</i>
Section 514 Farm Labor Housing	27	26	21	26	26	21
Section 515 Rental Housing Direct	70	70	65	0	28	31
Section 516 Farm Labor Housing	10	10	7	9	9	7
Section 521 Rental Assistance	980	956	905	907	907	888

Notes:

- > The FY12 Public Housing Operating Fund includes a provision for HUD to offset public housing authority reserves as additional operating funding.
- > The following HUD programs also received a total of \$13.6 billion in funding under the American Reinvestment and Recovery Act (enacted on February 17, 2009): CDBG, \$1 billion; Neighborhood Stabilization Program, \$2 billion (in addition to the \$3.92 billion in NSP funding in July 2008 for NSP); Homelessness Prevention Fund, \$1.5 billion; public housing capital fund, \$4 billion; HOME funds exclusively for low income housing tax credit projects, \$2.25 billion; project-based Section 8, \$2 billion; project-based Section 8/Section 202/Section 811 for energy and green retrofits, \$250 million; Native American Housing Block Grants, \$510 million; Native Hawaiian Formula grants, \$10.2 million; Lead Hazard Reduction, \$100 million.
- > Policy Development & Research Excludes academic grants.

ADVOCACY TOOLS

How Laws Are Made

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

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

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

ENACTING A BILL INTO LAW:

1. When a Representative has an idea for a new law, he or she becomes the sponsor of that bill and introduces it by giving it to the clerk of the House of Representatives or by placing it in a box, called the hopper. The clerk assigns a legislative number to the bill, with H.R. for bills introduced in the House of Representatives (and S. for bills introduced in the Senate). GPO then prints the bill and distributes copies to each Representative.
2. Next, the bill is assigned to a committee by the Speaker of the House so that it can be studied. The House has standing committees, each with jurisdiction over bills in certain areas. The standing committee, or often, a subcommittee, studies the bill and hears testimony from experts and people interested in the bill. The committee then may release the bill with a recommendation to pass it, or revise the bill and release it, or lay it aside so that the House cannot vote on it. Releasing the bill is called reporting it out, while laying it aside is called tabling.
3. If the bill is released, it then goes on a calendar, which is a list of bills awaiting action. Here the House Rules Committee may call for the bill to be voted on quickly, may limit the debate, or may limit or prohibit amendments. Undisputed bills may be passed by unanimous consent or by a two-thirds majority vote if members agree to suspend the rules.
4. The bill then goes to the floor of the House for consideration and begins with a complete reading of the bill. Sometimes this is the only complete reading. A third reading, title only, occurs after any amendments have been added. If the bill passes by simple majority (218 of 435), the bill moves to the Senate.
5. In order to be introduced in the Senate, a Senator must be recognized by the presiding officer and announce the introduction of the bill. Sometimes, when a bill has passed in one chamber, it becomes known as an Act; however, this term usually means a bill that has been passed by both chambers and becomes law.

How Laws Are Made

6. Just as in the House, the bill is then assigned to a committee in the Senate. It is assigned to one of the Senate's standing committees by the presiding officer. The Senate committee studies and either releases or tables the bill just like the House standing committee.

7. Once released, the bill goes to the Senate floor for consideration. Bills are voted on in the Senate based on the order in which they come from the committee; however, an urgent bill may be pushed ahead by leaders of the majority party. When the Senate considers the bill, it can be debated indefinitely. When there is no more debate, there is a vote on the bill. In many cases, a simple majority (51 of 100) passes the bill.

8. The bill now moves into a conference committee, which is made up of members from each chamber of the Congress. The conference committee works out any differences between the House and Senate versions of the bill. The revised bill is sent back to both chambers for their final approval. Once approved, the bill is printed by the GPO in a process called enrolling. The clerk from the introducing chamber certifies the final version.

9. The enrolled bill is now signed by the Speaker of the House and then the Vice President. Finally, it is sent for presidential consideration. The President has 10 days to sign or veto the enrolled bill. If the president vetoes the bill, it can still become a law if two-thirds of the Senate and two-thirds of the House then vote in favor of the bill and override the veto.

FOR MORE INFORMATION

How a Senate Bill Becomes a Law, from the U.S. Senate: <http://1.usa.gov/151DcBm> (PDF)

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

How Our Laws Are Made, from the U.S. House of Representatives: <http://1.usa.gov/151Dngf> (PDF)

Introduction to the Federal Regulatory Process

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

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

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

SUMMARY OF THE FEDERAL REGULATORY PROCESS

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

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

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

Final regulations. Once the comment period on a proposed rule is closed, HUD must consider all comments and may make changes based on them to then issue final rules. Once these changes are complete, and after another review by OMB, HUD publishes a final rule in the *Federal Register*.

In the preamble to the final rule, HUD must present all meaningful comments received and explain why each was accepted or rejected. In addition to the actual text of the changed or new regulations, the final rules must state a date when they will go into effect, generally 30 or 60 days in the future.

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

- **Advanced Notice of Proposed Rulemaking:** HUD can ask for information from the public to help it think about issues before developing proposed regulations.
- **Interim Final Rules:** HUD can issue regulations that are to be followed as if they are final, yet ask for continued public comment on some parts of the rules. Subsequent final rules can include changes based on any additional public comment.

Introduction to the Federal Regulatory Process

- Direct Final Rules: HUD can issue regulations thought to be minor and uncontroversial, but must withdraw them if negative comments are submitted.
- Negotiated Rulemaking: A seldom-used approach which engages knowledgeable people to discuss an issue and negotiate the language of a proposed regulation which is then submitted to the *Federal Register*.
- Petition for Rulemaking: A process by which anyone can submit suggested regulations, along with supporting data and arguments in support of the suggestions. If HUD agrees, it will publish proposed rules; if HUD denies the petition, the denial must be in writing and include the basis for denial.
- Informal meetings: HUD has the authority to gather information from people by using informal hearings or other forms of oral presentations. The transcript or minutes of such meetings will be on file in the Rules Docket.

HOW TO FIND PROPOSED AND FINAL REGULATIONS IN THE *FEDERAL REGISTER*

The Government Printing Office (GPO) publishes the *Federal Register* and the *Code of Federal Regulations* (CFR). The current day's *Federal Register* and links to browse back issues is <http://1.usa.gov/YIVw4v>. A preview of the next day's *Federal Register* is at <http://1.usa.gov/YIVzgw>. *Federal Register* notices for both proposed and final rules can be tracked by subscribing to a daily email of the table of contents of the *Federal Register* at <http://1.usa.gov/YIVFox>.

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

The *Code of Federal Regulations* (CFR). All final rules published in the *Federal Register* are eventually collected and placed in the *Code of Federal Regulations*. There are 50 titles in the CFR, each representing a broad topical area. The HUD-related regulations are in Title 24. Each title is divided into parts that cover specific program areas. All titles updated through 2012 are available at <http://1.usa.gov/YIVObo>. Titles are updated periodically throughout the year.

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

FOR MORE INFORMATION

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

Lobbying by 501(c)(3) Organizations

Contrary to what many nonprofits believe, 501(c)(3) organizations may lobby in support of their organization's charitable mission. How much lobbying the organization can do depends on how the organization chooses to measure its lobbying activity. There are two options to determine lobbying limits for 501(c)(3)s: the insubstantial part test and the 501(h) expenditure test.

INSUBSTANTIAL PART TEST

The insubstantial part test automatically applies unless the organization elects to come under the 501(h) expenditure test. The default insubstantial part test requires that a 501(c)(3)'s lobbying activity be an "insubstantial" part of its overall activities. Unfortunately, the Internal Revenue Service and courts have been reluctant to define the line that divides substantial from insubstantial. Most lawyers agree that if up to 5% of an organization's total activities are lobbying, then the organization is generally safe. The insubstantial part test is an activity-based test that tracks both activity that the organization spends money on, as well as activity that does not cost the organization anything (for example, when unpaid volunteers lobby on behalf of the organization). There are no clear definitions of lobbying under the insubstantial part test.

501(H) EXPENDITURE TEST

Fortunately, there is an alternative test that provides much clearer guidance on how much lobbying a 501(c)(3) can do and what activities constitute lobbying. The 501(h) expenditure test was enacted in 1976 and implementing regulations were adopted in 1990. This choice offers a more precise way to measure an organization's lobbying limit because measurements are based on the organization's annual expenditures. The organization is only required to count lobbying activity that actually costs the organization money (i.e., expenditures); therefore, activities that do not incur an expense do not count as lobbying. A 501(c)(3) can elect to use these clearer rules, by filing a simple, one-time form – IRS Form 5768 (available at www.irs.gov).

To determine its lobbying limit under the 501(h) expenditure test, an organization must first calculate its overall lobbying limit. This figure is based on an organization's 'exempt purpose expenditures,' which, generally, is the amount of money an organization spends per year. Once an organization has determined its exempt purpose expenditures, the following formula is applied to determine the organization's overall lobbying limit:

20% of the first \$500,000
+15% of the next \$500,000
+10% of the next \$500,000
+5% of the remaining

There are two types of lobbying under the 501(h) expenditure test: direct lobbying and grassroots lobbying. An organization can use its entire lobbying limit on direct lobbying, or if it chooses to engage in grassroots lobbying, it can only use one-fourth of the overall lobbying limit on grassroots lobbying.

There is a \$1 million yearly cap on an organization's overall lobbying limit. This means that if an organization chooses to measure its lobbying under the 501(h) expenditure test, it also agrees not to spend more than \$1 million on lobbying activity each year.

Lobbying by 501(c)(3) Organizations

Direct lobbying is a communication with a legislator (federal, state or local) or legislative staff member that refers to specific legislation and takes a position on the legislation. Remember that a legislator also includes the president or governor when you are asking them to sign a bill into law or veto a bill and officials who have the ability to influence legislation.

Grassroots lobbying is a communication with the general public that refers to specific legislation and takes a position on the legislation, and the communication must have a call to action. A call to action refers to four different ways the organization asks the public to respond to its message: (1) asking the public to contact their legislators; (2) providing the contact information (for example, the phone number) for a legislator; (3) providing a mechanism for contacting legislators (for example, a tear-off postcard or email link sending a message directly to legislators); or (4) listing those voting, undecided or opposed to specific legislation. Identifying legislators as sponsors of legislation is not a call to action. Fortunately, the 501(c)(3)'s members are treated as a part of the organization, so urging them to contact public officials about legislation is considered direct, not grassroots, lobbying.

Ballot Measures. Communications with the general public that refer to and state a position on ballot measures (including, for example, referenda, ballot initiatives, bond measures and constitutional amendments), count as direct lobbying, not grassroots lobbying, because the public are presumed to be acting as legislators when voting on ballot measures.

Lobbying Exceptions. There are some specific exceptions for activities that otherwise might appear to be lobbying under the 501(h) expenditure test. It is not lobbying to prepare and distribute a substantive report that fully discusses the pros and cons of a legislative proposal (even if the analysis comes to a conclusion about the merits of that proposal). The report cannot ask readers to contact their legislators or provide a mechanism to do so and it must be widely distributed to those who would both agree and disagree with the position (for example, through an organization's web site and to all members of the legislature). Nor is it lobbying to respond to a written request for testimony or assistance at the request of the head of a government body (for example, a legislative committee chair). It is also not lobbying for an organization to support or oppose legislation if that legislation impacts its tax exempt status or existence. This lobbying exception is narrow and should be used with caution after consultation with an attorney. Broad examinations and discussions of broad social, economic and similar problems are also not considered lobbying. For example, discussions that do not refer to specific legislation if they are used to communicate with a legislator or if such discussions communicate with the general public and express a view on specific legislation, they do not have a call to action. Litigation and attempts to influence administrative (regulatory) decisions also fall outside definitions of lobbying, as do enforcement of existing laws and executive orders.

Recordkeeping. A 501(c)(3) organization, when it is measuring its lobbying under the insubstantial part test or the 501(h) expenditure test, is required to reasonably track its lobbying in a way sufficient to show that it has not exceeded its lobbying limits. There are three cost centers that 501(h)-electing organizations must count toward their lobbying limits: staff time, direct costs and overhead. Examples of each cost center include:

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

Lobbying by 501(c)(3) Organizations

FOR MORE INFORMATION

Alliance for Justice publishes a detailed, plain-language guide to the 501(c)(3) lobbying rules called *Being a Player: A Guide to the IRS Lobbying Regulations for Advocacy Charities*. Another AFJ publication, *The Rules of The Game: A Guide to Election-Related Activities for 501(c)(3) Organizations (Second Edition)*, reviews federal tax and election laws which govern nonprofit organizations in an election year, and explains the right (and wrong) ways to organize specific voter education activities. AFJ also publishes guides on related topics, such as on influencing public policy using social media, and offers workshops and technical assistance for nonprofit organizations.

Alliance for Justice • www.afj.org • 202-822-6070

Lobbying and Advocacy Tips

While some think that there is a mystique to lobbying, it is actually simply the act of meeting with your Member of Congress or their staff to talk about an issue that concerns you and that you would like addressed. It is the responsibility of Members of Congress to listen to and address concerns of their constituents. As a constituent of your Member of Congress, you have the right to lobby your Members and as housing advocate, you should exercise this right.

You do not have to be an expert on housing policy to lobby because the perspective you can provide on the housing situation in your local area is extremely valuable. Indeed, you are the expert on what is happening in your district or state and are a resource to your Member of Congress.

Visiting Your Member of Congress

If you have never lobbied before, it may help to think of the visit as a 20-minute conversation that will give the Member and your organization insight into your respective positions on affordable housing. Also consider your meeting an opportunity to build your relationship with the Member or his or her housing staff and to educate the office about your organization's work.

A face-to-face meeting with a Senator or Representative is often the most effective way to get your voice heard. However, given the busy schedule of most Members, they may ask you to meet with their staff person who handles housing issues. You should not be disappointed if you can only schedule a meeting with a housing staffer as staff have significant input into many policy decisions. Often the housing staff can spend more time delving into your concerns than a Member would be able to devote, so getting to know the staff person and building a relationship with him or her is crucial.

Setting the meeting. If you know you will be visiting D.C., call the D.C. office for an appointment well in advance of your visit. Four to six weeks' notice is not too soon to book an appointment. It may take a while for the office to schedule the meeting once you have made a request.

To find out the phone number for your Member of Congress, visit NLIHC's congressional directory (<http://capwiz.com/nlihc/dbq/officials/>) or call the U.S. Capitol Switchboard (202-224-3121). The first step in arranging a visit is to identify yourself as a constituent to the person who answers the phone. Many offices give priority to arranging meetings for constituents as Member and staff time is limited. Ask first to arrange a meeting with your Member. If the scheduler indicates that the Member will not be available, as to meet with the housing staff. When scheduling the appointment, be sure to tell the office where you are from in the district/state and what organization you represent, the purpose of the meeting and the number of people who will be attending the meeting so the staffer can reserve an appropriately sized meeting room. The scheduler may ask for a list of names of attendees, information that can often be sent closer to the meeting. Some offices may ask you to email or fill out a web form to request the meeting rather than giving the information over the phone.

Once the meeting has been confirmed, call the office the week prior to the meeting to send any relevant information and confirm once more. If you are meeting with a staff person, email them the week prior to confirm the meeting date and time, reiterate the purpose of the meeting, and to send relevant information for them to review in advance.

Crafting your agenda and executing your meeting. Planning and creating an agenda for your meeting will maximize the time that you have with the Member or staff. Set an agenda based on how much time you have, usually no more than 20 or 30 minutes. Decide who from the group will lead the meeting and what everyone else's roles will be.

Lobbying and Advocacy Tips

Before you set the agenda, it is useful to research how your Member has voted on housing legislation. You can review roll call votes on key affordable housing bills at <http://thomas.loc.gov>.

When you sit down with the Member or his staff, take time to introduce the other attendees and their unique role in the Member's district or state. Start the meeting by briefly thanking the Member or staffer for an action they have taken to support affordable housing, or by highlighting a specific area of interest that the Member and your organization share. If the Member's voting record on affordable housing is favorable, acknowledge his or her past support at the beginning of the meeting. If the record is unfavorable, indicate that you hope to find common ground for you to work together on issues critical to the Member's constituents. Keep in mind that as you educate a Member, they may shift their positions favorably over time.

Next, provide a brief overview of the affordable housing challenges in your community and the nation. Unless you have met with the Member or staff before, do not assume that they have a deep understanding of the problem. Make sure not to spend too much time on these first portions of the meeting so you have time for substantive discussion later.

Move into the main portion of the meeting by giving a brief description of the top two or three specific housing issues you want to discuss. Try to present the issues in positively, as solvable problems that the Member has the power to, and should want to, resolve. In deciding how to frame your message, research your Member's professional interests and personal concerns, including congressional committee assignments, memberships, and affiliations. These roles and interests are often listed on a Member's website. This information may help you gauge your Member's priorities and interest in your concerns. Also include personal stories and experiences to make your key points.

When discussing these issues, do not feel like you must know everything about the topic. If you are asked a question to which you do not know the answer, tell your Member or staff person you will follow up with the answer. Providing additional information is an excellent reason to continue being in touch with your Member's office later. If the Member or staff person steers the conversation to a topic that is not on your agenda, listen and respond appropriately but do not veer off the agenda since you will have limited time to discuss your main points. Be sure to make the meeting conversational since you want the opportunity to learn the perspective of the Member or staff, in addition to making your points.

Have an "ask" of the member on the housing issues you have raised. Decide on a concrete and specific action you would like your Member to take as a step in resolving the local affordable housing challenges you've presented. As you ask them to take action, explain how that specific action will positively impact the Member's constituents. The Member or staffer may agree to this ask, decline, or say they need time to consider. If the Member or staff declines, ask how else they might be willing to address the issues you've raised. Suggest ways that you or your organization can be helpful to the Member in achieving the end goal of solving the housing challenge. For example, suggest the Member, sponsor, co-sponsor or oppose a bill.

Before closing the meeting it is important to know where a Member stands on the issues and to try and get an answer on specific legislation even if it is "maybe" or "no." Make a follow-up plan with the Member or staff based on your ask. Even if your Member seems to be leaning against your position, keep the door open for future discussion. Agree to check in with staff after an appropriate amount of time to find out the Member's decision or to support the Member or staff in next steps.

In closing the meeting, be sure to thank the Member or staff person for their time and interest in the topics you raised.

Lobbying and Advocacy Tips

Leave behind written materials the Member or staff person. To remind Members and staff of the extent of the housing crisis in their districts, provide information such as your state's section of *Out of Reach* showing the hourly housing wage in each county, the appropriate NLIHC Congressional District Profile or State Housing Profile showing housing affordability data for renters by congressional district or Statewide, and other NLIHC research reports found at <http://nlihc.org/library>. Be sure to bring information on the National Housing Trust Fund as part of the solution including the NHTF Frequently Asked Questions, the list of housing units and jobs that will be created, and information on the mortgage interest deduction reform proposal, available at <http://nlihc.org/issues/nhtf> and <http://nlihc.org/issues/mid>.

Following your visit, send a letter or email to your Member and his or her staff thanking them for their time, reaffirming your views, and referencing any agreements made during the meeting. Include any information that you agreed to provide. Monitor your member's action on your issue over the coming months and contact the housing staffer or Member to encourage them to act during key moments or to thank them for taking action.

If the issue that you lobbied on is being tracked by your statewide affordable housing coalition or NLIHC, it is helpful to report the results of the meeting to them. If they are aware of your meeting, they can build on your lobbying efforts and keep you informed as they move forward with strategy on this Member.

Logistics of the meeting. Make sure that you arrive earlier than you would normally arrive for a meeting, as security at the House and Senate office buildings can be tight. If there are hearings at the same time as your meeting, the lines to enter the buildings can be very long and you can end up waiting 15 minutes or more to enter. Be sure to leave behind items that may trigger a security concern and delay your entry into the building. The House and Senate office buildings are large and often it will take time for you to navigate to your Member's office.

Writing Your Member of Congress

Letters can also be effective in letting your Representative or Senator know how you feel about issues. Some offices have said that a letter from a constituent is viewed as representing 100 to 200 voters from the district or state. Make sure to state your affordable housing concern concisely and specifically and to reference specific bills when possible. Address the letter to the housing staffer to ensure it ends up in the right hands. Congressional mail can be very slow so it is a good idea to email, or fax, a copy of the letter to the housing staffer at the same time.

Senate

The Honorable [full name]
Attn.: Housing Staffer
United States Senate
Washington, D.C. 20510

House of Representatives

The Honorable [full name]
Attn.: Housing Staffer
United States House of Representatives
Washington, D.C. 20515

Calling Your Member Of Congress

Calls can be especially effective if a staff person receives several calls on the same topic within a few days of each other, so you may want to encourage others in your district or state to call at the same time you do. When you call, ask to speak to the staff person who deals with housing issues. Be sure to identify yourself as a constituent, say where you are from, and if applicable, have the names and numbers of bills on the issues that you are calling about. The days before a key vote or hearing are critical decision times and an especially effective time to call.

Lobbying and Advocacy Tips

To find out the phone number for your Member of Congress, visit NLIHC's congressional directory (<http://capwiz.com/nlihc/dbq/officials/>) or call the U.S. Capitol Switchboard (202-224-3121).

Emailing Your Member of Congress

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

Other Advocacy Ideas

Visits, letters and calls are not the only effective ways to communicate your positions to Congress. You can also:

- Invite your Representative or Senator to speak at your annual meeting or conference.
- Organize a tour for your Member of your organization's projects that feature real people telling their success stories. Or hold a public event at which the Member is invited to speak.
- Get media coverage. Organize a tour for a local reporter or set up a press conference to tie your issue into a local event. You can also call in to radio talk shows and write letters to the editor of your local paper. Or call your newspaper's editorial page editor and set up a meeting to discuss the possibility of the paper's support for your issue. If you succeed in generating an editorial or other press, be sure forward the publication to the housing staffer.
- Elicit the support of potential allies who are influential with your Member, like your city council, mayor, local business or religious leaders.
- Finally, be creative. How else can you build a relationship with your Member and increase public support for your issues?

Federal Data Sources for Housing Advocacy

By Megan Bolton, Research Director, National Low Income Housing Coalition

It is critical to have accurate, reliable and timely data on the housing needs and issues of all Americans so that policymakers can make informed decisions about how to allocate limited resources and ensure that current programs are efficient and effective. Without the data that are available from sources like the American Community Survey and the American Housing Survey, we would have no way of understanding how much affordable housing is needed to meet the current demand. There is a wide variety of federal data sources on the nation's housing stock, but some of them are at risk of being lost entirely, or of being altered dramatically. It is important to speak up to ensure that these valuable resources be protected and improved upon.

Data Sources

The Census (www.census.gov). The U.S. Constitution mandates that a count of every American resident be conducted every ten years in order to accurately apportion Members of Congress among the states. The decennial census is the only comprehensive count of the U.S. population, as it has been since the first census in 1790. The Census Bureau sets out to achieve a full count of the population by distributing a questionnaire requesting basic demographic information (e.g., age, sex, race) to all U.S. households and to all individuals living in group quarters (e.g., military barracks, nursing homes, college dormitories, prisons, etc.) every ten years. Census figures describe the U.S. population at a specific point in time (e.g., April 1) during the census year.

While in recent years there have been growing concerns about undercounting in poor and minority urban populations, the decennial census conducted by the Census Bureau is the official source for counts of the number of people and houses in the United States, and it is used to apportion congressional representatives among the states, draw legislative districts, determine the number of electoral votes assigned to each state, and distribute federal funds.

American Community Survey (www.census.gov/acs). Historically during the decennial census, one in six households received an expanded questionnaire, or “long form,” that also included specific questions regarding a household's income, education, employment, and other socioeconomic characteristics along with questions about their housing. While it continues to conduct a census every ten years as constitutionally mandated using the “short form,” the Bureau replaced the long-form survey component of the decennial census with the American Community Survey (ACS) in 2010.

Under development since the mid-1990s, the ACS has produced annual estimates for every jurisdiction with more than 250,000 residents since 2000. (Full data from the first two years are available through the 2000 and 2001 Supplemental Surveys.) The sample size was expanded from 800,000 to 3 million households when data were collected in 2005, and then to 3.5 million households in 2010; as a result, one-year estimates for jurisdictions as small as 65,000 residents in the 50 states, the District of Columbia, and Puerto Rico have been available since the release of the 2005 data. In addition to these one-year estimates, the 2007 data release was the first to include estimates based on three years of data for all areas with a population greater than 20,000. Since then, both one- and three-year estimates have been released every year. And in 2010 the Bureau was able to release the first five-year estimates (2005-2009) for areas as small as block groups. The release of five-year data means that we will no longer have to wait a decade to see the characteristics of very small areas. In 2006, the survey was expanded to include the population living in group quarters; as a result, 2006 ACS estimates and those that follow are considered more comparable with decennial census estimates.

Federal Data Sources For Housing Advocacy

As is true with all surveys, including the long form component of the decennial census that it will replace, there are margins of error associated with ACS data because estimates depend on the responses of a sample of a population, rather than every individual. Furthermore, since the sample is based on official census population estimates, the decennial census and the Bureau's Population Estimates Program remain the preferred source for official population counts. Unlike the point-in-time nature of the decennial census, the ACS produces period estimates and is thus ideally suited for describing the characteristics of a population during the data collection period and for measuring annual differences across geography and through time.

American Housing Survey (www.census.gov/housing/ahs). The American Housing Survey (AHS) is the only comprehensive national survey specifically focused on housing. This survey is funded and directed by HUD's Office of Policy Development and Research (PD&R), but is conducted by the Census Bureau. The survey is longitudinal in nature, tracking changes in the same housing units over time, and it produces national and regional estimates on housing characteristics every two years.

Historically, the AHS consisted of two surveys. The national survey was conducted every other odd-numbered year and the metropolitan survey was conducted in selected areas on a rotating basis. In 2007 the two surveys were conducted at the same time to reduce costs, but the results remained separate. In 2009 only two stand-alone metropolitan surveys were conducted while a supplemental sample of housing units in five metropolitan areas was combined with the national sample to produce metropolitan-level estimates. In 2011, the metropolitan survey was eliminated entirely and instead, a supplemental sample of housing units was selected for 29 metropolitan areas. This sample was combined with the 2011 national survey to produce metropolitan estimates. The 2011 sample also includes an oversample of HUD-assisted housing units.

Beginning with the 2011 AHS and going forward, the survey will consist of a permanent core questionnaire plus topical supplements that will rotate in and out of the questionnaire on a yet to be determined schedule. The topical supplements included in the 2011 AHS were on potential health and safety hazards in the home and modifications made to assist occupants living with disabilities. The most significant changes to the AHS will occur in the 2015 survey, after the decennial census data are available, because a new sample will be drawn for the first time since 1985, enabling HUD and the Census Bureau to present data in terms of current metropolitan geography and will give a break to the returning respondents who have been in the survey for as long as 30 years in some cases.

Rental Housing Finance Survey and Home Mortgage Disclosure Act (www.census.gov/hhes/rhfs and www.ffiec.gov/hmda). A focus on housing finance, rather than on people or units, sets the Rental Housing Finance Survey (RHFS) and Home Mortgage Disclosure Act (HMDA) data apart from the Census Bureau efforts discussed above. The RHFS replaces the Residential Finance Survey, which was a decennial investigation of the financial characteristics of all residential properties. The RHFS focuses on the financial, mortgage and property characteristics of multifamily rental properties and includes questions that are the same or similar to questions on the rental housing portion of the 2001 RFS. The first RHFS was conducted in 2012 and the data will be made available early in 2013. HMDA is an annual collection of data from disclosure filings made available to advocates to monitor the lending patterns of financial institutions. At the time of publication, the most recent HMDA data available covered mortgage lending that occurred in 2011.

Current Population Survey (www.census.gov/cps). The Current Population Survey (CPS) is distinct in that it does not produce any estimates of housing characteristics. It is mentioned here because it includes an Annual Social and Economic (ASEC) Supplement, which is the source of official estimates of income and health insurance coverage of the non-institutionalized population (i.e., individuals not

Federal Data Sources For Housing Advocacy

considered patients or inmates) and is the primary source of data on the annual poverty status of U.S. residents. For this reason, the CPS is a very important source of data for low income housing advocates.

Comprehensive Affordability Strategy Data (CHAS) (www.huduser.org/datasets/cp.html).

Since 1990, the Census Bureau has provided HUD with custom tabulations of decennial census data (in 1990 and 2000) or ACS data (2005-2007, 2006-2008 and 2005-2009) which allows users to gain an understanding of the housing problems and housing needs of American households, and particularly of low income households. CHAS data use HUD-defined income limits and can therefore illustrate the number of households at various income levels in need of housing assistance. It further breaks this data down by a number of characteristics such as race, family size, age and disability status. This data is primarily used by local governments and community planners when they are creating a Consolidated Plan for their region. The three-year CHAS data (2005-2007 and 2006-2008) are available down to the city level while the five-year CHAS data (2005-2009) are available down to the census tract level. This dataset is a valuable tool for advocates who wish to see the affordability mismatch in their state, county or city, as well as the number of households experiencing unaffordable cost burden or other housing problems.

Data on the subsidized rental stock. HUD makes publicly available information on the location and characteristics of a subset of the nation's federally subsidized rental housing stock. While HUD does not produce a comprehensive, integrated dataset, it does provide project-level files for project-based Section 8 and other federal rent subsidies for multifamily housing, FHA-insured and subsidized mortgages, Sections 202, and the Low Income Housing Tax Credit program. In addition to data for these individual programs, HUD produces a dataset called *A Picture of Subsidized Households*, which includes public housing in addition to the previously mentioned files. Picture also provides data on the characteristics of households living in public and assisted housing. The most recent version of this dataset reflects data collected in 2009.

With an understanding of the programs, database skills, and significant effort, advocates can integrate these datasets to create a partial database of the subsidized housing in a particular geography. Thanks to data released by HUD in 2008 and updated on a quarterly basis, the database can include the three most recent Real Estate Assessment Center (REAC) scores that quantify the properties' physical conditions. Information for projects receiving subsidies from the following programs will be omitted, however, because HUD does not make it available to the public: USDA Rural Housing Services programs; HOME; multifamily housing bonds; Section 8 Moderate Rehabilitation (Mod Rehab); project-based vouchers; HOPWA; and McKinney-Vento permanent housing.

NLIHC and the Public and Affordable Housing Research Corporation (PAHRC) integrated and cleaned all of these datasets and created a national inventory of federally assisted housing. Along with the public datasets mentioned above, NLIHC and PAHRC were also able to obtain data on HOME and USDA Rural Housing Service\ programs. Information on contract expiration dates, loan maturity dates, recent physical inspection scores, number of units, type of owner, and other property and subsidy characteristics are included to assist users in determining whether or not a property is at risk of leaving the subsidized housing stock. Users can download data for a ZIP code, city, county, congressional district, metropolitan area, or for an entire state. Visit www.preservationdatabase.org to view the database.

Fair Market Rents (www.huduser.org/datasets/fmr.html). HUD updates Fair Market Rents (FMRs) annually for every metropolitan area and rural county in the U.S. Although it is primarily an administrative dataset used to determine the payment standard amount for the Section 8 voucher program, it is of interest to housing advocates given its frequency and comprehensive geographic coverage. Commonly set at a community's 40th percentile gross rent, FMRs reflect HUD's best estimate of the cost of a decent, modest apartment and are published for various unit sizes. In 2010, HUD began a Small Area Fair Market Rent (SAFMR) Demonstration Project which allows

Federal Data Sources For Housing Advocacy

housing authorities that volunteered for the project to use SAFMRs, which are set at the ZIP code-level in metropolitan areas rather than at the metropolitan area level, to determine the payment standard amount for the Section 8 voucher program. There have long been concerns about setting the FMR at the metropolitan area level because it tends to concentrate voucher holders in low income, low opportunity neighborhoods where nearly all the rents qualify for the voucher program. FMRs based on a smaller geography, such as the ZIP code level, should more closely reflect an area's rental market and therefore provide voucher holders with a greater array of housing choices.

Additional surveys. Other surveys of importance to housing advocates and researchers include:

- **Housing Vacancy Survey** (www.census.gov/housing/hvs), a Census Bureau survey that quantifies rental and homeowner vacancy rates, the characteristics of vacant units, and the overall homeownership rate on a quarterly basis for the nation and regions, and on an annual basis for states and the 75 largest metropolitan areas. Data collected for the Housing Vacancy Survey are also used to produce the annual CPS estimates.
- **Survey of Construction** (www.census.gov/construction/nrc), a Census Bureau product that tracks the number and value of residential units permitted, constructed, sold, and improved for the nation and select metropolitan areas.
- **Survey of Market Absorption** (www.census.gov/housing/soma), a HUD-sponsored survey of the absorption rate of newly constructed multifamily units conducted by the Census Bureau.
- **Survey of Income and Program Participation** (www.census.gov/sipp), a Census Bureau survey that tracks families for between two and four years, investigating household members' sources of income, participation in and effectiveness of government transfer programs, and basic demographic characteristics.

Forecast For 2013

The Census. The latest decennial census was carried out in 2010 and the Census Bureau released the first official population and apportionment counts in December 2010. The Bureau will continue to release the results of the census, such as selected population and housing characteristics and housing unit counts by occupancy status, through 2013. The Bureau has already begun preparations for the 2020 Census and will ramp up those efforts over the next few years.

The House and the Senate both passed their own versions of the FY13 Commerce, Justice, and Science appropriations bill, which includes funding for the Census Bureau. The Senate version would fund the Bureau at the President's requested level of \$970 million, an amount that would fully fund core programs like planning the 2020 Census. However, the House version of the spending bill would reduce funding for the bureau by more than \$100 million. This level of reduced funding would jeopardize the ability of the Census Bureau to thoroughly research ways in which to lower the costs of the next Census without compromising the accuracy of the results. The Senate did not take up the House version of the bill. Instead, a continuing resolution was passed to keep the federal government funded through March 27, 2013. This bill increased funding for most federal programs and agencies slightly, including a 0.6% increase in funding for the Census Bureau over FY12 levels.

The uncertainty of FY13 funding beyond March 27, 2013 makes it very difficult for the bureau to complete long- and short-term planning. It is critical that enough funding is provided in FY13 and following years for the bureau to maximize data collected, evaluate methods and findings, and ensure robust collection efforts in the 2020 Census.

Federal Data Sources For Housing Advocacy

American Community Survey. When the House of Representatives passed their version of the FY13 Commerce, Justice, and Science appropriations bill in May 2012, it included an amendment to eliminate funding for the ACS entirely. Without the ACS it would be nearly impossible to determine the need for affordable housing throughout the country. The ACS is the only objective, consistent and comprehensive source of data on the nation's social, economic and demographic characteristics down to the neighborhood level. It is used to help the federal and state governments determine how to spend more than \$400 billion in funds.

At the same time, another amendment was approved that would make responses to the ACS voluntary, by prohibiting both the Census Bureau and the Justice Department from using funds to enforce penalties in the Census Act that make responses mandatory. Research from the Bureau shows that moving to a voluntary ACS would make the survey more expensive, less accurate and would significantly reduce the number of communities that would receive reliable annual estimates from the survey.

While the bill that passed the House was not taken up by the Senate and it is unlikely the Senate would have voted to eliminate the ACS, FY13 funding for the Census is still uncertain and it is possible that the House will continue to try to either eliminate the ACS, make responses voluntary, or both. It is extremely critical to highlight the importance of the ACS to Members of Congress and ensure that the survey remains mandatory and that funding for the survey remains robust.

American Housing Survey. The AHS suffered significantly as a result of cuts to the budget for PD&R from FY06 through FY09. These budget cuts reduced the survey's sample size and scaled back the number of metropolitan areas from 47 to 21 (seven surveyed every other year in a six-year cycle). Fortunately, this trend has been reversed with the new Administration and the AHS has seen a modest increase to the size of the national sample, a new supplemental HUD-assisted renter sample and, most significantly, the ability to survey far more metro areas than in the past. Funding for the 2013 AHS was split between FY12 and FY13, with the FY13 budget still to be decided.

Rental Housing Finance Survey. Another victim of PD&R's past budgetary woes, the Residential Finance Survey (RFS) was previously unfunded and was not expected to be conducted following the decennial census as it has been since 1951. However, the FY10 budget included increased funding to PD&R, which allowed the department to create a revamped RFS, targeting multifamily properties. The official title of the survey, being conducted by the Census Bureau for HUD, is the 2012 Rental Housing Finance Survey. The Census Bureau began collecting data from property owners and managers in January 2012 and expects to make the results of the survey available in early 2013. This is currently the only source of information on the mortgage and financial characteristics of multi-unit rental properties, so it remains critical that this survey be funded and implemented.

New poverty definition. In November 2011, the Census Bureau released a new Supplemental Poverty Measure (SPM). The new measure, according to the Interagency Technical Working Group assigned to develop the SPM, takes into account all food, shelter, clothing and utility expenditures for a family with exactly two children, including single-parent families. This is considered an improvement over the official poverty measure, developed in 1964, which largely estimates poverty by looking only at a household's cash income and does not capture government benefits that effectively increase a family's income or the changing standard of living and the difference in prices across geographies. The SPM addresses many of these concerns and will be released every year in conjunction with the official measure to give policymakers a better understanding of economic realities and trends. The Census Bureau acknowledges that the SPM is not perfect and that further research needs to be done to improve the measurement, such as looking at the effects of adjusting medical expenses for those without health insurance.

Federal Data Sources For Housing Advocacy

Federal preservation data legislation. Advocates can also use data from HUD on the location and characteristics of certain subsidized properties to develop a database of assisted housing in a particular geography. This kind of database can be used to preserve affordable housing by raising awareness of projects at risk of leaving the subsidized housing stock.

However, data-driven preservation efforts today cannot be maximized because HUD and the USDA do not publish data on all of their rental assistance programs, nor does the data they do publish have a unique identifier to allow for the integration of multiple datasets. Past legislation introduced in the House would require HUD to improve upon the quantity, quality, and usability of the subsidized housing data that the agency provides to the public, but that legislation did not progress in Congress. Advocates should urge their members to introduce new legislation to achieve these goals.

Tips For Local Utilization And Success

First and foremost, housing advocates should encourage everyone to fully participate in every decennial Census and to respond to other federal housing surveys. The research conducted with these datasets can only fully capture the housing experiences of the nation if everyone is counted.

Advocates can also be end-users of the vast array of survey and census data. Research produced by advocates both clearly illustrates the depth and breadth of the affordable housing crisis and also demonstrates the importance of these federal data collection efforts. Quantifying the problem by calculating the scarcity of units affordable to the lowest income families, for example, can make it easier to set specific and defensible goals for expanding the affordable housing stock. See the tables at the end of this article for a summary of the key data sets advocates can use.

What To Say To Legislators

Advocates should call their Members of Congress and ask to speak to the person who deals with appropriations with the message that funding for the collection and analysis of housing data is vital to understanding the breadth and depth of the nation's affordable housing crisis. Informed and effective housing policy is possible only with a concrete understanding of today's housing issues.

Advocates should ask the Member to support the collection and analysis of housing data in the appropriations process by:

- Meeting the Census Bureau's request for funding to effectively and efficiently evaluate Census 2010 and begin planning for Census 2020.
- Continuing to fully fund the American Community Survey, working to increase its sample size and accuracy, and ensuring that survey responses remain mandatory.
- Continuing to provide increased funding to HUD's Office of Policy Development & Research.

Advocates should also ask to speak to the person who deals with housing issues and emphasize the need for comprehensive, accurate, easy-to-use and timely datasets from HUD that will assist affordable preservation efforts around the country.

For More Information

Many organizations that understand the importance of federal statistics have formed coalitions and membership groups that track federal data collection efforts, advocate for their continued funding, and provide members with an opportunity to communicate directly with the federal agencies collecting the data. These groups include the Council of Professional Associations on Federal Statistics (www.copafs.org), The Census Project (www.thecensusproject.org), and the Housing Statistics Users Group (<http://groups.google.com/group/housing-statistics-users-group>).

Contacting Congress, The White House And Federal Agencies

All Members of Congress can be reached by phone by calling the Capitol Switchboard and asking for that Member's office.

Capitol Switchboard • 202-224-3121

To find the website of a Member of Congress, visit the homepage for either the House or Senate and use the drop-down menu to choose a specific Member.

U.S. House of Representatives • www.house.gov

U.S. Senate • www.senate.gov

To find your Member of Congress, visit the NLIHC Legislative Action Center and enter you ZIP code in the appropriate field.

NLIHC Legislative Action Center • <http://capwiz.com/nlihc/dbq/officials/>

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

Department of Housing and Urban Development (HUD) • 202-708-1112 • www.hud.gov

Department of Housing and Urban Development - HUD USER • 202-708-1112 • www.huduser.gov

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

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

Department of Health and Human Services, Office of Community Services • 202-690-7000 • www.acf.hhs.gov/programs/ocs

Department of Justice • 202-514-2000 • www.usdoj.gov

Department of Transportation • 202-366-4000 • www.dot.gov

Department of Treasury, Community Development Financial Institutions Fund • 202-622-6355 • www.tres.gov/cdfi

Federal Emergency Management Agency • 202-646-2500 • www.fema.gov

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

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

Small Business Administration • 202-205-8885 • www.sba.gov

Freedom of Information Act (FOIA)

Everyone has the right to request federal agency records or information under the Freedom of Information Act (FOIA), and federal agencies, subject to certain exceptions, must provide the information when requested in writing.

In order to use FOIA, advocates do not need to have legal training or use special forms. All that is necessary is a letter.

Program Summary

FOIA allows individuals and groups to access the records and documents of federal agencies such as HUD and USDA's Rural Development (RD). Requests must be made in writing. Each agency has its own practices and regulations.

- HUD's FOIA regulations are at 24 CFR part 15.
- USDA's regulations are at 7 CFR part 1 Subpart A.

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

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

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

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

- HUD contact information can be found under the "Contact Us" tab on the HUD web site, www.hud.gov.
- RD state offices, area offices and local offices can be located at www.rurdev.usda.gov/recd_map.html.
- USDA Service Centers (which might have an RD area office) can be found at <http://offices.sc.egov.usda.gov/locator/app>.

Making A FOIA Request

If an informal request does not produce the desired information, a formal request may be necessary. A formal FOIA request can be simple and short, but it must be in writing.

In your letter, state that you are making a request under the Freedom of Information Act. Describe what you are looking for in as much detail as possible, including dates, names, document numbers, titles, types of beneficiaries you are concerned about, etc. Specify the format, paper or electronic, in which the writer would like to receive the requested information.

Freedom of Information Act (FOIA)

Request a waiver of any fees for copying or searching, explaining your organization's mission and its nonprofit status in order to demonstrate that you do not have a commercial interest in the information. Explain how this information will:

- Be of interest to more than a small number of people, and how your organization can distribute the information to many people.
- Lead to a level of public understanding of a HUD or RD activity that is far greater than currently exists.

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

Formal requests must be in writing, but they can be made through email, by fax or through regular mail. HUD FOIA requests:

- To make a FOIA request of HUD headquarters, go to <https://hudpal.efoia-host.com/palMain.aspx>. If the response is not adequate, then contact the FOIA Public Liaison for HUD headquarters at <http://1.usa.gov/VEki0F>.
- To make a FOIA request of documents from a HUD field office, advocates should locate the appropriate person and address on the hyperlink for the HUD FOIA Requester Service Centers at <http://1.usa.gov/VEki0F>. If the response from the FOIA Requester Service Center is not adequate, then contact the FOIA Public Liaison for the appropriate geographical region listed on the above link.

RD FOIA requests:

- To make a FOIA request for RD documents at either the local level or at RD headquarters, advocates can write to the Rural Development FOIA Coordinators through a link at the bottom of www.rurdev.usda.gov/RD_EFOIA.html.
- If advocates are not sure where the information is located, they should send the FOIA request to the Rural Development FOIA Officer at RD headquarters in Washington, D.C.

The Reporters Committee for Freedom of the Press provides an interactive tool to generate a FOIA request to any agency.

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

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

Expedited requests. If there is an imminent threat to the life or physical safety or if there is an urgent need to inform the public, advocates can ask for expedited processing. HUD and RD will issue a notification within 10 working days whether it will prioritize the request and speed up the review.

Denial of requests. Information can only be denied if it is exempt. The law lists nine exemptions, such as classified national defense information, trade secrets, personal information and certain internal government communications. The letter denying a FOIA request must give the reasons for denial and inform the requester of his or her right to appeal to the head of the agency.

Freedom of Information Act (FOIA)

The “internal government communications” exemption might be relevant to housing advocates. The intent of this exemption is to promote uninhibited discussion among federal employees engaged in policy-making. This exemption would apply to unfinished reports, preliminary drafts of materials, and other internal communications taking place as agency staff undertake a decision-making process.

Appeals. Decisions to deny a fee waiver, deny a request for expedited disclosure or failure to release the requested information can be appealed. Appeals to HUD should be made within 30 days. A letter should be sent to the HUD official indicated in the denial letter and generally include a copy of the original request, a copy of the denial, and a statement of the facts and reasons the information should be provided. Specific information for appeals pertaining to fees or expedited processing are listed at <http://1.usa.gov/VEkXiM>.

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

Sample FOIA Letter

Date

Agency/Program FOIA Liaison

Name of Agency or Program

Address

RE: Freedom of Information Act Request

Dear [name]:

Under the Freedom of Information Act I am requesting copies of [identify the records as specifically as possible].

I request a waiver of fees because my organization is a nonprofit with a mission to [state the organization’s mission and activities, demonstrating that it does not have a commercial interest in the information]. In addition, disclosure of the information will contribute significantly to public understanding of the operations and activities of HUD/RD.

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

As provided by law, a response is expected within 20 working days. If any or part of this request is denied, please describe which specific exemption it is based on and to whom an appeal may be made. If you have any questions about this request, please phone me at _____.

Sincerely,

Your name

Address

Freedom of Information Act (FOIA)

For More Information

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

Reporters Committee for Freedom of the Press FOIA web page
<http://bit.ly/VEktsY>

HUD FOIA page
<http://1.usa.gov/VEjBEA>

USDA RD FOIA page
<http://1.usa.gov/VEjJ7g>

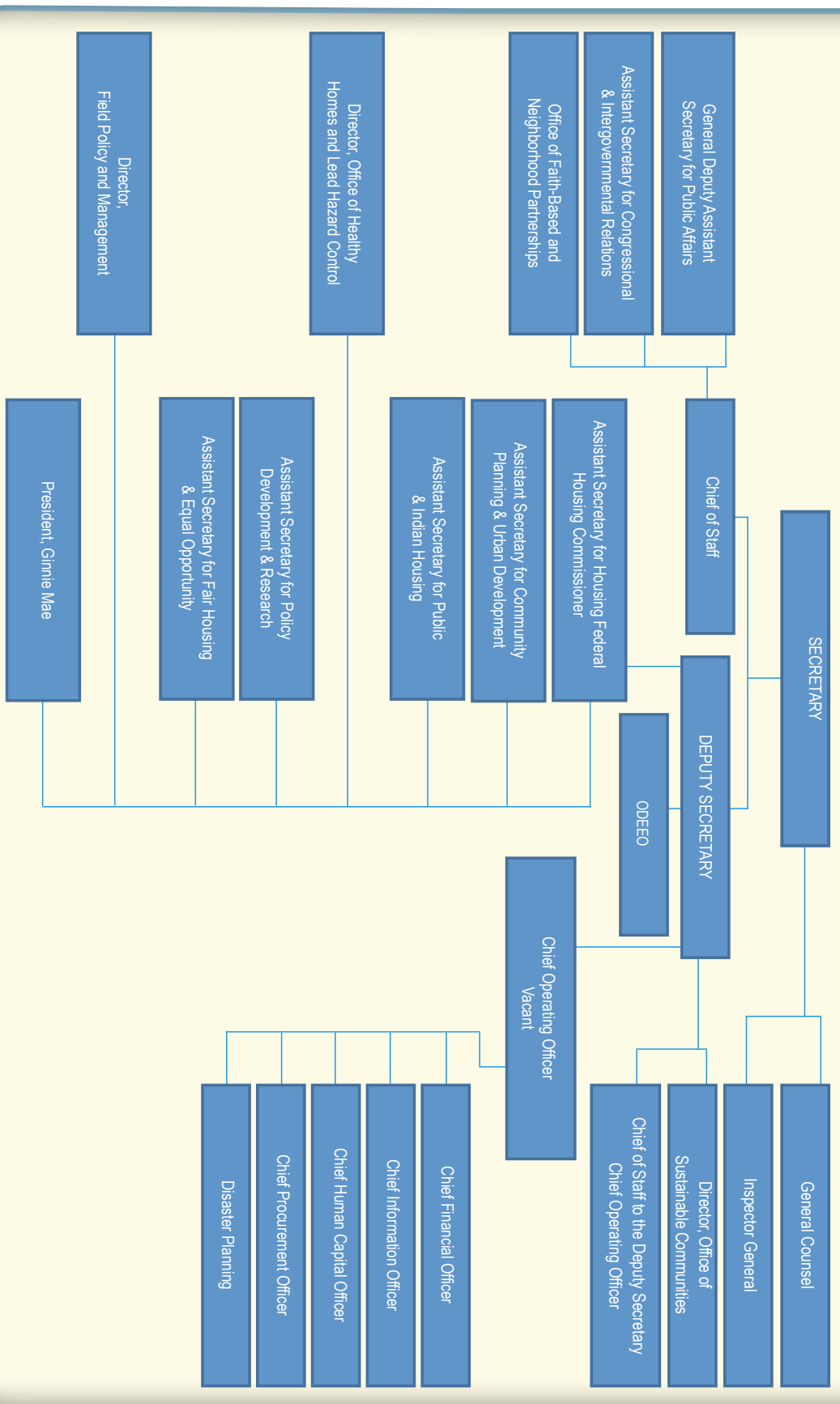
General Services Administration, Your Right to Federal Records
www.pueblo.gsa.gov/cic_text/fed_prog/foia/foia.pdf

Department of Justice FOIA website
www.foia.gov.

HUD Organizational Chart

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ORGANIZATIONAL AND REPORTING STRUCTURE



White House Offices

The White House develops and implements policy through a variety of means. The Obama Administration has focused on housing and urban policy to a greater extent than recent previous administrations. The following offices within the White House are responsible for policy relating to housing and economic development issues.

Domestic Policy Council (DPC)

The DPC Coordinates the domestic policymaking process of the White House and offers advice to the President. The DPC also supervises the execution of domestic policy and represents the President's priorities to Congress. Cecilia Muñoz is the President's Domestic Policy Advisor and the Director of the Domestic Policy Council.

For more information, see www.whitehouse.gov/administration/eop/dpc.

National Economic Council (NEC)

The NEC coordinates policy making for domestic and international economic issues, coordinates economic policy advice for the President, ensures that policy decisions and programs are consistent with the President's economic goals, and monitors implementation of the President's economic policy agenda. Gene B. Sperling is the Director of the National Economic Council.

For more information, see www.whitehouse.gov/administration/eop/nec.

Office of Faith-Based and Neighborhood Partnerships (OFBNP)

The OFBNP is part of the DPC and works to build bridges between the federal government and nonprofit organizations, both secular and faith-based, to better serve Americans in need. The office advances this work through 11 Agency Centers across the government and a Strategic Advisor at the Corporation for National and Community Service. Joshua DuBois is the Executive Director of the OFBNP and is a Special Assistant to the President.

For more information, see www.whitehouse.gov/administration/eop/ofbnp.

Office of Public Engagement (OPE)

The OPE is part of the Office of Public Engagement and Intergovernmental Affairs and creates and coordinates opportunities for direct dialogue between the Obama Administration and the American public. This includes acting as a point of coordination for public speaking engagements for the Administration and the various departments of the Executive Office of the President. Jon Carson is the Director of OPE.

For more information, see www.whitehouse.gov/administration/eop/ope.

Office of National AIDS Policy (ONAP)

The ONAP is part of the DPC and is tasked with coordinating the continuing efforts for the government to reduce the number of HIV infections across the United States. The office emphasizes prevention through a wide range of education initiatives and helps to coordinate the care and treatment of citizens with HIV/AIDS.

For more information, see www.whitehouse.gov/administration/eop/onap.

White House Offices

Office of Urban Affairs (OUA)

The OUA is part of the Office of Public Engagement and Intergovernmental Affairs. OUA provides leadership for and coordinates the development of the policy agenda for urban America across executive departments and agencies.

For more information, see www.whitehouse.gov/administration/eop/oua.

Office of Social Innovation and Civic Participation (SICP)

The SICP is part of the DPC and is focused on promoting service as a solution and a way to develop community leadership, increasing investment in innovative community solutions that demonstrate results, and developing new models of partnership. Jonathan Greenblatt is Special Assistant to the President and Director of the Office of Social Innovation and Civic Participation.

For more information, see www.whitehouse.gov/administration/eop/sicp.

Key Congressional Committees

For all committees, Members are listed in order of seniority. Subcommittee members are marked with an asterisk (*).

HOUSE OF REPRESENTATIVES COMMITTEE ON FINANCIAL SERVICES

The Committee on Financial Services oversees all components of the nation's housing and financial services sectors including banking, insurance, real estate, public and assisted housing and securities. The committee reviews the laws and programs relating to the Department of Housing and Urban Development (HUD), the Federal Reserve Bank, the Federal Deposit Insurance Corporation, Fannie Mae and Freddie Mac, and international development and finance agencies such as the World Bank and the International Monetary Fund. The committee also ensures enforcement of housing and consumer protection laws such the U.S. Housing Act, the Truth in Lending Act, the Housing and Community Development Act, the Fair Credit Reporting Act, the Real Estate Settlement Procedures Act, the Community Reinvestment Act, and financial privacy laws.
<http://financialservices.house.gov/>

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

Majority Members (Republicans)

Jeb Hensarling (TX), Chairman
Gary G. Miller* (CA), Vice-Chairman
Spencer Baucus (AL), Chairman Emeritus
Peter T. King (NY)
Edward R. Royce* (CA)
Frank D. Lucas (OK)
Shelley Moore Capito* (WV)
Scott Garrett* (NJ)
Randy Neugebauer* (TX),
(Housing Subcommittee Chairman)
Patrick T. McHenry (NC)
John Campbell (CA)
Michele Bachmann (MN)
Kevin McCarthy (CA)
Stevan Pearce (NM)
Bill Posey (FL)
Michael G. Fitzpatrick (PA)
Lynn A. Westmoreland* (GA)

Blaine Luetkemeyer* (MO),
(Subcommittee Vice-Chairman)
Bill Huizenga (MI)
Sean P. Duffy* (WI)
James B. Renacci* (OH)
Robert Hurt* (VA)
Michael G. Grimm (NY)
Steve Stivers* (OH)
Stephen Lee Fincher (TN)
Marlin A. Stutzman (IN)
Mick Mulvaney (SC)
Randy Hultgren (IL)
Dennis A. Ross (FL)
Robert Pittenger (NC)
Ann Wagner (MO)
Garland "Andy" Barr (KY)
Tom Cotton (AR)

Key Congressional Committees

Minority Members (Democrats)

Maxine Waters (CA), Ranking Member
Carolyn B. Maloney (NY)
Nydia M. Velázquez* (NY)
Melvin L. Watt (NC)
Brad Sherman* (CA)
Gregory W. Meeks (NY)
Michael E. Capuano (MA),
(Housing Subcommittee Ranking Member)
Rubén Hinojosa (TX)
William “Lacy” Clay, Jr.* (MO)
Carolyn McCarthy* (NY)
Stephen F. Lynch (MA)
David Scott (GA)
Al Green (TX)
Emanuel Cleaver* (MO)

Gwen Moore (WI)
Keith Ellison (MN)
Ed Perlmutter (CO)
James A. Himes* (CT)
Gary C. Peters (MI)
John C. Carney, Jr. (DE)
Terri A. Sewell (AL)
Bill Foster (IL)
Daniel T. Kildee (MI)
Patrick Murphy (FL)
John K. Delaney (MD)
Kyrsten Sinema* (AZ)
Joyce Beatty* (OH)
Denny Heck (WA)

HOUSE OF REPRESENTATIVES COMMITTEE ON APPROPRIATIONS

Members of the Appropriations Committee are responsible for determining the amount of funding made available to all authorized programs each year.

<http://appropriations.house.gov>

The Subcommittee on Transportation, Housing and Urban Development, and Related Agencies determines the amount of government revenues dedicated to HUD, among other agencies.

Majority Members (Republicans)

Harold Rogers (KY), Chairman
C.W. Bill Young (FL)
Frank R. Wolf* (VA)
Jack Kingston (GA)
Rodney P. Frelinghuysen (NJ)
Tom Latham* (IA), (Subcommittee Chairman)
Robert B. Aderholt (AL)
Jo Ann Emerson (MO)
Kay Granger* (TX)
Michael K. Simpson (ID)
John Abney Culberson (TX)
Ander Crenshaw (FL)
John R. Carter (TX)
Rodney Alexander (LA)
Ken Calvert (CA)

Jo Bonner (AL)
Tom Cole* (OK)
Mario Diaz-Balart (FL)
Charles W. Dent* (PA)
Tom Graves (GA)
Kevin Yoder (KS)
Steve Womack (AR)
Alan Nunnelee (MS)
Jeff Fortenberry (NE)
Tom Rooney (FL)
Chuck Fleischmann (TN)
Jaime Herrera Beutler* (WA)
David Joyce* (OH)
David Valadao (CA)

Key Congressional Committees

Minority Members (Democrats)

Nita M. Lowey (NY), Ranking Member
Marcy Kaptur (OH)
Peter J. Visclosky (IN)
José E. Serrano (NY)
Rosa L. DeLauro (CT)
James P. Moran (VA)
Ed Pastor* (AZ), (Subcommittee Ranking Member)
David E. Price* (NC)
Lucille Roybal-Allard (CA)
Sam Farr (CA)
Chaka Fattah (PA)

Sanford D. Bishop, Jr. (GA)
Barbara Lee (CA)
Adam B. Schiff (CA)
Michael M. Honda (CA)
Betty McCollum (MN)
Tim Ryan* (OH)
Debbie Wasserman Schultz (FL)
Henry Cuellar (TX)
Chellie Pingree (ME)
Mike Quigley* (IL)
Bill Owens (NY)

HOUSE OF REPRESENTATIVES COMMITTEE ON WAYS AND MEANS

The Committee on Ways and Means is the chief tax writing committee in the House of Representatives.
<http://waysandmeans.house.gov/>

Majority Members (Republicans)

Dave Camp (MI), Chairman
Sam Johnson (TX)
Kevin Brady (TX)
Paul Ryan (WI)
Devin Nunes (CA)
Pat Tiberi (OH)
Dave G. Reichert (WA)
Charles W. Boustany Jr. (LA)
Peter J. Roskam (IL)
Jim Gerlach (PA)
Tom Price (GA)

Vern Buchanan (FL)
Adrian Smith (NE)
Aaron Schock (IL)
Lynn Jenkins (KS)
Erik Paulsen (MN)
Kenny Marchant (TX)
Diane Black (TN)
Tom Reed (NY)
Todd Young (IN)
Mike Kelly (PA)
Tim Griffin (AR)

Minority Members (Democrats)

Sander Levin (MI), Ranking Member
Charles B. Rangel (NY)
Jim McDermott (WA)
John Lewis (GA)
Richard E. Neal (MA)
Xavier Becerra (CA)
Lloyd Doggett (TX)
Mike Thompson (CA)

John B. Larson (CT)
Earl Blumenauer (OR)
Ron Kind (WI)
Bill Pascrell Jr. (NJ)
Joseph Crowley (NY)
Allyson Schwartz (PA)
Danny Davis (IL)
Linda Sanchez (CA)

Key Congressional Committees

SENATE COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

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

<http://banking.senate.gov/public/>

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

Majority Members (Democrats)

Tim Johnson (SD), Chairman
Jack Reed* (RI)
Charles E. Schumer* (NY)
Robert Menendez* (NJ),
(Subcommittee Chairman)
Sherrod Brown* (OH)
Jon Tester* (MT)
Mark R. Warner (VA)
Jeff Merkley* (OR)
Michael F. Bennet* (CO)
Kay Hagan (NC)

Minority Members (Republicans)

Richard C. Shelby (AL), Ranking Member
Mike Crapo* (ID), (Subcommittee Ranking Member)
Bob Corker* (TN)
David Vitter (LA)
Mike Johanns (NE)
Patrick J. Toomey* (PA)
Mark Kirk* (IL)
Jerry Moran* (KS)
Roger F. Wicker* (MS)

SENATE COMMITTEE ON APPROPRIATIONS

Members of the Appropriations Committee are responsible for determining the amount of funding made available to all authorized programs each year.

<http://appropriations.senate.gov/>

The Subcommittee on Transportation, Housing and Urban Development, and Related Agencies has jurisdiction funding for HUD and the Department of Transportation. It also oversees funding for the Federal Housing Administration and economic and community development programs, such as the Community Development Block Grant (CDBG) program.

Majority Members (Democrats)

Barbara A. Mikulski* (MD), Chairwoman
Patrick J. Leahy* (VT)
Tom Harkin* (IA)
Patty Murray* (WA),
(Subcommittee Chairwoman)
Diane Feinstein* (CA)
Richard J. Durbin* (IL)
Tim Johnson* (SD)

Mary L. Landrieu (LA)
Jack Reed (RI)
Frank R. Lautenberg* (NJ)
Mark Pryor* (AR)
Jon Tester (MT)
Sherrod Brown (OH)

Key Congressional Committees

Minority Members (Republicans)

Thad Cochran (MS), Vice-Chairman
Mitch McConnell (KY)
Richard C. Shelby* (AL)
Lamar Alexander* (TN)
Susan Collins* (ME), (Subcommittee Ranking Member)
Lisa Murkowski (AK)
Lindsey Graham (SC)
Mark Kirk* (IL)
Dan Coats* (IN)
Roy Blunt* (MO)
Jerry Moran* (KS)
John Hoeven (ND)
Ron Johnson* (WI)

SENATE COMMITTEE ON FINANCE

The Committee on Finance concerns itself with matters relating to taxation and other revenue measures generally, and those relating to the insular possessions; bonded debt of the United States; customs, collection districts, and ports of entry and delivery; reciprocal trade agreements; tariff and import quotas, and related matters thereto; the transportation of dutiable goods; deposit of public moneys; general revenue sharing; health programs under the Social Security Act, including Medicare, Medicaid, the Children's Health Insurance Program (CHIP), Temporary Assistance to Needy Families (TANF) and other health and human services programs financed by a specific tax or trust fund; and national social security.

Majority Members (Democrats)

Max Baucus (MT), Chairman
John D. Rockefeller (WV)
John F. Kerry (MA)
Ron Wyden (OR)
Charles E. Schumer (NY)
Debbie Stabenow (MI)
Maria Cantwell (WA)
Bill Nelson (FL)
Robert Menendez (NJ)
Thomas R. Carper (DE)
Benjamin L. Cardin (MD)

Minority Members (Republicans)

Orrin Hatch (UT), Ranking Member
Chuck Grassley (IA)
Mike Crapo (ID)
Pat Roberts (KS)
Mike Enzi (WY)
John Cornyn (TX)
Tom Coburn (OK)
John Thune (SD)
Richard Burr (NC)
Johnny Isakson (GA)
Rob Portman (OH)
Pat Toomey (PA)

HOUSING PROGRAMS AND ISSUES

The National Housing Trust Fund

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

Securing permanent, dedicated sources of revenue for the National Housing Trust Fund (NHTF) is the National Low Income Housing Coalition's top priority. The NHTF was established in federal statute in 2008 after years of advocacy by NLIHC and many others.

The primary purpose of the NHTF is to close the gap between the number of extremely low income renter households (10.11 million) and the number of homes renting at prices they can afford (5.55 million). At least 75% of the funds must benefit extremely low income households and all of the funds must be used for very low income households. At least 90% must be used to build, preserve, rehabilitate, or operate rental housing.

In the years since enactment of the NHTF, the shortage of rental housing that the lowest income people can afford has only gotten worse. The foreclosure crisis, the recession, and the "jobless recovery" have made millions more families, seniors, people with disabilities, and veterans at risk of homelessness. The NHTF offers the means to end and prevent homelessness in the United States if funded at the level advocated by NLIHC. Indeed, the Obama Administration's plan to end homelessness, Opening Doors, calls for funding for the NHTF.

The NHTF is a block grant to states. The funds are to be distributed to states based on factors that measure the housing needs of extremely low and very low income households, as well as the costs of housing construction in the state. A state agency, usually the state housing finance agency, will administer the funds and make grants to willing and capable entities to create new housing opportunities.

The regulations to govern the NHTF have been developed by the Department of Housing and Development (HUD) and been through the comment and review process. The Office of Management and Budget reports that the final regulations will be made public in May 2013, making the program ready to implement as soon funding is secured.

Background

The National Housing Trust Fund a provision of the Housing and Economic Recovery Act of 2008 (HERA), which included a variety of reforms to Fannie Mae and Freddie Mac, the two mortgage government sponsored enterprises (GSEs). One of the requirements was that the GSEs do more to address affordable housing needs of low income people, including contributing to the NHTF. Unfortunately, Fannie and Freddie were taken into conservatorship in the financial crisis in fall 2008 and no contributions to the NHTF have ever been made.

HERA also allows other dedicated sources of revenue to NHTF, such as any appropriations, transfers, or credits that Congress may designate. Since that time, NLIHC and our many partners have worked to identify and enact other ways of funding the NHTF.

In each of his four budgets, President Barack Obama has included \$1 billion of initial funding for the NHTF subject to offsetting funding sources. This request has never been accepted by Congress. Legislation was introduced in the 111th and 112th Congresses that would have used \$1 billion of Troubled Asset Relief Program (TARP) funds for the NHTF, but never garnered the bipartisan support needed for the bills to pass.

The National Housing Trust Fund

Funding Proposals Today

The goal of the NHTF campaign is to secure \$300 billion over ten years of dedicated funding for the NHTF. Funding of this scale would expand housing options for extremely low income households by 3.5 million. An investment of this size is possible without increasing the federal deficit simply by better allocating the total subsidies that the federal government currently provides for housing through direct spending and tax expenditures.

Modifications to the Mortgage Interest Deduction. For at least two decades, NLIHC has advocated for a fairer distribution of federal housing subsidies, calling for reforms to the mortgage interest deduction. In 2013, changes to the federal tax code, including the mortgage interest deduction, are under serious consideration, principally due to the desire to reduce the federal deficit. NLIHC and our partners argue that savings that result in changes to the mortgage interest deduction should be used to finally end the shortage of homes that the poorest Americans can afford.

The NHTF Campaign has adopted and is advancing a proposal to modify the mortgage interest deduction and direct the savings to the NHTF. In addition to generating billions of dollars in savings, the two changes proposed to the mortgage interest deduction would make tax breaks for homeowners fairer and flatter. These changes would be phased in over five years to allow the housing market to gradually adapt.

The first change would be to reduce the size of a mortgage for which the interest could be deducted from \$1 million to \$500,000. Only 3.4% of all mortgages between 2005 and 2011 were over \$500,000. Mortgages for second homes and home equity loans would be allowed under the \$500,000 cap.

The second change would be to convert the mortgage interest deduction to a non-refundable mortgage interest credit set at 15%. This would allow homeowners who are paying mortgage interest, but who do not have enough income to itemize deductions on their annual tax returns, to get a tax break. With these two changes, the number of home owners who pay interest who would get a tax break would expand from 39 million to 56 million. Of the 17 million new beneficiaries, 93% would have incomes of \$100,000 a year or less.

Tax modeling done for NLIHC by the Tax Policy Center in February 2013 shows that the changes outlined above would produce \$197 billion between 2014 and 2023.

Representative Keith Ellison (D-MN) is expected to introduce legislation in the 113th Congress that makes the changes to the mortgage interest deduction that NLIHC proposes. Mr. Ellison would direct 60% of the savings to the NHTF, with the remainder split among the Low Income Housing Tax Credit program, Section 8, and the public housing capital fund.

Funding of a direct spending program through the tax code is considered unorthodox, but the Ellison bill provides a mechanism for doing so. At the point of enactment, the Treasury Department would project the amount of the savings produced by the tax changes in the bill; that amount would then be designated as the amount to be credited to the NHTF.

Contributions from the GSEs and their Successor(s). The NHTF Campaign also wants the obligation of GSEs and their successor entities to contribute to the NHTF to continue and be enforced. As previously stated, contributions to the NHTF from the GSEs were suspended by the GSE regulator in the fall of 2008 when the GSEs sustained substantial losses in the foreclosure crisis. No contributions have ever been made. However, in the last year, both Fannie Mae and Freddie Mac have begun making profits again. They both remain in conservatorship and the profits are going to the federal Treasury.

The National Housing Trust Fund

It is NLIHC's position that now that the GSEs are profitable again, the suspension of their obligation to contribute to the NHTF should be lifted. Others who have examined the statute agree. However, this is not the position of the GSEs regulator, the Acting Director of the Federal Housing Finance Agency, who has the final authority. It may take a new regulator to lift the suspension.

Regardless, all signs point to the winding down of the GSEs in their current form. Some would do away with them altogether, objecting to the federal government having any role in assuming risk in the mortgage market. But most observers think the federal government needs to be the guarantor of last resort. Whatever emerges to take the place of the GSEs, it must also include the requirement that housing affordability be addressed, including funding for the NHTF. This is the position of the Obama Administration and several NHTF proponents in Congress.

NLIHC is closely monitoring actions by Congress, the Administration, and the regulator on the GSEs and the next form that federal housing finance policy will take, and will continue to advocate for funding for the NHTF to be included.

How the NHTF will Work

It is important for advocates to understand what the statute requires of the NHTF and how those requirements have been interpreted and shaped by HUD as it developed the regulations.

The Statute. In addition to what income groups (ELI and VLI) are to be assisted and that the funds are to be used primarily for rental housing (at least 90%), the statute is specific about how the funds will be distributed among the states. A proposed allocation formula mirroring the statutory factors was published in the Federal Register on December 4, 2009 and included in proposed implementation regulations on October 29, 2010. NLIHC has calculated how \$5 billion would be distributed to each state, the District of Columbia, Puerto Rico, and the other territories. A chart with these amounts is at the end of this article.

States must designate an agency to administer the NHTF grants. No more than 10% of a state's annual grant may be used for overall administration and planning of the program.

Each state must prepare an annual Allocation Plan following basic public participation requirements. The Allocation Plan must indicate how the state will distribute NHTF resources based on its priority housing needs. It must also indicate how the state will select applications for NHTF projects by giving priority for funding based on six factors:

- Geographic diversity.
- The applicant's ability to obligate NHTF dollars and undertake funded activities in a timely manner.
- The extent to which rents will be affordable in the proposed project, especially for ELI households.
- The length of time rents will remain affordable in the proposed project.
- The use of other funding sources in the proposed project.
- The merits of an applicant's proposed activity.

Eligible recipients of grants from states are organizations and agencies (nonprofit and for-profit) that demonstrate the experience and capacity to produce the kind of housing called for by the program, the financial capacity to undertake the eligible activity, and familiarity with federal, state, and local housing programs.

Funds must be committed within two years; uncommitted funds will be reallocated to other states. All assisted projects must comply with laws relating to tenant protections and tenant rights to participate in decision making regarding their residences. The NHTF program must comply with the overarching laws

The National Housing Trust Fund

pertaining to fair housing and to accessibility to federally assisted housing, including Section 504 and the Rehabilitation Act of 1973.

NHTF funds cannot be used for political activities, lobbying, counseling, traveling, project administrative expenses, or endorsements of a particular candidate or party.

The statute requires each state to submit an annual report to HUD that describes the activities assisted with NHTF money and that demonstrates compliance with the state's Allocation Plan. This report must be available to the public. States must ensure that recipients submit periodic financial and project reports, and conform to audit and record retention requirements.

The Proposed Regulations. HUD issued proposed regulations to implement the NHTF on October 29, 2010. The NHTF rule would be inserted as a subpart of the existing HOME program regulations.

Many organizations, including NLIHC, submitted formal comments to HUD regarding the proposed regulations to implement the NHTF. NLIHC applauded the department for requiring ELI households to occupy 100% of rental and homeowner units produced in the program's first year.

National Housing Trust Fund

NLIHC's major objection to the proposed rule is its failure to base rents on tenant income, specifically on the "Brooke rule," which limits the amount an assisted household spends on rent and utilities to no more than 30% of its income. HUD proposes rents be set at 30% of the greater of 30% of the federal poverty line or 30% of area median income.

Under HUD's proposal, housing supported by the NHTF would not be affordable to families or individuals with income that is substantially less than 30% of area median income. For example, people whose income is Supplemental Security Income (SSI) are at 18.6% of the national median income. Without income-based rents, most of the people who the NHTF are intended to serve will not benefit because the rents would be far more than what they could afford.

A major area of contention around the NHTF is where the operating subsidy will come from to assure that the housing produced with NHTF funds will be affordable for extremely low income households. Many housing developers want a guaranteed operating subsidy, such as Section 8 project-based vouchers. HUD's failure to require the Brooke rule in the proposed regulations appears to be in response to this concern.

Given the severe constraints on HUD appropriations, there is little chance of new Section 8 vouchers any time soon. One of the attributes of the NHTF is its flexibility in allowing states to experiment with new models of reaching affordability for extremely low income households without relying on Section 8 vouchers. One eligible use of NHTF dollars for rental housing is for operations.

HUD's proposed rule limits the use of NHTF dollars for operating assistance to 20% of a jurisdiction's allocation, as recommended by the NHTF Campaign in 2008. HUD's rule was developed based on an expectation that the NHTF would be funded at \$1 billion a year. If the level of funding is substantially more, the 20% limit on operations should be raised.

Another area of concern in the HUD proposed regulations is that NHTF-assisted units are required to be affordable for only 30 years. NLIHC urges 50-year affordability periods with preferences for projects with longer timeframes.

The National Housing Trust Fund

NLIHC also opposes the use of NHTF dollars for transitional housing. The statute does not specifically allow transitional housing, but does declare that the program's purpose is to increase and preserve the supply of rental and homeowner housing, especially for ELI households. This implies that permanent housing is the goal.

NLIHC thinks public housing agencies should be explicitly listed as eligible recipients of NHTF dollars. In many communities, public housing agencies may be the best option for developing more affordable rental housing. However, NLIHC opposes the use of NHTF resources for existing public housing units. These units are extremely important, but using NHTF dollars to rehabilitate or operate them will not increase housing opportunities for those in greatest need.

It could also result in the overall loss of resources if Congress reduced appropriations for public housing due to the availability of the NHTF.

The proposed rule would require states to distribute NHTF resources based on priority housing needs, and require grantees and subgrantees to choose applications for funding based on priorities such as geographic diversity. NLIHC suggests that the final rule directly require states to allocate NHTF resources based on relative need in both rural and urban areas.

The proposed rule can be found at <http://1.usa.gov/SXTuTE>.

NLIHC's comment letter is available at <http://bit.ly/Zh77R8>.

Forecast for 2013

NLIHC is committing significant resources in 2013 and 2014 to finally securing dedicated funding for the NHTF. Advocates are urged to join the campaign and endorse the proposal to fund the NHTF with savings from housing tax reform and to convince others to do the same. Go to <http://nlihc.org/issues/mid/support> to endorse.

Advocates should be conversant with why changes to the mortgage interest deduction are good for low and moderate income homeowners, will save money to help low income renters, and will not add to the federal deficit. Go to <http://nlihc.org/issues/mid/about> to learn more about the proposal.

Advocates should seek support for the NHTF proposal from individual state and local elected officials as well state legislatures, city and town councils, and other governing bodies of units of state and local government. Go to <http://nlihc.org/issues/mid/resources> for materials to use to gain support from elected officials.

Advocates should make use of social media to push the message about the NHTF and housing tax reform into your social networks and beyond.

For More Information

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

National Housing Trust Fund, www.nhtf.org

Housing Tax Reform, www.housingtaxreform.org

The National Housing Trust Fund

NHTF Allocation at \$5 Billion

Geography	Final Allocation (Rounded)
Alabama	52,600,000
Alaska	11,800,000
Arizona	77,000,000
Arkansas	33,800,000
California	886,000,000
Colorado	74,600,000
Connecticut	63,100,000
Delaware	11,200,000
District of Columbia	18,300,000
Florida	250,000,000
Georgia	115,100,000
Hawaii	27,300,000
Idaho	14,300,000
Illinois	237,500,000
Indiana	81,300,000
Iowa	33,300,000
Kansas	30,300,000
Kentucky	51,900,000
Louisiana	58,400,000
Maine	16,800,000
Maryland	67,200,000
Massachusetts	134,800,000
Michigan	146,100,000
Minnesota	74,500,000
Mississippi	33,900,000
Missouri	79,300,000
Montana	10,900,000
Nebraska	19,100,000
Nevada	43,500,000

Geography	Final Allocation (Rounded)
New Hampshire	15,400,000
New Jersey	168,900,000
New Mexico	23,400,000
New York	603,700,000
North Carolina	112,900,000
North Dakota	6,800,000
Ohio	171,900,000
Oklahoma	39,400,000
Oregon	73,500,000
Pennsylvania	192,800,000
Puerto Rico	37,300,000
Rhode Island	21,600,000
South Carolina	48,700,000
South Dakota	7,300,000
Tennessee	68,700,000
Texas	291,500,000
Utah	20,400,000
Vermont	7,200,000
Virginia	102,100,000
Washington	114,800,000
West Virginia	22,200,000
Wisconsin	84,900,000
Wyoming	3,900,000
American Samoa	300,000
Guam	2,600,000
Northern Marianas	1,400,000
Virgin Islands	2,800,000
United States	5,000,000,000

Source: 2006-2008 CHAS Data

National Housing Trust Fund Proposed Regulations

By Ed Gramlich, Director of Regulatory Affairs, National Low Income Housing Coalition

The purpose of the NHTF is to increase and preserve the supply of rental housing, principally for extremely low income households. The NHTF will collect and distribute dedicated funds that are not at risk of cuts each year due to the politics of the congressional budget setting and appropriations processes.

ADMINISTRATION

The NHTF is administered by HUD's Office of Affordable Housing Programs within the Office of Community Planning and Development. The core of the proposed NHTF regulations would be inserted into existing HOME program regulations as a new subpart N to 24 CFR part 92. In general the proposed regulations closely track the statute.

HISTORY

The National Housing Trust Fund was created on July 30, 2008 when the President signed into law, the Housing and Economic Recovery Act of 2008 (also known as HERA, Public Law 109-289). HUD published proposed regulations implementing the NHTF on October 29, 2010. HUD anticipates publishing a final rule around May, 2013.

PROGRAM SUMMARY

The NHTF is principally for the production, preservation, and rehabilitation of rental housing for extremely low income household, those with incomes below 30% of the area median income (AMI). The NHTF does not compete with existing HUD programs funded by appropriations. Initial funding sources identified were contributions from the government sponsored enterprises (GSEs), Freddie Mac and Fannie Mae. When Fannie and Freddie were taken over by the Federal Housing Finance Administration in September 2008 because of financial trouble due to the foreclosure crisis, their contributions to the NHTF were suspended. The dedicated money for the NHTF will be distributed by formula as a HUD-administered block grant to the states, the District of Columbia, and the territories.

KEY PROGRAM DETAILS

Targeted to rental housing. The overview section of the proposed rule declares that the NHTF program will provide grants to states to increase and preserve the supply of housing, with primary attention to rental housing for extremely low income (ELI) and very low income (VLI) families. VLI is defined as between 30% and 50% AMI, or in rural areas, less than the poverty line. The statute limits the amount of NHTF used for homeownership activities to 10%, inferring that at least 90% of a state's annual NHTF grant must be used for rental housing activities.

Income targeting. The NHTF statute requires that at least 75% of each grant to a state that is used for rental housing benefit ELI households or households with income below the poverty line. The proposed rule adopts this requirement, but does not refer to the statute's provision that no more than 25% of the money used for rental housing can benefit VLI households.

The proposed rule adds the 75% ELI or poverty level targeting requirement to homeownership activities. The statute does not require 75% ELI targeting for homeownership; it does require all homeowners have incomes below 50% AMI.

The proposed rule requires that for the first year, 100% of a grantee's rental and homeowner funds benefit the ELI or poverty income groups. It indicates that in subsequent years HUD will advise states whether the ELI target amount must be greater than 75%.

National Housing Trust Fund Proposed Regulations

NHTF distribution formula. To distribute NHTF dollars, the statute established a formula based on the number of ELI and VLI households with severe cost burden, those households paying more than half of their income for rent and utilities, as well as the shortage of rental properties affordable and available to ELI and VLI households, with priority for ELI households. Small states and the District of Columbia will get a minimum of \$3 million. On December 4, 2009 HUD issued a proposed rule, endorsed by NLIHC, describing the factors to be used in the formula.

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

The proposed regulation would give states the option of passing funds to local governments as subgrantees to in turn provide funds to recipients to carry out projects. A subgrantee is defined as a unit of general local government or state agency selected by the grantee to administer all or a portion of its NHTF program.

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

- The capacity to own, construct, or rehabilitate, and manage and operate an affordable multifamily rental development, or construct or rehabilitate housing for homeownership while also providing down payment, closing cost, or interest rate buy-down assistance for homeowners.
- The financial capacity and ability to undertake, complete and manage the project.
- Familiarity with requirements of Federal, state or local housing programs that will be used in conjunction with NHTF grants.
- The ability to provide assurance to the state that it will comply with all program requirements.

Allocation plans. The NHTF statute requires each state to prepare an Allocation Plan every year, showing how it will distribute the funds based on priority housing needs. The proposed regulation requires states to submit a Consolidated Plan (ConPlan). In addition, the proposed rule would amend the ConPlan regulations by adding NHTF-specific Allocation Plan requirements to the ConPlan's Annual Plan rule. If a subgrantee is to administer NHTF dollars, then it too must have a ConPlan containing a NHTF Allocation Plan that is consistent with the state's NHTF requirements.

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

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

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

National Housing Trust Fund Proposed Regulations

Period of affordability. The statute does not prescribe how long NHTF-assisted units must remain affordable. The proposed regulation would require both rental and homeowner units to be affordable for at least 30 years, allowing states and any subgrantees to have longer affordability periods. The 30-year affordability period reflects HUD's prediction that the NHTF will be used in conjunction with the Low Income Housing Tax Credit. The NHTF Campaign strongly urged HUD to set a 50-year affordability period and to provide preferences for projects with affordability periods greater than 50 years.

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

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

- Owners of NHTF-assisted projects may not reject applicants who have a voucher or are using HOME tenant-based assistance.
- There must be a lease, generally for one year, along with a written renewal.
- Owners may only terminate tenancy or refuse to renew a lease for good cause.
- Owners must have and follow certain tenant selection policies. Tenants must be selected from a written waiting list, in chronological order, if practical. Eligibility may be limited to, or preference may be given to, people with disabilities if the housing also receives funding from federal programs that limit eligibility, or as long as a project is in the most integrated setting appropriate to meet the needs of the people with disabilities.

Homeowner provisions. As provided by the statute, up to 10% of NHTF money may be used to produce, preserve, or rehabilitate homeowner housing; it may also be used to provide assistance with down payments, closing costs, or interest rate buy-downs. As required by the statute, homes must be bought by first-time homebuyers with incomes below 50% of AMI who have had counseling, and the home must be their principle residence. Although not in the statute, the proposed rule requires the assisted housing to meet the HOME definition of single family housing, which includes one-to-four unit residences, condominiums and cooperatives, manufactured homes and lots or just manufactured home lots. The affordability period is 30 years. Following the statute and echoing the HOME regulations, an assisted home's value must not exceed 95% of the median purchase price for the area.

As required by the statute, the proposed rule's homeowner resale provisions echo the HOME regulations. If a homeowner unit is sold during the affordability period, the grantee must ensure the housing will remain affordable to a reasonable range (as defined by the grantee) of income-eligible homebuyers. The sale price must provide the original owner a fair return, defined as the owner's original investment plus capital improvements.

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

National Housing Trust Fund Proposed Regulations

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

Twenty percent cap on operating assistance. Operating cost assistance is an eligible use of NHTF resources when used in conjunction with rental housing acquired, rehabbed, preserved, or newly constructed with NHTF money. The proposed rule caps at 20%, the amount of a grantee's annual grant that may be used for operating cost assistance. The preamble explains that HUD proposed the cap because it views the NHTF as primarily a production program meant to add units to the supply of affordable housing for ELI and VLI households. HUD assumes the NHTF will be used in combination with other sources to produce and preserve units, mostly in mixed-income projects. Unofficially, HUD has stated that the 20% cap is based on the an anticipated initial \$1 billion infusion to the NHTF, that once there is a more substantial amount in the NHTF the operating fund cap would need to be revisited.

The preamble explains that grantees have discretion on how to allocate operating cost assistance. For example, grantees could decide to limit each development to the 20% cap, or raising the cap for developments that need more operating cost assistance while lowering the cap for those that do not need as much, as long as no more than 20% of a grantee's annual grant is used for operating cost assistance.

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

Timeframe for demolition or acquiring vacant land. Use of NHTF money for demolition or for acquiring vacant land is limited to projects for which construction can reasonably be expected to start within one year, or within 42 months for transit oriented development.

Transit oriented development. NHTF dollars may be used by a local government to purchase land to be used for NHTF-assisted units as part of a transit-oriented development (TOD). Title to the land must be transferred to the local government within six months and held by the local government. Within 36 months from the date of transfer, the local government must commit additional NHTF money or other resources to a specific housing new construction or rehabilitation project that can reasonably be expected to start within 12 months. If there is no commitment to a specific NHTF project within 36 months, the local government must repay the NHTF amount or the current value of the property, whichever is greater.

The preamble to the proposed rule describes this as an attempt to facilitate TOD projects by enabling local governments to buy land before they have a specific project plan. NLIHC is concerned, however, because under TOD, NHTF resources could be tied up for as long as 54 months without a single unit being built, 42 months under the definition of TOD commitment, plus 12 months under definition of specific project commitment.

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

National Housing Trust Fund Proposed Regulations

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

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

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

Operating costs. According to the statute, NHTF dollars may be used to meet operating costs, but the proposed rule would limit operating cost assistance to 20% of a state’s annual grant. Operating costs include insurance, utilities, real property taxes, maintenance, and scheduled payments to a reserve for replacement of major systems. States and subgrantees can provide operating cost assistance to a project for up to two years from the same fiscal year NHTF grant, and can renew it throughout the affordability period. An operating cost assistance reserve can be created to cover up to a five-year period of inadequate rent income in order to ensure a project’s financial feasibility.

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

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

Project-specific administration costs. The staff and overhead expenses of the grantee directly related to carrying out projects can also be eligible administration and planning costs. Examples include loan processing, work specs, inspections, housing counseling, and relocation services. As with HOME, staff and overhead costs directly related to carrying out projects (as distinct from the NHTF program in general) may instead be charged as project related soft costs or relocation costs. However, housing counseling must be counted as an administration cost, as per the statute.

Other administration and planning costs

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

National Housing Trust Fund Proposed Regulations

Ineligible activities. Although the proposed rule allows a project to contain both NHTF-assisted units and public housing units, NHTF resources cannot be used for public housing, including HOPE VI. Nor can NHTF-assisted housing get public housing operating assistance during the period of affordability.

Although not in the statute, the proposed rule echoes the HOME regulations, prohibiting the use of NHTF money for a project previously assisted with NHTF during the period of affordability, except for the first year after completion.

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

NHTF must be committed within two years. As required by the statute, the proposed regulation requires NHTF dollars to be committed within 24 months, or HUD will reduce or recapture uncommitted NHTF dollars. Although not required by law, the proposed rule adds that NHTF money must be spent within five years. Committed is defined in the proposed rule as the state or subgrantee having a legally binding agreement with a recipient owner or developer for a specific project that can reasonably be expected to begin rehabilitation or construction within 12 months; or, if NHTF is used to acquire standard housing for rent or for homeownership, the property title will be transferred to a recipient or family within six months.

Public accountability. The statute requires each state to submit an annual report to HUD that describes activities assisted that year with NHTF dollars, and demonstrates that the state complied with its annual Allocation Plan. This report must be available to the public. The proposed rule indicates that HUD will provide states and subgrantees with formats for submitting annual performance reports, and will make performance reports publicly available.

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

FORECAST FOR 2013

HUD's Regulatory Plan indicates that a final rule is anticipated sometime around May 2013. Once a final rule is published, NLIHC will provide summaries and detailed assessments for advocates.

FOR MORE INFORMATION

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

National Housing Trust Fund Campaign www.nhtf.org

HUD NHTF webpage <http://1.usa.gov/XnWwFu>

The Mortgage Interest Deduction

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

The mortgage interest deduction (MID) is a federal tax expenditure that provides some homeowners with reductions in the amount they owe on their federal income tax. It is a provision of the federal tax code that is very popular with Americans and long considered a “sacred cow” that policymakers tinker with at their peril.

However, mounting concern about the size of the federal deficit has brought attention to federal tax expenditures, also known as tax loopholes. These are tax breaks for corporations and individuals that have been enacted into law over the years to subsidize some activity that an interest group or politician has determined to be worthy of government support. Each could achieve the same objective if it were structured as direct spending, and most analysts see them as spending by another name. However, others see them as government letting people keep their own money. Under any circumstances, the 173 tax expenditures reported by Office of Management and Budget (OMB) in 2012 amount to over a trillion dollars a year in uncollected federal taxes.

Because the MID is one of the largest and most regressive of all tax expenditures, it is under particular scrutiny now. Numerous tax reform and deficit reduction panels and commissions have called for changes to the MID. Economists and tax policy experts across the political spectrum criticize the MID as inefficient and poorly targeted. The challenge for low income housing advocates is to assure that any changes to the MID that result in savings direct those savings to ending the affordable housing shortage for extremely low income households and do not use the savings exclusively for other purposes, including deficit reduction or lowering tax rates.

The cost of the MID has gone down recently according to new analyses done in 2013. The Joint Committee on Taxation (JCT) now estimates the cost of the MID for 2012 will be \$68.5 billion, down from last year’s estimate of \$83.7 billion for 2012. Explanations for the decline include changes to the tax code in the American Taxpayer Relief Act of 2012 (also known as the fiscal cliff bill), continued low interest rates on new borrowing, the decline in the homeownership rate, and the decline in the cost of home purchases.

NLIHC has long used the MID to illustrate the imbalance in federal housing subsidies between direct spending in low income rental housing assistance and tax-based support for higher income homeowners. Today, NLIHC is calling for changes to the MID in order to generate revenue to support more rental housing, specifically to fund the National Housing Trust Fund.

Background

When filing annual federal income tax returns, taxpayers can deduct the interest paid in that tax year on home mortgages of up to \$1 million. The deduction is based on the size of the mortgage, not on the value of the house. The interest can be on mortgages on first and second homes. In addition, the interest on up to \$100,000 in home equity loans can be deducted for a cap of \$1,100,000 on the value of mortgages eligible for tax breaks.

The value of the deduction, or the degree to which it reduces one’s taxable income, depends on one’s tax bracket. Thus, taxpayers in the 33% tax bracket will be able to reduce their taxes by 33% of the amount of interest paid. Someone in the 15% tax bracket will reduce their taxes by just 15% of the interest paid.

The Mortgage Interest Deduction

In order to benefit from the MID, a taxpayer must file an itemized tax return. According the JCT, in 2011, 155,879,000 tax returns were filed, 30% of which were itemized. Just 22% of all tax returns claimed the MID. The top 55% of taxpayers who claimed the MID (those with incomes of \$100,000 or more) received 77% of the total benefit.

Contrary to popular opinion, the MID was not created to incentivize homeownership. It began in 1913, with the adoption of the 16th Amendment to the U.S. Constitution establishing the federal income tax. When the income tax was implemented, certain business expenses were allowed to be deducted, include interest on all loans. Very few Americans had home mortgages in those days and most personal and business finances were intermingled. Eventually, federally insured and 30-year mortgages multiplied after World War II and the MID became more important to the emerging middle class. Even so, the earliest estimate of the cost of the MID in 1977 was just \$4.7 billion.

Moreover, there is no evidence that anyone makes the decision to move from being a renter to a mortgage holder in order to get a tax break. Other countries with similar or higher rates of home ownership do not have the MID. The MID does encourage people who are already have mortgages to buy bigger, more expensive homes through which they take on more debt and thus get bigger tax breaks.

NLIHC's Proposal for Reform

NLIHC proposes to lower the cap on the amount of mortgage for which interest can be deducted from \$1 million to \$500,000. Mortgages for first and second homes and for home equity loans of up to \$100,000 are eligible for the tax break as long the total amount of home indebtedness does not exceed \$500,000. NLIHC also proposes converting the tax deduction to a non-refundable tax credit of at least 15%. These changes would be phased in over five years.

Some people suggest that exceptions for the \$500,000 cap should be made for high-cost areas. However, only 4% of all mortgages in the U.S. between 2005 and 2011 were over \$500,000, so the vast majority of people are borrowing below the proposed new cap.

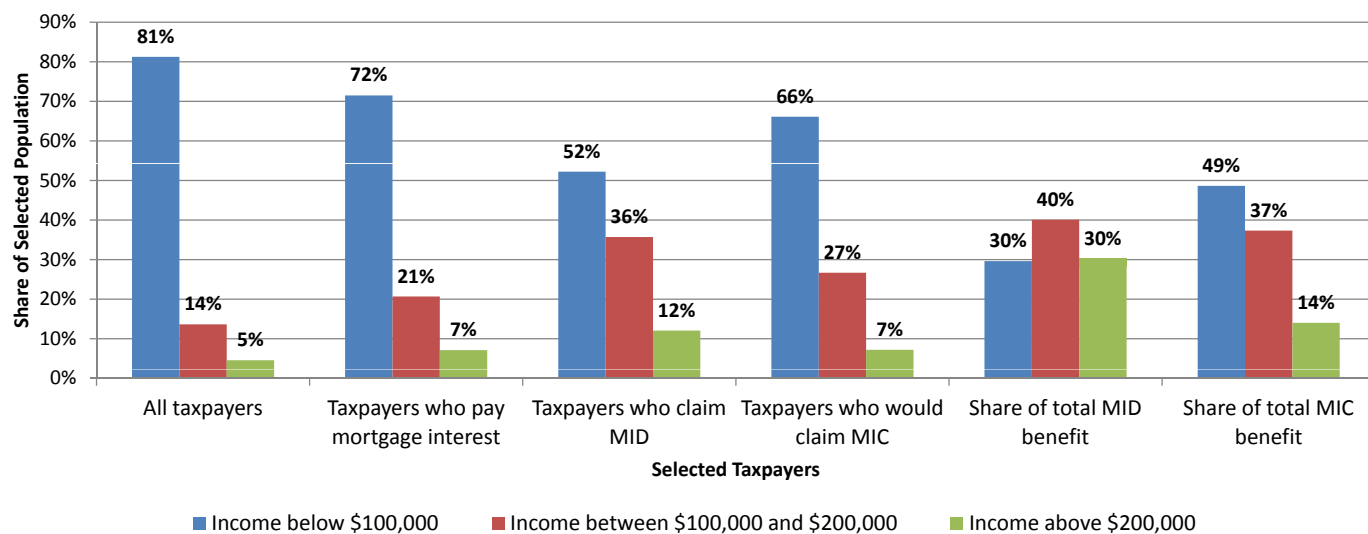
Others suggest that the deduction for interest paid on second homes should be eliminated. However, vacation homes made up 4% of all housing units in 2011 and are typically quite modest, with a median sales price in 2011 of \$150,000 according to the National Association of Realtors. NLIHC calculates that the cost of the MID on second homes is less than 1% of the total MID.

The most significant change that NLIHC is proposing is the conversion of the MID to a mortgage interest tax credit. A tax deduction reduces the taxable income on which one's total tax bill is based. A tax credit is a direct reduction of one's total tax bill. Generally, tax credits are flatter and fairer.

The primary beneficiaries of NLIHC's proposal will be middle and low income homeowners who pay mortgage interest but who do not now take the mortgage interest deduction. Based on calculations done by the Tax Policy Center, under a 15% non-refundable credit, the number of homeowners who will get a tax break will grow from 39 million to 55 million, with 99% of the increase being households with incomes less than \$100,000 a year. Most higher income households with mortgages, primarily those with incomes of \$200,000 or more, will pay more taxes.

The Mortgage Interest Deduction

Graph 1: Effects of Mortgage Interest Tax Reform, by Income
(data based on 15% nonrefundable credit based on Current Law, 2015)



Source: NLIHC calculations based on February 14, 2013 TPC data

Graph 1 shows how mortgage interest tax benefits are distributed across income groups under the current MID and under NLIHC's proposed 15% mortgage interest tax credit.

In a February 2013 report for NLIHC, the Tax Policy Center projects that these changes, phased in over five years, would generate \$196.7 billion in savings between 2014 and 2023. NLIHC proposes that this amount be credited to the NHTF.

A national poll done for NLIHC in August 2012 shows that 63% of Americans favor lowering the cap on the size of mortgage for which the interest can be deducted from \$1,000,000 to \$500,000. Fifty-five percent support converting the deduction to a credit. When asked what to do with the savings gained from these changes, 63% support using the funds to end homelessness.

The Common Sense Housing Investment Act. Representative Keith Ellison (D-MN) introduced H.R. 6677, the "Common Sense Housing Investment Act of 2012," in the 112th Congress and is expected to reintroduce it in the 113th Congress. Mr. Ellison's bill makes the changes to the mortgage interest deduction that NLIHC proposes. Mr. Ellison would direct 60% of the savings to the NHTF, with the remainder split among the Low Income Housing Tax Credit Program, Section 8, and the Public Housing Capital Fund.

Forecast for 2013

Comprehensive federal tax reform is high on the agenda of the 113th Congress and the MID is targeted for change. It is imperative that all housing advocates speak in one voice demanding that any savings gained from MID reform be kept in housing and be used to address long neglected housing needs, specifically those of extremely low income renters.

NLIHC is committing significant resources in 2013 and 2014 to finally secure dedicated funding for the NHTF. Advocates are urged to join the campaign and endorse the proposal to fund the NHTF with savings from reform of the MID and to convince others to do the same. Go to <http://nlihc.org/issues/mid/support> to endorse.

The Mortgage Interest Deduction

Advocates should be conversant with why changes to the mortgage interest deduction are good for low and moderate income homeowners, will save money to help low income renters, and will not add to the federal deficit. Go to <http://nlihc.org/issues/mid/about> to learn more about the proposal.

Advocates should seek support for the proposal to fund the NHTF with savings MID reform from individual state and local elected officials as well state legislatures, city and town councils, and other governing bodies of units of state and local government. Go to <http://nlihc.org/issues/mid/resources> for materials to use to gain support from elected officials.

Advocates should ask the members of their Congressional delegation to cosponsor the Common Sense Housing Investment Act and similar legislation in the Senate when it emerges.

For More Information

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

National Housing Trust Fund, www.nhtf.org

Housing Tax Reform, www.housingtaxreform.org

To read the JCT report, go to
<https://www.jct.gov/publications.html?func=startdown&id=4504>.

Assisted Housing Preservation

By Ed Gramlich, Director of Regulatory Affairs, National Low Income Housing Coalition

Project-based housing is a category of federally assisted housing produced through government provision of financial incentives for the private sector to build and maintain rental housing affordable to low income households. This stock of affordable housing is in danger of being permanently lost as a result of properties physically deteriorating, or due to properties being converted to non-affordable uses, such as high-rent units or condominiums, when a HUD-subsidized mortgage is either prepaid or matures or when an owner decides not to renew an expiring project-based Section 8 contract.

Through project-based assistance, HUD directly contracts with owners of private multifamily housing to make units affordable to low income households. The contract may be associated with HUD mortgage insurance or with project-based Section 8 rental assistance, or both. Project-based assistance is administered by HUD and fixed to a specific property. In comparison, tenant-based Section 8 Housing Choice Vouchers are administered by a local public housing agency (PHA) and linked to a tenant who may rent any privately-owned unit meeting at PHA's rent standard.

ADMINISTRATION

Project-based programs are administered by HUD's Office of Housing, which also oversees the Federal Housing Administration.

HISTORY

From 1965 to the mid-1980s, HUD played an essential role in creating affordable rental homes by providing to the private sector, financial incentives such as below-market interest rate loans, interest rate subsidies, or project-based Section 8 contracts. Currently, no additional units are being produced under these programs.

Initially, project-based assistance was provided through the Federal Housing Administration (FHA) in the form of a mortgage subsidy. Mortgage subsidies reduced the cost of developing rental housing and in return HUD required assisted properties to agree to low income use restrictions, that is, restricting occupancy to households meeting a program's income limits and restricting contract rents. These programs do not provide the direct rental assistance needed in order to be affordable to extremely low or very low income households.

The Section 221(d)(3) Below Market Interest Rate (BMIR) mortgage insurance program, created by the National Housing Act of 1961, enabled HUD to purchase below-market loans made by private lenders. In 1968, Section 221(d)(3) BMIR was replaced by the Section 236 program, which combined FHA mortgage insurance on private loans with an interest rate subsidy to effectively lower the mortgage interest rate to 1%. Owners of Section 221(d)(3) BMIR and Section 236 properties were required to make units available to low and moderate income families at HUD-approved rents for the term of their 40-year mortgages. More than 600,000 units of affordable housing were built under these two programs. Some, but not all, subsidized mortgage properties also have project-based rental assistance from the Section 8 program.

In 1974, Section 236 was replaced by the Section 8 New Construction and Substantial Rehabilitation program, now known as project-based Section 8. HUD entered into 20- to 40-year contracts with private owners to serve low income tenants. More than 800,000 units were developed between 1974 and 1983, when authorization for new construction was repealed.

Assisted Housing Preservation

There are three other smaller programs that still have units associated with them. These programs are sometimes referred to as the orphans. In addition to mortgage subsidies, HUD provided rental assistance payments to owners for some tenants of Section 221(d)(3) BMIR and Section 236 insured properties through several programs.

The Section 101 Rent Supplement program (Rent Supp) was authorized by the Housing and Urban Development Act of 1965. Many of these properties received Loan Management Set-Aside (LMSA) Section 8 contracts due to rapidly rising operating costs in the mid-1970s. Currently there are 176 active Rent Supp contracts covering 9,779 units.

Some Section 236 properties were provided additional rental assistance payments through the Rental Assistance Payments (RAP) program, authorized by the Housing and Community Development Act of 1974. RAP payments were made to owners on behalf of very low income tenants unable to afford the basic rent with 30% of their income. RAP reduces tenant payment for rent to 10% of gross income, 30% of adjusted income, or the designated portion of welfare assistance, whichever is greater. Most RAP contracts converted to Section 8 LMSA contracts. Currently there are 120 active RAP contracts covering 12,219 units.

Another form of rental assistance is the Section 8 Moderate Rehabilitation (Mod Rehab) program, designed in 1978 to stimulate moderate levels of rehabilitation to preserve affordable housing. It provides project-based rental assistance for low and very low income residents, but unlike other project-based Section 8, the agreement is between the owner and a local PHA. Like Project-based Section 8, residents pay 30% of adjusted income for rent while rental assistance pays the balance. The program was repealed in 1991 and no new projects are authorized for development. There were 22,067 Mod Rehab units in 2008.

The Office of Rural Development at the USDA administers two rental housing programs, Section 515 and Section 521. The Section 515 program provided subsidized mortgage loans to develop more than 550,000 rental units for very low to moderate income households. Started in 1963, budget cuts reduced production dramatically after 1979. The stock of Section 515 units has been dwindling due to mortgage prepayment and deteriorating physical conditions. The Section 521 program is a project-based subsidy available for Section 515 projects (as well as Section 514/516 farmworker projects) that subsidizes the difference between the contract rent and a tenant rent payment of 30% of income.

ISSUE SUMMARY

Today, nearly 1.2 million households live in homes with Project-based Section 8 rental assistance. Fifty-six percent of these households have someone who is disabled or elderly. The average household income is \$11,000. Another 300,000 households live in homes with one of the other forms of project-based assistance, but without rental assistance.

For project-based Section 8 rental assistance, HUD enters into Housing Assistance Payment (HAP) contracts with owners. These contracts have been limited to one-year contracts since the mid-1990s as Congress reduced funding for renewal contracts to one year (compared to five- to twenty-year contracts before the mid-1990s). Tenants pay 30% of their monthly adjusted income for rent and utilities, and HUD pays the owner the difference between the contract rent and the tenant's portion. The average monthly subsidy per unit in 2011 was \$665. New residents in project-based Section 8 units can have incomes of no more than 80% of the area median income (AMI), with 40% of new admissions required to have incomes below 30% of AMI.

Assisted Housing Preservation

New residents of Section 221(d)(3) BMIR properties can have incomes up to 95% of AMI, while those in Section 236 properties can have incomes up to 80% of AMI, though the median annual household income for residents of these properties is between \$11,000 and \$12,000.

Preservation of assisted housing. Although no new units are being constructed, the challenge today is ensuring federally assisted affordable housing is not permanently lost through physical deterioration, or as a result of properties being converted to non-affordable uses, such as high-rent units or condominiums, when a HUD-subsidized mortgage is either prepaid or matures or when an owner decides not to renew an expiring project-based Section 8 contract.

There are several specific conversion risks for rental housing with project-based rent assistance. **Mortgage prepayment.** Although Section 236 and Section 221(d)(3) BMIR mortgages had 40-year terms, program regulations allowed most for-profit owners to prepay their mortgages after 20 years. By prepaying, in most cases owners may terminate income and rent restrictions and any Section 8 rent subsidy. Owners must give tenants at least 150 days advance notice of an intention to prepay.

Maturing mortgages. Tens of thousands of low income families face escalating rents if affordability protections are not extended for properties with maturing Section 236 and Section 221(d)(3) BMIR mortgages. Residents living in apartments with affordability protections but without Project-based Section 8 contracts do not currently qualify for enhanced vouchers or other rental assistance when the HUD subsidized mortgage expires. The National Housing Trust estimates that over the next five years, 69,000 households are at risk of rent increases or displacement because HUD-subsidized mortgages have recently matured or are due to mature.

Expiring project-based Section 8 assistance contracts. When Project-based Section 8 assistance contracts expire, owners may choose to discontinue, or opt out of, their contracts, enabling them to increase rents to market levels or to convert units to market-rate condominiums, thereby rendering apartments unaffordable to lower income tenants. Owners must give tenants a year's notice of an intent to opt out. Most tenants will receive enhanced vouchers to enable them to remain in their homes. The National Housing Trust estimates that over the next five years 650,000 units covered by project-based Section 8 contracts will expire.

Enhanced vouchers. Special voucher assistance is provided to tenants who would otherwise be displaced due to rising rents or condo conversion if an owner prepays a Section 221(d)(3) BMIR or Section 236 mortgage, or if an owner opts out of a Project-based Section 8 contract. HUD is required by statute to provide tenants in the former project-based units, through the local PHA, enhanced tenant-based vouchers to enable them to afford to remain in their homes. These Enhanced Vouchers will pay the difference between 30% of the tenant's income and the new rent, even if that rent is higher than the PHA's payment standard. Tenants have a right to remain in their apartments after conversion to market rents; owners must accept the Enhanced Voucher. If a tenant with an Enhanced Voucher moves to another property, the enhanced voucher converts to a regular voucher and the unit they occupied is no longer affordable to any lower income household.

HUD Notice H 2012-3 is a useful reference regarding instances when enhanced vouchers can be issued to residents.

Mark-to-Market. Some FHA-insured properties with expiring Project-based Section 8 contracts have rents that exceed market rents. Upon contract renewal HUD is required to reduce rents to market level, creating a cash crunch for these properties and potentially putting their FHA-insured mortgages at risk

Assisted Housing Preservation

of default. To address this problem, in 1997 Congress enacted the Mark-to-Market program. An owner must either go through the Mark-to-Market program, or opt out. In the Mark-to-Market program, an owner has two options:

- To choose to have the mortgage restructured in order to be able to afford to operate and maintain the property with lower, market rents. In exchange for this mortgage restructuring, an owner agrees to accept Section 8 rent subsidies for 30 years.
- Or, to choose to renew the Section 8 contract for one year with Section 8 rents reduced to market without undergoing a mortgage restructuring.

HUD is also able to raise contract rents to market levels upon contract renewal for properties in high-cost areas through the Mark-Up-to-Market program. Five-year contract renewals are required in Mark-Up-to-Market. This provides a needed incentive for owners to renew their participation in the Section 8 program when private-sector rents are high. This also provides a source of revenue for capital improvements.

Troubled properties. HUD multifamily properties may be at risk when a property is in poor financial or physical condition. An owner in default on a HUD-assisted mortgage could result in termination of the Section 8 subsidy through HUD's foreclosure and property disposition process. Since 2005, however, Congress has used appropriations acts to renew the so-called Schumer Amendment. That provision requires HUD to maintain a project-based Section 8 contract at foreclosure or disposition sale as long as the property is in viable condition. If not viable, HUD can, after consulting tenants, transfer the Section 8 subsidy to another property.

Another risk is that of HUD terminating a Section 8 contract mid-term or refusing to renew the Section 8 contract if there is a serious violation of the terms of the Section 8 Housing Assistance Payment contract. Appropriations act provisions since FY06 have allowed HUD to transfer project-based assistance, debt, and use restrictions from properties that are physically obsolete or not financially viable to another project. Residents must be notified and consulted.

The FY12 Appropriations Act had five key provisions affecting project-based programs.

1. The Mark-to-Market program was reauthorized through September 30, 2015.
2. Tenant protection vouchers issued since October 1, 2006 for expiring Rent Supplement, RAP, and Moderate Rehabilitation properties, or for contracts that will expire, could be project based during FY12 and FY13. Project -basing of Housing Choice Vouchers means converting tenant-based vouchers from vouchers tied to a tenant household and instead fixing the voucher to a specific project or units in a project. This will not count against a PHA's limit of using no more than 20% of its total Housing Choice Voucher dollar allocation for project-basing.
3. Ten million dollars was set aside within the Public Housing Tenant Protection Voucher account to provide tenant protection vouchers or enhanced vouchers to at-risk tenants living in buildings with expiring HUD-insured mortgages (e.g., Rent Supplement) or expiring RAP contracts that do not qualify tenants for enhanced vouchers. Tenants would have to be in jeopardy of paying more than 30% of income for rent in properties located in low-vacancy areas. These vouchers could also be project-based.
4. The Schumer Amendment was renewed for FY12. The FY12 version now applies to all project-based contracts, not just those that are HUD-insured or HUD-held properties. The FY12 version also requires HUD to notify tenants and obtain their consent before HUD abates a contract and relocates tenants for imminent health and safety threats.
5. Section 8 transfer authority is renewed, allowing HUD to transfer a Section 8 contract, debt, and use restrictions from a financially troubled or physically obsolete building to another building or buildings. The FY12 version adds that transfers can be completed in phases, and it also allows the number of units in the receiving property to be fewer than in the original if those units were unoccupied and the reconfiguration is justified by current market conditions.

Assisted Housing Preservation

Given budget constraints, HUD issued a memorandum on November 22, 2011 announcing three policy changes to save money. These policies are also in HUD's FY13 budget proposal.

1. Funds currently held in project residual receipts accounts will be used to reduce assistance payments.
2. Renewals and annual rent adjustments for certain projects will be limited to Operating Cost Adjustment Factor (OCAF) increases if proposed rents exceed the market.
3. All rent comparability studies will be required to justify proposed rent increases exceeding 110% of Small Area Fair Market Rents.

HUD's FY13 budget proposal would also increase tenant minimum rents in project-based Section 8 properties from \$25 to \$75 regardless of tenant income, a provision that NLIHC strenuously opposes.

FUNDING

Congress appropriated \$9.340 billion to renew all project-based Section 8 contracts in FY12. The Administration's budget request for FY13 is only \$8.7 billion, \$400 million of which is actually a request for an advance appropriation from FY14. HUD admits this is not sufficient to give full, 12-month contracts to all properties. Instead HUD will provide 12-month contracts for only 5,300 renewals, affecting 360,000 units. The remaining 10,600 contracts, covering 739,000 units, would get short-term contracts. HUD claims there will be sufficient funding to carry all contracts into FY14. Advocates are concerned that investors will question the stability of the program, especially given uncertainty about full contract renewal funding in FY14.

The House-passed FY13 appropriations bill matched the President's request, while the Senate Appropriations Committee would provide sufficient funding to renew all project-based Section 8 contracts with 12-month terms. Because an FY13 appropriation was not passed, the program continues at FY12 levels.

FORECAST FOR 2013

The Rental Assistance Demonstration (RAD) was implemented in September of 2012. RAD allows owners of Rent Supp and Rap buildings to receive a 15-year Section 8 project-based voucher contract instead of tenant protection vouchers that would be provided to eligible project residents, or that have been provided to eligible project residents as a result of a Rent Supp or RAP contract expiring or being terminated. RAD also enabled owners of Section 8 Mod Rehab properties two options:

1. Owners could compete to convert a Mod Rehab contract to project-based Section 8 vouchers or project-based rental assistance. Up to xxx units nationally could be converted in this fashion.
2. Owners could seek a 15-year Section 8 project-based voucher contract instead of receiving Enhanced Vouchers that would otherwise be provided or that were provided. This option was not a competitive option; however, use of this option is subject to annual appropriations available for tenant protection vouchers.

TIPS FOR LOCAL SUCCESS

Preservation of affordable rental housing is usually undertaken by developers with a preservation track record, often regional or national nonprofits. The most successful local efforts include early identification of properties at risk of conversion as well as active partnerships with tenants, local HUD officials, state and local housing officials, and lenders and investors with a shared commitment to preserving affordable rental housing.

Subsidized multifamily rental housing can be at risk of leaving the affordable housing stock for any number of reasons, such as an owner's intent to prepay a subsidized mortgage or not renew a project-based rental subsidy contract, or uninhabitable living conditions prompting a HUD foreclosure. Having a local database of subsidized multifamily rental housing is an essential tool for preserving

Assisted Housing Preservation

assisted housing in a community because it provides an inventory of properties available to low income households, their location, and factors threatening the affordability of each project.

Many projects benefit from multiple layers of subsidy. HUD makes data on specific affordable housing programs available to the public, but nowhere does HUD combine these files into one database that counts each subsidized project only once and associates it with all of the subsidies that make it affordable to low income households. NLIHC has a publication that spells out how to create an easy-to-use database. See Chapter 5 of The Preservation Guide, located at <http://nlihc.org/library/other/preservation/guides/2010>.

NLIHC and the Public and Affordable Housing Research Corporation (PAHRC) created The National Housing Preservation Database, a tool for preserving the nation's affordable rental housing. It provides integrated information on all housing subsidies for each federally subsidized project. It enables advocates and researchers to easily quantify the supply of federally assisted affordable housing in any geography while at the same time establishing a baseline of subsidized affordable units against which future levels can be measured. The database is at www.preservationdatabase.org.

WHAT TO SAY TO LEGISLATORS

Advocates should urge legislators to provide sufficient funding to renew all Project-based Section 8 contracts for a full 12 months in FY13 and FY14. It is important to register opposition to raising the minimum rent to \$75. That increase will be a financial burden to the lowest income households, yet only provide \$150 million in added revenue for the program.

Members of Congress should be asked to support preservation features of the proposed Affordable Housing and Self-Sufficiency Act of 2012, such as a prohibition on re-screening existing assisted housing families who receive enhanced vouchers or tenant-based vouchers because of a termination of a HUD subsidy contract.

In addition, advocates should urge reintroduction of broad legislation to preserve assisted housing that was reported out by the House Financial Services Committee in 2010. That bill would:

- Provide grants and loans to for-profit and nonprofit housing sponsors to help ensure that properties can be recapitalized and kept affordable;
- Allow owners to request project-based assistance in lieu of enhanced vouchers;
- Protect the rights of states to enact preservation and tenant protection laws that will not be preempted by federal law;
- Ensure data needed to preserve housing is publicly available and regularly updated, and allow for the creation of a single database for all federally assisted properties based on a unique identifier for each property;
- Authorize rural housing preservation program for RD Section 515 properties.

FOR MORE INFORMATION

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

National Housing Trust • 202-333-8931 • www.nhtinc.org

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

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

HUD Notice H 2013-3 <http://1.usa.gov/VAXMZ6> (PDF)

Capital Magnet Fund

By Corey Carlisle, Director of Federal Policy and Government Affairs, Low Income Investment Fund and Kristin Siglin, Vice President for Policy, Housing Partnership Network

The Capital Magnet Fund (CMF) provides a source of funding for community development financial institutions (CDFIs) and nonprofit housing developers to finance affordable housing for extremely low income, very low income, and low income families. In addition, the CMF can be used to provide economic development funding in support of affordable housing. Moving forward, the Administration should seek to preserve the CMF within the housing finance reform debate and continue funding the program in the interim.

CMF is administered by the Community Development Financial Institutions (CDFI) at the U.S. Department of the Treasury (Treasury).

History

The CMF was enacted as part of the Housing and Economic Recovery Act of 2008. As originally envisioned, the CMF would have received funding through contributions from Fannie Mae and Freddie Mac. However, in the fall of 2008, trouble in the housing and credit markets led Fannie Mae and Freddie Mac's regulator to place them in conservatorship and their obligation to contribute to the CMF and to the National Housing Trust Fund (NHTF) was suspended. The legislation creating the CMF also allowed it to be capitalized through regular appropriations, which occurred in FY10 with an appropriation of \$80 million to kick off the program.

During the FY10 round of the CMF, the CDFI Fund received applications requesting over \$1 billion in grants from organizations serving 49 states, the District of Columbia, and Puerto Rico. On average, applicants proposed leveraging their awards by a factor of over 20 times their award request, far exceeding the 10 to one leverage target set by Congress. In October 2010, the CDFI Fund announced the inaugural CMF awardees. Out of 230 applicants, 23 organizations received awards.

Program Summary

The CMF is administered by the CDFI Fund at the Treasury as a competitive grant program to attract private capital for and increase investment in the development, preservation, rehabilitation, or purchase of affordable housing for low income families. Eligible recipients are Treasury-certified CDFIs or nonprofit organizations that have as at least one of their purposes the development or management of affordable housing.

Grants awarded through the CMF attract private capital and increase investment in affordable rental and homeownership housing projects. Unlike other federal programs such as HOME, the CMF is not a block grant or project-based program. The program capitalizes on what the community development industry does best, which is to leverage a small federal investment with private funding. The new program requires grantees to leverage the initial federal investment by at least 10 to one. For example, the \$80 million of CMF dollars awarded in 2010 are anticipated to leverage in excess of \$800 million investment in affordable housing and related economic development.

In order to leverage funds, CMF dollars may be used to provide loan loss reserves, to capitalize a revolving loan fund or an affordable housing fund, or for risk-sharing loans. The CMF can also be used to finance economic development activities or community service facilities, such as day care centers,

workforce development centers, and health care clinics, which in conjunction with affordable housing activities implement a concerted strategy to stabilize or revitalize low income or underserved rural areas. Applications for the competitive grants are required to include a detailed description of the types of affordable housing and economic and community revitalization projects for which the entity would use the grant, and the anticipated time frame in which they intend to use it.

No institution can be awarded more than 15% of all capital magnet funds available for grants in a given year, and those receiving grants must spend the funds within two years of the date they were received. Prohibited uses include political activities, advocacy, lobbying, counseling services, travel expenses, and endorsement of a particular candidate or party. Each grantee must track its funds by issuing periodic financial and project reporting and by fulfilling audit requirements.

The Secretary of the Treasury must submit a periodic report to the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Financial Services describing the activities for which these funds are being used.

Funding

The CMF's initial funding source was to be a percentage of new business for Fannie Mae and Freddie Mac; however, these assessments have been suspended due to the government conservatorship of the secondary market agencies. If Freddie Mac and Fannie Mac emerge from conservatorship, funding will be based on a percentage of each company's annual new business. Twenty-five percent of each company's annual new business must go to a reserve fund at the Treasury to offset federal revenue losses. The remaining 75% of the funds will be divided between the CMF, which receives 35%, and the NHTF, which receives the other 65%.

As was the case in FY10, if authorized by Congress, the CMF is also able to collect funding from other dedicated revenue sources or receive appropriated funds.

Forecast for 2013

The CMF was designed to use a small government subsidy as a magnet to attract much larger amounts of private capital to support affordable housing and community development. The overwhelming interest from applicants in the first round of funding demonstrates the appeal of this capital magnet model for expanding the nation's supply of affordable housing in a cost-effective manner. Reliable sources of funding for the CMF must be identified so that the program's promise will be realized.

Tips for Local Success

The CMF represents a significant source of capital to support affordable housing and related community economic development. With \$80 million awarded to CDFIs and affordable housing nonprofits in 2010, it will be important for advocates to highlight the local impact of this program with policymakers.

What to Say to Legislators

Advocates should urge the Administration and Congress to include a mechanism for directing resources to the CMF in the recommendations they propose for the reform of the nation's housing finance system. Furthermore, as the debate on housing finance reform may be lengthy, advocates are urging the Administration to recommend an appropriation for the CMF program as an interim step until a more permanent source of funding is determined.

For More Information

The CDFI Fund • 202-622-6355 • www.cdfifund.gov

Opportunity Finance Network • 215-923-4754 • www.opportunityfinance.net

Choice Neighborhoods Initiative and HOPE VI

By Linda Couch, Senior Vice President for Policy and Research, and Ed Gramlich, Director of Regulatory Affairs, National Low Income Housing Coalition

The Choice Neighborhoods Initiative (CNI) is HUD's successor to the HOPE VI program. Like HOPE VI, CNI focuses on severely distressed public housing properties. But CNI expands HOPE VI's reach to include HUD-assisted, private housing properties and entire neighborhoods. In FY12, Congress funded CNI at \$120 million, and did not fund HOPE VI.

The HOPE VI public housing program provided funds to revitalize the nation's severely distressed public housing stock through: demolition, construction, rehabilitation, and other physical improvements; development of replacement housing; and, the provision of community and supportive services. HOPE VI has resulted in the demolition of more than 98,000 public housing units but the rebuilding of only 48,348 public housing units.

ADMINISTRATION

HUD's Office of Public and Indian Housing awards HOPE VI and CNI grants.

HISTORY

HOPE VI program. In 1989, Congress established the National Commission on Severely Distressed Public Housing. The commission was charged with identifying severely distressed public housing and devising a plan to address the problem. In its 1992 report to Congress, the commission found that 6% of public housing units (86,000 units) were severely distressed and recommended that Congress create a revitalization plan.

As a result, Congress created the HOPE VI program through the 1993 appropriations act with the goal of revitalizing dilapidated public housing units. Eligible HOPE VI activities included demolishing public housing units, rehabilitating units, and relocating residents. The program was funded in annual appropriations bills through 1998. Then, in 1999, Congress passed authorizing legislation for HOPE VI within the Quality Housing and Work Responsibility Act of 1998 (QHWRA).

Under QHWRA, the purposes of the program were to improve the living environment of public housing residents, revitalize the sites on which severely distressed public housing units were located, decrease concentration of poverty, and build sustainable communities. HOPE VI was subsequently reauthorized in various pieces of legislation for one- to three-year periods through FY11. Congress funded HOPE VI at \$70 million in FY10 and \$28 million in FY11. There was no FY12 HOPE VI appropriation.

In 2003, protections were added for tenants, such as requiring HUD to involve affected public housing residents throughout the planning process. In addition, during the grant selection process, a criterion was added to reward minimizing the permanent displacement of current residents of public housing and prioritizing return of tenants of the existing developments to the revitalized development.

Advocates have long been troubled that under HOPE VI, public housing agencies (PHAs) have demolished viable units, displaced families, and exercised overly rigid rescreening practices to effectively bar residents from returning to their revitalized communities.

Choice Neighborhoods Initiative. While HOPE VI focused on grants to revitalize severely distressed public housing, CNI focuses its resources on transforming entire neighborhoods. Legislation to authorize the CNI program was introduced in 2011 by Representative Maxine Waters (D-CA) (H.R.

Choice Neighborhoods Initiative and HOPE VI

762) and Senator Robert Menendez (D-NJ) (S. 624). However, those bills were not enacted. Although unauthorized, CNI has been funded through annual appropriations bills and administered according to the details HUD Notices of Fund Availability (NOFA). CNI was funded at \$65 million in FY10 and FY11, and received \$120 million in FY12.

PROGRAM SUMMARY

Choice Neighborhoods Initiative. HUD states that CNI has three goals:

1. **Housing:** Transform distressed public and HUD-assisted private housing into energy efficient, mixed-income housing that is physically and financially viable over the long-term.
2. **People:** Support positive health, safety, employment, mobility, and education outcomes for residents in the target development(s) and the surrounding neighborhood.
3. **Neighborhood:** Transform neighborhoods of poverty into viable, mixed-income neighborhoods with access to well-functioning services, high quality public schools and education programs, public transportation, and improved access to jobs.

In addition to PHAs, grantees can include HUD-assisted private housing owners, local governments, nonprofits, and for-profit developers. The CNI program awards both large implementation grants and smaller planning grants. CNI planning grants are to assist communities in developing a neighborhood transformation plan and in building the support necessary for that plan to be implemented.

CNI implementation grants have ranged from \$10 million to \$31 million. They are intended primarily to help transform severely distressed public housing and HUD-assisted private housing developments through rehabilitation, demolition, and new construction. HUD also requires applicants to prepare a more comprehensive plan to address other aspects of neighborhood distress such as violent crime, failing schools, and capital disinvestment. Funds can also be used for supportive services and for improvements to the surrounding community, such as developing community facilities, and addressing vacant, blighted properties. HUD works closely with the Department of Education to align CNI's educational investments and outcomes with those of the Promise Neighborhoods program.

Key requirements of CNI implementation grants include:

- One-for-one replacement of all public and private HUD-assisted units. Replacement units may be developed on-site or in the target neighborhood. However, replacement units may also be developed as far away as 25 miles if units are in an area that:
 - Does not have a concentration of minority populations and does not have a poverty rate above 40%;
 - Has access to transportation, economic opportunities, and other amenities.Replacement units may be public housing units, Section 202 Elderly units, Section 811 units for people with disabilities, or Project-based Vouchers.
- Tenant-based, Housing Choice Vouchers may be used to replace up to 50% of the public housing units if:
 - The vacancy rate for units affordable to low income households was greater than 7.3% in 2000 and greater than 8.7% in 2005-2009;
 - At least 50% of the vouchers currently in use are in neighborhoods with a poverty rate below 20%; and
 - A minimum of 80% of the households issued vouchers successfully leased units within 120 days.
- Each resident who wishes to return to the improved development may do so.
- Residents who are relocated during redevelopment must be tracked until the transformed housing is fully occupied.
- Existing residents must have access to the benefits of the improved neighborhood.
- Resident involvement must be continuous, from the beginning of the planning process through implementation and management of the grant.

Choice Neighborhoods Initiative and HOPE VI

In FY11 HUD issued CNI implementation grants from a combination of FY10 and FY11 funding to eligible grantees in Boston, Chicago, New Orleans, San Francisco, and Seattle. For FY12, implementation grants were awarded to grantees in Cincinnati, San Antonio, and Tampa, as well as phase two of the Seattle project. A total of 34 planning grants were awarded from FY11 and FY12 funds.

The HOPE VI program. The HOPE VI program is intended to benefit the current residents of severely distressed public housing, revitalize public housing sites and improve the surrounding neighborhood, and avoid or decrease concentrations of very low income households. But HOPE VI has not been beneficial to everyone. For example, a 2010 report from the University of Illinois at Chicago shows that most former residents of Chicago's now-demolished public housing still live in segregated, low income neighborhoods despite using housing vouchers to subsidize their rents.

HOPE VI grants were awarded annually on a competitive basis, also using NOFAs. Generally, five or six housing agencies received grants each year. The number of grants awarded annually has decreased in line with the decrease in HOPE VI funding. HOPE VI grants could be used for the capital costs of demolition, construction, rehabilitation and other physical improvements; development of replacement housing; and community and supportive services. PHAs administer the program and can use the grants in conjunction with modernization funds or other HUD funds, as well as municipal and state contributions, public and private loans, and Low Income Housing Tax Credit (LIHTC) equity.

FUNDING

HOPE VI had been funded at \$100 million a year for several years. Congress eliminated funding for HOPE VI for FY12. HUD first proposed CNI in its FY10 budget request to Congress, when it sought \$250 million for CNI and no funding for HOPE VI. Congress did end up appropriating \$65 million for CNI in FY10, carving that amount out of the \$200 million HOPE VI appropriation (leaving \$135 million for HOPE VI). In FY11, Congress kept CNI at \$65 million, but reduced HOPE VI to \$28 million. In FY12, Congress opted not to fund any HOPE VI grants, instead funding only CNI at \$120 million. For FY13, the Administration requested \$150 million for CNI and nothing for HOPE VI.

WHAT TO SAY TO LEGISLATORS

NLIHC supports full funding for the public housing operating and capital funds, and full funding for project-based Section 8 so that properties do not run into the kinds of disrepair that might make them eligible for a CNI type program.

Advocates should urge Congress to formally authorize the CNI program that includes key elements: one-for-one replacement, right to return for residents, strong resident participation requirements throughout the entire CNI lifespan, and careful attention to avoid displacement.

FOR MORE INFORMATION

HUD Choice Neighborhoods Initiative webpage <http://1.usa.gov/WrTw8g>

HUD HOPE VI webpage <http://1.usa.gov/VB5q5N>

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

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

Center on Budget and Policy Priorities • 202-408-1080 • www.cbpp.org

Community Development Block Grant Program

By Ed Gramlich, Director of Regulatory Affairs, National Low Income Housing Coalition

The Community Development Block Grant (CDBG) program is a federal program aimed at creating viable communities by providing funds to improve housing, the living environment and economic opportunities, principally for persons with low and moderate incomes. At least 70% of the CDBG funds received by a jurisdiction must be spent to benefit people with low and moderate incomes.

ADMINISTRATION

The CDBG program is administered by HUD's Office of Community Planning and Development (CPD). The regulations for entitlement jurisdictions are at 24 CFR Part 570, and the states and small cities regulations are at 24 CFR Part 570, Subpart I.

HISTORY

The CDBG program was established under Title I of the Housing and Community Development Act of 1974, which combined several existing programs, such as Urban Renewal and Model Cities, into one block grant. This change was designed to provide greater flexibility in the use of federal dollars.

PROGRAM SUMMARY

The primary objective of the CDBG program is to create viable communities by providing funds to improve housing, the living environment, and economic opportunities principally for persons with low and moderate incomes.

Eligible activities. CDBG funds can be used for a wide array of activities, including rehabilitating housing (through loans and grants to homeowners, landlords, nonprofits and developers); constructing new housing (but only by certain neighborhood-based nonprofits); providing down payment assistance and other help for first-time home buyers; detecting and removing lead-based paint hazards; purchasing land and buildings; constructing or rehabilitating public facilities such as shelters for people experiencing homelessness or victims of domestic violence; making buildings accessible to those who are elderly or disabled; providing public services such as job training, transportation, healthcare and child care (public services are capped at 15% of a jurisdiction's CDBG funds); building the capacity of nonprofits; rehabilitating commercial or industrial buildings; and making loans or grants to businesses.

Formula allocation. The program's emphasis on people with low incomes is reinforced by the formulas that determine how much money local jurisdictions and states receive. The formulas are based on factors heavily weighted by the degree of poverty and indicators of poor housing conditions in a jurisdiction. Seventy percent of each annual appropriation is automatically distributed to cities with populations of more than 50,000 and counties with populations of more than 200,000. These are called entitlement jurisdictions. The remaining 30% goes to states for distribution to their small towns and rural counties.

Beneficiaries. At least 70% of the CDBG funds received by a jurisdiction must be spent to benefit people with low and moderate incomes. The remaining 30% can also benefit people with lower incomes, or it can be used to aid in the prevention or elimination of slums and blight (often used by local governments to justify downtown beautification) or to meet an urgent need such as hurricane, earthquake or flood relief.

Low and moderate income is defined as household income below 80% of the area median income (AMI), which can be quite high. In FY13, for instance, 80% of AMI in Cincinnati is \$54,950. AMI in some jurisdictions is so high, as in the Lowell, MA, metropolitan area where the AMI is \$90,700, that HUD

Community Development Block Grant Program

caps the qualifying household income at the national median income, which in FY13 is \$64,400 for a four-person household.

A CDBG activity is counted as benefiting people with low and moderate incomes if it meets one of four tests:

(1) Housing Benefit. If funds are spent to improve a single-family home, the home must be occupied by a low or moderate income household. In multifamily buildings, at least 51% of the units must be occupied by low or moderate income households. In addition, the housing must be affordable, as defined by the jurisdiction. Jurisdictions' definition of affordability can vary greatly. In FY11, only 25% of CDBG was allocated for some type of housing program, 1.75% for multi-unit rehabilitation and 12.82% for single-unit rehabilitation. In recent decades about 26% was allotted for some type of housing program, a decline from 35% in CDBG's early decades.

(2) Area Benefit. Some CDBG-eligible projects, such as road and park improvements, can be used by anyone. To judge whether such a project primarily benefits people with lower incomes, HUD looks at the project's service area. If 51% of the residents in the activity's service area are people with lower incomes, then HUD assumes people with lower incomes benefit. The regulations provide several ways to challenge that assumption. The primary challenge is to show that the full range of direct effects of the activity do not benefit people with lower incomes.

(3) Limited Clientele. A service or facility assisted with CDBG funds must be designed so that at least 51% of its users have lower incomes. The three most common ways to meet this test are to: (a) limit participation to people with lower incomes; (b) show that at least 51% of the beneficiaries are lower income; or (c) serve a population that HUD presumes is lower income, including abused children, domestic violence victims, people with disabilities, illiterate individuals, migrant farm workers, and seniors. Advocates can challenge a presumed benefit claim if an activity does not really benefit people with low incomes.

(4) Job Creation or Retention. If job creation or retention is used to justify spending CDBG money, then at least 51% of the resulting jobs on a full-time-equivalent basis must be filled by or be available to people with lower incomes. Available to means either the job does not require special skills or a particular level of schooling, or the business agrees to hire and train people with lower incomes. Those with lower incomes must receive first consideration for the jobs.

Public participation. Every jurisdiction must have a public participation plan that describes how the jurisdiction will provide for and encourage involvement by people with lower incomes. Public hearings are required at all stages of the CDBG process. Hearings must give residents a chance to articulate community needs, review the proposed uses of CDBG funds, and comment on past uses of these funds. There must be adequate public notice to people who are likely to be affected by CDBG-funded projects, and people must be given reasonable and timely access to information. In particular, advocates should get a copy of the draft Annual Action Plan and the latest Grantee Performance Report (GPR). Many jurisdictions will try to deny the public copies of the GPR; it must be made available. The GPR also goes by the name IDIS Report C04PR03 as part of the larger Consolidated Annual Performance and Evaluation Report (CAPER).

FUNDING

The President's FY13 budget requested \$2.95 billion for the CDBG formula program, the same amount as appropriated by Congress for FY12, and a 12% reduction from the FY11 amount of \$3.34 billion.

Community Development Block Grant Program

TIPS FOR LOCAL SUCCESS

Because only 70% of CDBG funds must benefit people with low or moderate incomes, and because all of the funding could benefit people with moderate incomes, many of the lowest income households realize little benefit from the program. Locally, people can organize to get 100% of a jurisdiction's CDBG dollars to be used for activities that benefit people with lower incomes and can strive to have more of the dollars used to benefit people with extremely low incomes.

The public participation process can be used to organize and advocate for more CDBG dollars to be used for the kinds of projects people with lower incomes really want in their neighborhoods, and then to monitor how funds are actually spent. To do this, advocates should obtain and study the jurisdiction's Annual Action Plan, which lists how a jurisdiction plans to spend CDBG funds in the upcoming year, and the Grantee Performance Report (C04PR03), which lists how CDBG money was spent in the previous year. These documents must be available to the public from the staff in charge of CDBG in local jurisdictions.

FORECAST FOR 2013

Because CDBG is a block grant and national data regarding use of funds and targeting of resources is minimal, the program is perennially at risk of budget cuts. Advocates must be vigilant in monitoring and advocating for

FOR MORE INFORMATION

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

HUD's CDBG webpage: <http://1.usa.gov/zG0EkI>.

HUD's Entitlement Cities Division • 202-708-1577 • <http://1.usa.gov/AzWYqh>.

HUD's States and Small Cities Division • 202-708-1322 • <http://1.usa.gov/AeQ3YQ>.

Community Development Financial Institutions Fund

By Corey Carlisle, Director of Federal Policy and Government Affairs, Low Income Investment Fund

The Community Development Financial Institutions (CDFI) Fund is comprised of six programs designed to expand the capacity of financial institutions to provide credit, capital and financial services to underserved populations and communities in the United States.

ADMINISTRATION

The CDFI Fund is housed in the Department of the Treasury.

HISTORY

The CDFI Fund was authorized by the Riegle Community Development Banking and Financial Institutions Act of 1994.

OVERVIEW

To understand the CDFI Fund it is first necessary to describe CDFIs and what they do. Community Development Financial Institutions are specialized private sector financial institutions that serve economically disadvantaged communities and consumers. CDFIs (as of November 2010 there were 907 in the U.S.) assume many different forms, including banks (72), credit unions (197), nonprofit loan funds (572), and venture capital funds (25).

United by a primary mission of community development, CDFIs work where conventional financial institutions do not by providing financial services, coupled with financial education and technical assistance, to help alleviate poverty for economically disadvantaged people and communities. CDFIs offer responsible alternatives to predatory lenders, providing necessary services at a fraction of the cost. CDFIs implement capital-led strategies to fight poverty and to tackle tough economic infrastructure issues such as quality affordable housing, job creation, wealth building, financial literacy and education, and microenterprise development and training.

CDFIs also provide basic financial services to the unbanked. CDFI customers include small business owners, nonprofits, affordable housing developers and low income individuals. Nearly 70% of CDFI customers are low income persons, 59% are racial minorities, and 52% are women. CDFIs operate in all 50 states and the District of Columbia.

PROGRAM SUMMARIES

The CDFI Fund operates six primary programs designed to both build the capacity of CDFIs and increase private investment in distressed communities nationwide. These programs include the CDFI Program, the Native Initiatives Program, the Bank Enterprise Award Program, the New Markets Tax Credit Program, the Capital Magnet Fund Program, and the Healthy Food Financing Initiative. The CDFI Fund is the largest single source of funding for CDFIs and plays an important role in attracting and securing non-federal funds for CDFIs.

The CDFI Fund is unique among federal programs because it takes an entrepreneurial approach to its programming, funding and strengthening of institutions rather than specific projects. CDFIs match the federal investment from the CDFI Fund multiple times over with private money, using these funds to revitalize communities through investment in affordable housing, small businesses and community facilities, and by providing retail financial services to low income populations.

Community Development Financial Institutions Fund

CDFI Program. The CDFI Program is comprised of two components: Financial Assistance (FA) and Technical Assistance (TA). Through these two components, the CDFI Program provides loans, equity investments, and grants to CDFIs to support their capitalization and capacity building, enhancing their ability to create community development opportunities in underserved markets. CDFIs compete for federal support based on their business plans, market analyses, and performance goals.

FA awards are for established, certified CDFIs and are used for economic development, affordable housing and community development financial services. FA awards must be matched at least one-to-one with non-federal funds. TA awards are for start-up or existing CDFIs and are used to build capacity to serve their target market through the acquisition of goods and services such as consulting services, technology purchases, and staff or board training. The FY12 funding level for this program was \$146 million.

Native Initiatives (NACA) Program. The NACA program provides technical assistance and financial assistance to CDFIs serving Native American populations. NACA supports CDFIs' expansion of access to capital and financial services in Native American communities nationwide. The NACA program also includes investments in training and resource materials to help Native American organizations and other entities implement and sustain Individual Development Account (IDA) matched savings programs. The CDFI Fund began awarding technical assistance grants to Native American CDFIs in FY02, then added financial assistance in FY04. The FY12 funding level for this program was \$12 million.

Bank Enterprise Award (BEA) Program. The BEA program was created in 1994 to support FDIC insured financial institutions around the country that are dedicated to financing and supporting community and economic development activities. The BEA program complements the community development activities of insured depository institutions (i.e., banks and thrifts) by providing financial incentives to expand investments in CDFIs and to increase lending, investment, and service activities within economically distressed communities. Providing monetary awards for increasing community development activities leverages the fund's dollars and puts more capital to work in distressed communities throughout the nation. The FY12 funding level for this program was \$18 million.

New Markets Tax Credit (NMTC) Program. Congress established the New Markets Tax Credit program as part of the Community Renewal Tax Relief Act of 2001 to encourage investors to make investments in low income communities that traditionally lack access to capital. Conventional access to credit and investment capital for developing small businesses, retaining jobs, and revitalizing neighborhoods is often limited in economically distressed communities or in communities with large low income populations. The NMTC provides investors (financial institutions, corporations, etc.) with a tax credit for investing in a Community Development Entity (CDE) that, in turn, reinvests the funds in qualified low income communities. CDEs are domestic partnerships or corporations with a primary mission of serving or providing investment capital for low income communities or low income persons. CDEs use capital derived from the tax credits to make loans to or investments in businesses and projects in low income areas.

The NMTC program is administered by the CDFI Fund, which allocates tax credit authority—the amount of investment for which investors can claim a tax credit—to CDEs that apply for and obtain allocations. To date, the CDFI Fund has made 594 awards totaling \$29.5 billion in allocation authority. Under the current statute, the NMTC expires at the end of each calendar year, unless Congress acts to extend the program. The NMTC was extended for two years (2012-2013) on January 1, 2013, ensuring that credit-starved businesses in rural and urban communities across the country will continue to receive an important source of capital.

Capital Magnet Fund (CMF) Program. Created through the Housing and Economic Recovery Act (HERA) of 2008, the CMF is one of the newest CDFI programs. Through the CMF, the CDFI Fund

Community Development Financial Institutions Fund

provides competitively awarded grants to CDFIs and qualified nonprofit housing organizations. CMF awards can be used to finance affordable housing activities as well as related economic development activities and community service facilities. Awardees will be able to utilize financing tools such as loan loss reserves, loan funds, risk-sharing loans, and loan guarantees to produce eligible activities whose aggregate costs are at least 10 times the size of the award amount.

As with the National Housing Trust Fund (NHTF), funding for the CMF is intended to be provided in part by the GSEs. Since Fannie Mae and Freddie Mac have been in conservatorship since the authorizing statute creating those programs became law, for FY10 the Administration requested and Congress approved an initial appropriation of \$80 million to capitalize the CMF. Later that same year, \$80 million in awards were announced to 23 CDFIs and nonprofit housing organizations, which will leverage up to \$1.6 billion for the financing of affordable housing within underserved communities and help put underserved neighborhoods on the path to recovery and revitalization.

There was no additional funding for the CMF in FY12, and due to the continuing resolution for FY13, there will not likely be any funds for FY13. As with the NHTF, advocates are looking to restore funding for the CMF through proposals to reform the housing finance system so the funds are not beholden to the appropriations process.

CDFI Healthy Foods Financing Initiative. The CDFI Healthy Food Financing Initiative, launched in 2011 as part of the multi-agency Healthy Food Financing Initiative (HFFI), provides grants to CDFIs focused on developing solutions for increasing access to affordable healthy foods in low income communities. The HFFI is an interagency initiative involving the U.S. Department of the Treasury, the U.S. Department of Agriculture, and the U.S. Department of Health and Human Services. HFFI represents the federal government's first coordinated step to eliminate 'food deserts' by promoting a wide range of interventions that expand the supply of and demand for nutritious foods, including increasing the distribution of agricultural products, developing and equipping grocery stores and strengthening producer-to-consumer relationships. The FY12 funding level for this program was \$22 million.

FUNDING

The appropriation for the CDFI Fund in FY12 was \$221 million, which is about the same level as the previous two years; and allocations for the NMTC Program in 2012 and 2013 are \$3.5 billion per year. Considering the austere budget environment for all domestic discretionary funds, these funding levels represents a dramatic turnaround from budgets only a few years ago that called for elimination of the CDFI Fund. The George W. Bush Administration demonstrated opposition to the continued existence of the CDFI Fund grant programs, but with broad bipartisan support, the CDFI Fund remained funded, although at lower appropriations levels.

Applications for CDFI Fund awards consistently exceed the supply of funds. Since 1996, applicants to the CDFI Program have requested more than four times the amount awarded. Last year, the CDFI Fund received a total of 314 applications for the 2011 round of the NMTC Program, which was the most they had received since 2002 and represents an increase of 26% over the prior year's total applications.

FORECAST FOR 2013

The American Taxpayer Relief Act, which averted the "fiscal cliff" threat of the winter of 2012, included a two-year (2012 and 2013) extension of the New Markets Tax Credit. Between the colliding of three forces (sequestration, the Continuing Resolution and additional debt ceiling action) 2013 promises to be a busy year. Whatever deal is struck is certain to set the framework for FY14 appropriations.

Community Development Financial Institutions Fund

WHAT TO SAY TO LEGISLATORS

Advocates should contact Members of Congress, especially members of the Senate and House Appropriations Committees, to encourage support for sustained funding for the remainder of FY13 and for FY14 at \$221 million each year for the CDFI Fund to help meet the demand for financial services and capital in low income communities.

In addition, the NMTC again expire on December 31, 2013. Advocates should urge Members of Congress to make the NMTC a permanent as deliberations to overhaul the tax code get underway in the 113th Congress. Should proposals to reform the housing finance system begin to move, advocates should also urge Congress to ensure critical programs meant to assure a steady supply of funds for affordable housing like the Capital Magnet Fund and National Housing Trust Fund are included in those reform efforts.

Finally, CDFIs design innovative products that offer responsible alternatives to predatory lenders, providing homeownership and financial opportunities to underserved individuals and communities. Advocates can play an active role in helping to communicate the positive role of CDFIs in low-wealth markets.

FOR MORE INFORMATION

The CDFI Fund • 202-653-0300 • www.cdfifund.gov

Opportunity Finance Network • 215-923-4754 • www.opportunityfinance.net

CDFI Coalition • 202-393-5225 • www.cdfi.org

Find local CDFIs at <http://bit.ly/yf7c5w>.

The Community Reinvestment Act

By Josh Silver, Vice President of Research and Policy, National Community Reinvestment Coalition

The Community Reinvestment Act (CRA) affirms that banks have continuing and affirmative responsibilities to meet the credit needs of low and moderate income neighborhoods in a manner consistent with safety and soundness. Congress has considered updating this critical law to strengthen CRA as applied to banks and expand CRA to non-bank financial institutions. The federal bank regulatory agencies are also considering revisions to the CRA regulations and are expected to propose changes this year.

ADMINISTRATION

Three bank regulatory agencies are responsible for ensuring that banks and savings and loan institutions comply with CRA regulations: the Federal Reserve Board (FRB), the Office of the Comptroller of the Currency (OCC), and the Federal Deposit Insurance Corporation (FDIC). The Office of Thrift Supervision (OTS) was formerly the regulatory agency for savings and loans; the OCC assumed the OTS responsibilities for overseeing savings and loans in July 2011.

HISTORY AND PURPOSE

Congress passed the Community Reinvestment Act in 1977 at a time when many banks and other financial institutions would routinely “redline” communities, refusing to invest in them or to extend credit to their residents. Since its enactment, CRA has been the main law for increasing the flow of private capital and expanding access to banking services in minority and low and moderate income communities.

PROGRAM SUMMARY

CRA examinations. The CRA directs the federal bank regulatory agencies to evaluate the extent to which banks and savings institutions are meeting local credit needs. The federal agencies also consider banks’ CRA records when ruling on merger applications. A weak CRA record may be grounds for denying a merger application. While denials are rare, federal agencies occasionally approve a merger application subject to specific pledges to improve CRA and fair lending performance.

Under the CRA, large banks and saving institutions with assets over \$1 billion are evaluated with three tests that measure performance in low and moderate income communities: the lending test, the investment test and the service test. The lending test evaluates a bank’s record of meeting credit needs of its community or assessment area or areas through home mortgage, small business, and small farm lending, as well as financing of community development projects such as the construction of rental units. The investment test evaluates the number and responsiveness of investments, including Low Income Housing Tax Credits and equity investments in small businesses. The service test evaluates the availability and effectiveness of bank branches, basic banking services such as low-cost deposit accounts, and community development services in low and moderate income communities.

Mid-size banks with assets between \$250 million and \$1 billion (asset range is adjusted annually for inflation) have a lending test and a community development test that combines elements of the large bank investment and service test. Finally, small banks with assets less than \$250 million have a streamlined lending test only.

A bank or thrift with assets greater than \$250 million undergoes a CRA exam about once every two years. Small banks with assets less than \$250 million are examined about once every four or five years.

The Community Reinvestment Act

CRA exams give one of four ratings: outstanding, satisfactory, needs-to-improve, or substantial noncompliance. The last two ratings are considered failing ratings. On a state or metropolitan level, a bank can also receive a low or high satisfactory rating. Even a passing rating, such as satisfactory or low satisfactory on a state level, can motivate a bank to do better and strive for an outstanding rating since ratings influence banks' public relations and business strategies. For example, banks compete to receive deposits from state and local government agencies; having an outstanding CRA rating helps a bank win substantial business from public agencies interested in promoting neighborhood revitalization. Community groups' comments can influence ratings and therefore motivate banks to bolster their performance.

CRA exams are available to the public and can be obtained online via www.ffiec.gov. The general public is encouraged to comment on CRA exams and the federal agencies post lists every quarter of upcoming CRA exams. In addition, community organizations and members of the general public can comment on bank merger applications being reviewed by the federal regulatory agencies.

Each of the four agencies enforcing CRA provides links to the CRA regulation for download. In addition, the regulatory agencies in combination publish an Interagency Question and Answer on CRA detailing how banks are to report data, CRA exam criteria, and how specific types of bank loans, investments, and services can qualify for points on CRA exams.

RESULTS

Because it holds lenders publicly accountable and empowers citizens and communities to engage in the regulatory process, CRA has been effective in increasing access to credit and capital for traditionally underserved communities.

CRA agreements are bank commitments to make specific numbers and dollar amounts of loans, investments, and services in minority and low and moderate income communities over a specified time period. The National Community Reinvestment Coalition (NCRC) calculates that since 1977, community groups and banks have negotiated more than \$6 trillion in CRA agreements.

The U.S. Department of the Treasury found that CRA-covered lenders increased their home mortgage loans to low and moderate income areas and borrowers by 39% from 1993 to 1998, more than twice the increase (17%) to middle and upper income borrowers and areas. Moreover, since 1996, banks have made community development loans totaling more than \$480 billion. They also made small business loans of more than \$640 billion in low and moderate income neighborhoods.

The Federal Reserve has demonstrated that CRA-covered banks are less likely to issue high-cost and risky loans than independent mortgage companies not covered by CRA. In previous years, the Federal Reserve found that only 6% of all high-cost loans were issued by banks and were considered on bank CRA exams. The great majority of high-cost loans were issued by independent mortgage companies not covered by CRA. CRA exams encourage safe and sound lending by penalizing banks for illegal and abusive loans and awarding banks for counseling and foreclosure prevention. If non-bank lenders had gone through similar exams, they would have made fewer abusive loans, meaning the foreclosure crisis would have been less severe.

PAST LEGISLATION

CRA modernization. Representatives Eddie Bernice Johnson (D-TX) and Luis Gutierrez (D-IL) introduced H.R. 1479, the Community Reinvestment Modernization Act of 2009, in March 2009. With 60 co-sponsors, this was a comprehensive bill strengthening CRA as applied to banks and applying CRA to a variety of non-bank institutions.

The Community Reinvestment Act

One important way to strengthen CRA as applied to banks is by expanding the geographical coverage of CRA exams. H.R. 1479 would ensure that the great majority of loans issued by banks are scrutinized on CRA exams. The bill would require CRA exams to evaluate an institution's lending in geographical areas where they provide loans through brokers, correspondents, or through the internet. Presently, institutions are evaluated only in areas where they have bank branches. Examining a broad range of geographical areas is important because research has shown that banks make more prime, responsible loans to low and moderate income borrowers in geographical areas on CRA exams than in areas not on exams.

Towards the end of the 111th Congress, Representative Gutierrez, Representative Maxine Waters (D-CA), Representative Al Green (D-TX), and Representative Johnson introduced H.R. 6334, the American Community Investment Reform Act of 2010. Like H.R. 1479, H.R. 6334 would also have applied CRA to a variety of non-bank institutions including independent mortgage companies, mortgage company affiliates of banks, and securities firms. If these non-bank institutions had been subject to CRA requirements sooner, the foreclosure crisis would have been less severe because CRA requires institutions to serve communities in a manner consistent with safety and soundness. In addition, applying CRA to a large segment of the financial industry would increase responsible lending and investing in communities by hundreds of billions of dollars.

TIPS FOR LOCAL SUCCESS

CRA is vital to promoting safe and sound lending and investing in communities. Community organizations are encouraged to comment on CRA exams and merger applications. These comments should describe the local credit and banking service needs and whether banks are meeting those needs. Additionally, organizations should establish and expand upon dialogues with CRA officers at banks in their service areas to see how banks can increase their support of affordable housing.

On a local level, NCRC has worked with community organizations to propose and pass responsible banking ordinances (RBOs). In return for receiving city deposits, banks are required to demonstrate commendable CRA and fair lending performance. NCRC has a model bill and other supporting documents available via <http://www.ncrc.org/get-involved/hot-issues-take-action>.

WHAT TO SAY TO LEGISLATORS

Legislative activity on CRA is not expected this year since Congress will be preoccupied by fiscal cliff negotiations and possible discussion about the future of Fannie Mae and Freddie Mac.

Yet, during the 113th Congress your member should:

- Oppose bills that would weaken or repeal CRA. Representative Jeb Hensarling (R-TX), Chairman of the House Financial Services Committee, introduced a bill in the 111th Congress that would repeal CRA. Expect similar bills in the 113th Congress from opponents of CRA.
- Support any proposed bills that update and strengthen CRA.

WHAT TO SAY TO REGULATORS

During the 113th Congress, it is also likely that the federal bank regulatory agencies will propose improvements to CRA exams such as enhancing the consideration of rural areas and small metropolitan areas on exams and making exam tables more informative and easier to read. NCRC will keep community organizations informed of any developments and will prepare sample comments if the agencies request any comments on proposed changes to examination procedures or guidance.

FOR MORE INFORMATION

National Community Reinvestment Coalition • 202-628-8866 • www.ncrc.org

For CRA exam results: www.ffiec.gov

Disaster Housing Programs

By Sham Manglik, Policy Analyst, National Low Income Housing Coalition

More than seven years after the 2005 Gulf Coast hurricanes, Katrina and Rita, there remains an overall lack of rental housing affordable for Gulf region households with extremely low incomes. In addition to addressing remaining housing needs in the aftermath of the hurricanes, there is also the unfinished business of redesigning how federal, state and local governments plan for and respond to housing issues in future disasters. The inadequacy of the current system was made apparent in the aftermath of Super Storm Sandy, which hit the Northeast in the fall of 2012.

FEDERAL PROGRAMS

U.S. Department of Homeland Security

In 2003, FEMA, a federal agency since 1979, became part of the U.S. Department of Homeland Security (DHS). FEMA's mission under DHS is to lead the effort to prepare the nation for all potential disasters and to manage the federal response and recovery efforts following any national disaster, whether natural or manmade. Agencies and programs under its purview include the National Flood Insurance Program and the U.S. Fire Administration.

FEMA provides immediate, direct financial and physical assistance to those affected by disasters and has the responsibility for coordinating government-wide relief efforts, all based on the Stafford Disaster Relief and Emergency Assistance Act (Stafford Act, Public Law 100-707). The act was designed to bring a systemic means of federal natural disaster assistance to state and local governments.

Individuals and Households Program (IHP). The Stafford Act authorizes FEMA to provide four types of housing assistance under IHP:

1. Temporary housing assistance, which is split into two subsections:
 - a. Financial assistance, which provides lodging expenses reimbursement for hotel or motel stays or rental assistance for a temporary rental unit.
 - b. Direct assistance, which provides temporary housing units, such as trailers or mobile homes, when financial assistance cannot be used due to a lack of sufficient available housing resources. Such assistance can last up to 18 months after a major disaster, but can be extended in extraordinary circumstances.
2. Home repair cash grants, available to homeowners for damage not covered by insurance and targeted to repair the home to a living condition, though not necessarily the pre-disaster condition.
3. Home replacement cash grants, available to homeowners for damage not covered by insurance.
4. Permanent or semi-permanent housing construction grants, reserved for areas identified by FEMA as insular or remote areas, where the other types of housing assistance are unavailable, infeasible, or not cost-effective.

The total cash grant FEMA can provide per individual or household through IHP is statutorily capped at \$28,800 in 2008 dollars and adjusted each year for inflation. Under this program, FEMA can also offer "other needs assistance" to cover medical, dental and funeral expenses; transportation costs; and repair or replacement of personal property, such as household items and clothing.

Public Assistance for Permanent Work Program. FEMA offers grants to state and local governments for restoring damaged facilities, which could include repair funds for public housing agencies (PHAs).

Disaster Housing Programs

Hazard mitigation programs. In order to reduce the risk of damage and reliance on federal recovery funds in future disasters, FEMA administers two programs of primary importance to housing: the Hazard Mitigation Grant Program (HMGP) and the Pre-Disaster Mitigation (PDM) program. HMGP provides state and local governments, along with certain eligible nonprofit organizations, the opportunity for long-term mitigation funds following a federally declared disaster. Uses of HMGP include property acquisition and demolition or relocation, structure elevation, and structural retrofitting.

Unlike HMGP, PDM is available to state and local governments independent of the occurrence of a disaster. The program supports sustained pre-disaster mitigation work in communities and can generally be used in the same manner as HMGP funds.

Along with other government agencies, FEMA may provide disaster victims with low interest loans, veterans' benefits, tax refunds, excise tax relief, unemployment benefits, crisis counseling and free legal assistance.

HUD

Under current federal disaster response plans, HUD joins forces with other federal and state agencies to aid in the implementation of disaster recovery assistance. HUD provides housing and community development resources through Federal Housing Administration (FHA) loans and forbearance policies; Public and Indian Housing (PIH) resources, including assistance to PHAs; and the Community Planning and Development (CPD) Community Development Block Grant (CDBG) and HOME funds.

Disaster CDBG. In recent major disasters, including Super Storm Sandy, Congress specially appropriated CDBG funds, which became the primary source of housing recovery used by affected states. Only 50% of these recent disaster CDBG (d-CDBG) funds were required to benefit persons with low or moderate income (below 80% of area median income), lower than the requirement for the regular CDBG program; HUD maintained the authority to waive this low or moderate income benefit.

Capital Fund Emergency/Natural Disaster Funding Program. HUD maintains a Capital Fund Emergency/Natural Disaster Funding Program within the Public Housing Capital Fund that can, among other uses, provide PHAs with assistance to rebuild public housing damaged in a disaster.

U.S. Small Business Administration

The U.S. Small Business Administration (SBA) can provide physical disaster loans to cover uninsured or uncompensated losses of a home or personal property. A homeowner can apply for a loan to repair or rebuild his primary residence to its pre-disaster condition based on the verified losses. The loan amount can increase by as much as 20% to help the homeowner rebuild in a manner that protects against damage from future disasters of the same kind, up to a maximum of \$200,000. Similar loans are available to business owners, including rental property owners and nonprofit organizations, for real estate and personal property loss up to a maximum of \$2 million. Both homeowners and renters can apply for loans, up to \$40,000, to replace personal property (anything not considered real estate or part of the structure of the home) lost in a disaster. The interest rate on SBA physical disaster loans will depend upon the applicant's ability to secure credit from another source. The SBA is not able to provide grants or forgivable loans.

U.S. Department of Agriculture

The U.S. Department of Agriculture (USDA) provides loans, grants and loan servicing options to its loan borrowers and their tenants or grant recipients.

Disaster Housing Programs

U.S. Department of the Treasury

Though without a permanent disaster recovery program, the U.S. Department of the Treasury (Treasury) has provided special low income housing tax credits and other tax incentives after recent major disasters. In the case of hurricanes Katrina and Rita, Treasury established Gulf Opportunity (GO) Zone tax credits, GO Zone tax-exempt bonds, and additional New Markets Tax Credits to help rebuild housing. Legislators in the House and Senate are working to enact similar tax benefits for areas impacted by Super Storm Sandy.

FORECAST FOR 2013

On September 23, 2011, FEMA released its final National Disaster Recovery Framework (NDRF), which outlines the process by which the federal government supports disaster recovery efforts. A companion to the National Response Framework, which focuses on immediate response, the NDRF provides guidance on roles and responsibilities of all stakeholders, from every level of government to affected individuals themselves. It calls for clearer, more comprehensive communication between stakeholders and local government leadership in all recovery, with the federal government providing support. The NDRF creates the concept of a Federal Recovery Coordinator for large disasters, and Recovery Support Functions, each carried out by a variety of federal agencies. HUD would fill the coordinating role for federal support of housing recovery.

Emergency Appropriations. The Administration requested \$60.4 billion in emergency appropriations for Super Storm Sandy related needs in late 2012. This request includes \$17 billion in d-CDBG dollars. While the Senate quickly approved the package, the House of Representatives failed to approve the measure before the end of the 112th Congress. The 113th Congress has approved, and the President has signed into law (Public Law 113-2), which comes close to allowing all of the emergency funding requested by the President, without offsetting the spending elsewhere.

Included in the emergency supplemental is \$16 billion in d-CDBG funding. This amount comes close to the \$17 billion requested by the Administration in its emergency aid request.

National Disaster Housing Strategy & National Disaster Housing Task Force. FEMA released its National Disaster Housing Strategy (NDHS) in the waning hours of the Bush Administration in January 2009, more than 18 months after it had been required to do so by Congress. The agency released an earlier version of the NDHS on July 21, 2008.

The final NDHS offers more detailed information on the role different federal agencies should play in responding to a disaster than did the earlier version and recommends that HUD operate any disaster rental assistance programs; but it still defers the bulk of responsibility for operational plans and implementation to the National Disaster Housing Joint Task Force at FEMA.

The Task Force's work includes developing an implementation plan to address sheltering, interim housing, and permanent housing; developing a disaster housing concept of operations (CONOPS), which would create a definitive description of how the emergency management community provides disaster housing; and creating a practitioner's guide to disaster housing that will provide guidance for state, tribal, territory and local disaster housing assistance practitioners to develop disaster housing strategies that consider the unique needs of all people displaced by disasters, as a companion to the CONOPS. Of these, the implementation plan and the CONOPS have been released. In January 2011, NLIHC and the Katrina Housing Group (KHG), which NLIHC convenes, submitted comments on the proposed CONOPS and look forward to commenting on the practitioner's guide when that document is released for comment.

Stafford Act Reforms. Senator Mary Landrieu (D-LA) introduced legislation (S. 1630 in the 112th Congress) in September 2011 to strengthen and make reforms to the Robert T. Stafford Disaster Relief

Disaster Housing Programs

and Emergency Assistance Act based on lessons learned from Hurricanes Katrina and Rita. Senator Thad Cochran (R-MS) was an original co-sponsor of the legislation. NLIHC and many members of the KHG have endorsed the legislation. Unfortunately, the Congress did not act on the legislation before the end of the 112th Congress, and as such, the measure now must be reintroduced. Advocates urge a quick reintroduction and enactment of the bill in the new 113th Congress.

As drafted in the 112th Congress, the bill includes many of the recommendations made by the KHG and would take important steps to better meet the needs of low income people after a disaster. First, the Disaster Recovery Act clearly defines when a disaster is considered to be catastrophic and sets up mechanisms to ensure an appropriate federal role.

Second, the bill would make substantial improvements to the existing case management system for disaster victims. One of the most serious flaws in the response to Hurricane Katrina was the chaotic manner in which victims received information about the services and programs to which they were entitled. The KHG identified the disjointed and ineffective case management system as one impediment to survivors moving to permanent housing in the Gulf Coast. As drafted in the 112th Congress, the Disaster Recovery Act would require that FEMA, HHS, and HUD develop a single, comprehensive case management system, and within one year develop regulations to ensure that every survivor has a single point of contact for case management services.

The bill would also make critical changes to the housing response and recovery activities authorized under the Stafford Act. The KHG argues that any disaster response and recovery effort must minimize the time that households are in temporary housing and must ensure a seamless transition for these households to new permanent housing. S. 1630 includes several provisions that work to meet these goals. The bill would require all federal agencies that provide housing assistance to define the roles and responsibilities of each agency in the provision of disaster housing assistance. The bill would make simplifications to current law to ensure that damaged rental properties could be quickly repaired and reoccupied instead of allowing money to be spent unnecessarily on temporary housing units. Further, the bill would allow for assistance to be provided to more than one household associated with the same pre-disaster address, if the household had to separate for reasons related to the disaster.

WHAT TO SAY TO LEGISLATORS

Advocates should speak to their Members of Congress to deliver the following messages:

- Support enactment of the provisions included in the Disaster Recovery Act (S. 1630 in the 112th Congress) to reform the Stafford Act to reflect lessons learned from Hurricanes Katrina and Rita. The legislation addresses many of the inadequacies in current law and would greatly improve housing outcomes for future low income disaster victims.
- Support emergency appropriations, if requested, to address ongoing needs for victims of Super Storm Sandy and any future disasters.
 - Oppose the requirement of offsets to emergency appropriations to address low income housing needs for victims of current and future disasters.
 - Support legislation that provides tax incentives to communities impacted by Super Storm Sandy.

FOR MORE INFORMATION

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

Long-Term Disaster Recovery Working Group, Disaster Recovery Resources • www.disasterrecoveryworkinggroup.gov/disasterresources.cfm

National Disaster Housing Strategy Resource Center • www.fema.gov/emergency/disasterhousing

Fair Housing Programs

By Jorge Andres Soto, Public Policy Associate, National Fair Housing Alliance

The federal Fair Housing Act protects individuals and families from discrimination on the basis of race, national origin, color, religion, sex, familial status, and disability in all housing transactions, public and private. HUD has also provided guidance that interprets the Fair Housing Act's prohibition on sex discrimination to prohibit discrimination based on sexual orientation or gender identity in HUD-assisted housing and housing insured by the Federal Housing Administration in some instances. This may include instances in which discrimination is based on a person's non-conformity with gender stereotypes. There are two HUD-funded programs specifically dedicated to the enforcement of the Fair Housing Act: the Fair Housing Initiatives Program (FHIP) and the Fair Housing Assistance Program (FHAP).

ADMINISTRATION

HUD's Office of Fair Housing and Equal Opportunity (FHEO) is responsible for administering FHIP, FHAP, and HUD's investigation of fair housing and fair lending complaints. The Civil Rights Division of the U.S. Department of Justice may also investigate complaints and is responsible for litigating on behalf of the federal government in cases of fair housing and fair lending violations.

HISTORY AND PURPOSE

Residential segregation contributes to economic disadvantage by reducing home appreciation; limiting access to opportunities such as public benefits, social services, and employment opportunities; and perpetuating racially separate and unequal schools. Federal fair housing programs are intended to promote integration and eliminate discrimination.

The federal Fair Housing Act was passed in 1968 and amended in 1974 and 1988. FHIP and FHAP were created as a means of carrying out the objectives of the act.

PROGRAMS SUMMARY

There are two federal programs dedicated solely to fair housing. FHIP funds private fair housing organizations, and FHAP funds the fair housing enforcement programs of state and local government agencies.

Fair Housing Initiatives Program (FHIP). FHIP funds private fair housing organizations to provide education and outreach to the community and the housing industry and to enforce the Fair Housing Act by investigating allegations of rental, sales, homeowner insurance, and lending discrimination. FHIP is a competitive grant program administered by HUD. Components of the program include the Private Enforcement Initiative (PEI) that enables qualified private fair housing organizations to conduct testing and other enforcement activities; the Education and Outreach Initiative (EOI) that funds organizations to educate the general public about fair housing rights, responsibilities and compliance with the law; and the Fair Housing Organizations Initiative (FHOI) that builds the capacity and effectiveness of fair housing organizations and funds the creation of new organizations.

Fair Housing Assistance Program (FHAP). State and local government agencies certified by HUD to enforce state or local fair housing laws that are substantially equivalent to the Fair Housing Act receive FHAP funds. HUD funds FHAP agencies by reimbursing them based upon the number of cases they successfully process. In addition, FHAP funds help cover administrative expenses and training. New FHAP organizations receive three years of capacity building funding before moving to the reimbursement phase.

Fair Housing Programs

Analysis of Impediments to Fair Housing Choice and Affirmatively Furthering Fair Housing. FHIP and FHAP are not the federal government's only tools for ensuring that communities are integrated and remain free from discrimination. All federal housing and community development programs, including, the Community Development Block Grant (CDBG) program and the HOME Investment Partnerships Program, contain provisions requiring recipients to certify that they "affirmatively further fair housing" and conduct Analyses of Impediments to Fair Housing Choice.

Over the last four years, HUD has worked to provide more clear guidance for what it means to affirmatively further fair housing. Advocates should be on the lookout for forthcoming regulations in 2013, as they will surely have an impact on the work of fair housing organizations, other housing organizations, and local jurisdictions. HUD originally promised that a draft of these regulations would be issued in fall 2009, so advocates are urging the Administration to issue them as soon as possible. As HUD develops its regulations, it has taken other steps to make affirmatively furthering fair housing a priority within the Department, including incorporating affirmatively furthering fair housing principles into its general Notice of Funding Availability (NOFA), which applies to all competitively funded HUD programs.

FUNDING

FHIP received funding of \$42.5 million in FY12 and is currently operating under a continuing resolution for FY13 set to expire March 2013. An increase in appropriations would allow FHIP to address additional complaints, encourage those encountering housing discrimination to come forward to file their complaints with greater hope of resolution, and provide fair housing groups with the capacity to address larger systemic issues, such as discriminatory sales practices and insurance policies, and thereby have a much broader impact on segregation in our country. It would also bring fair housing organizations to communities and states where there are currently no such groups.

FHAP received \$29.4 million in FY12.

FORECAST FOR 2013

This year marks the 45th anniversary of the passage of the federal Fair Housing Act, yet housing discrimination and residential segregation continue to inhibit families' access to housing and its attendant opportunities. The nation continues to reel from the foreclosure crisis and entire communities of color continue to be discriminated against with wrongful foreclosures and poor marketing and maintenance of bank-owned properties. Access to fair, good, and affordable credit is again a concern for these communities.

Lenders aggressively targeted African-Americans and Latinos for high-cost loans. The foreclosure crisis, born in part out of discrimination, will continue to have fair housing consequences in the home lending industry, mortgage servicing industry, and the rental market to which many people who once owned homes must return. The Independent Foreclosure Review and Attorneys' General Action have failed to produce meaningful remedies for mortgage borrowers wrongfully foreclosed upon, and there is reason to believe communities most devastated by the foreclosure crisis have not been effectively reached out to for their share of the settlement funds.

For the last three years, the National Fair Housing Alliance (NFHA) has documented differential treatment in the ways in which financial institutions maintain and market Real Estate Owned (REO) properties in predominantly African-American and Latino communities compared to properties in identifiably White communities. Banks have the responsibility to equitably maintain and renovate foreclosed homes, price foreclosed homes for sale, select real estate brokers to sell foreclosed homes, and advertise and market foreclosed homes.

Fair Housing Programs

As of now, hundreds of thousands of REO properties are available throughout the country and banks are now abandoning public auction of REO properties in favor of packaging swaths of properties to be sold to investors at well below market rate. What banks and government-sponsored enterprises (GSEs) do with their stock of REO properties directly affects access to housing in the United States. As GSEs and banks dispose of their REO properties, there is great opportunity for affirmative marketing and policies that will contribute to the development of integrated and diverse communities. However, recent GSE and bank practices may be inadvertently diminishing wealth-building opportunities for entire generations of communities of color.

In 2011, 27,092 people filed fair housing complaints. In spite of recent increases, violations continue to be underreported. HUD estimates that only 1% of fair housing violations committed are ever reported, but even this number is conservative. Every year, over four million fair housing violations are committed against members of protected classes under the Fair Housing Act. In 2011, most complaints investigated by fair housing organizations were based on disability (44.3%), race (19.2%), and family status (12.5%). The vast majority of fair housing complaints are settled through administrative or conciliation processes.

Private fair housing organizations remain a critical part of the United States' civil rights enforcement infrastructure. In 2011, private nonprofit fair housing organizations investigated 17,610, or 65%, of the fair housing complaints in the United States, close to twice as many complaints as all federal, state, and local government agencies combined. Public FHAP agencies processed 7,551, or 28%, of complaints, and HUD processed 1,799, or 6.6%, of all complaints.

The DOJ has substantially increased its fair lending work since Assistant Attorney General Tom Perez announced the creation of a dedicated fair lending unit to investigate and prosecute lending discrimination in January 2010. In 2011, DOJ opened seven fair lending investigations. In July 2012, DOJ reached a \$175 million settlement with Wells Fargo in a case in which DOJ alleged that from 2004 to 2008 Wells Fargo's business practices allowed brokers and officers to steer approximately 4,000 African-American and Latino borrowers to subprime loans even if they qualified for prime loans. Between 2004 and 2009, Wells Fargo also allegedly charged approximately 30,000 African-American and Latino borrowers higher fees and rates than non-Hispanic white borrowers due to their race and national origin, rather than their actual credit worthiness and objective borrower characteristics.

On December 1, 2011, the Consumer Financial Protection Bureau (CFPB) unveiled its mortgage complaint intake process. Individuals and advocates can now submit complaints regarding a mortgage product and can indicate whether they believe their issue involves discrimination. The CFPB has yet to make data on the level of lending discrimination found in its first year of accepting mortgage complaints, but advocates continue to encourage the bureau to make these data public.

In recent years, one-quarter of all fair housing organizations nationwide have closed their doors or severely reduced the size and scope of available services due to lack of funding. Some shuttered groups served densely populated and large metropolitan areas; other groups served entire states, and their closing continues to have a drastic effect on a substantial geographic area. There currently exists a much greater need for FHIP funding than is currently authorized.

Housing Fairness Act. Representative Al Green (D-TX) re-introduced the Veterans, Women, Families with Children, Race, and Persons with Disabilities Housing Fairness Act of 2013 (H.R. 285) in the 113th Congress. The bill would reauthorize FHIP funding at a level of \$42.5 million, authorize an additional \$15 million for national fair housing enforcement funds meant to address systemic discrimination, and authorize \$5 million in private-public research grants for the study of the causes and community

Fair Housing Programs

effects of discrimination in the housing market. In the 111th Congress, the Veterans, Women, Families with Children, and Persons with Disabilities Housing Fairness Act (H.R. 476) passed out of the House Financial Services Committee on a voice vote.

Housing Opportunities Made Equal (HOME) Act. During the First Session of the 112th Congress, Representative Jerrold Nadler (D-NY) and Senator John Kerry (D-MA) introduced the HOME Act (H.R. 3030, S. 1605). The bill would include sexual orientation, gender identity, source of income, and marital status as protected groups under the Fair Housing Act and Equal Credit Opportunity Act (ECOA). It would also expand the definition of familial status to be more inclusive, as well as make other critical changes to both the Fair Housing Act and ECOA. A similar bill, H.R. 6500, was introduced in the House of Representatives in the 111th Congress by Rep. Nadler. Both bills should be reintroduced in the 113th Congress.

TIPS FOR LOCAL SUCCESS

Individuals and advocates who suspect or observe a fair housing violation, including a failure to affirmatively further fair housing and a bank's failure to maintain and market an REO property, should contact a local fair housing organization or the National Fair Housing Alliance at (800) 910-7315, or see a list of fair housing organizations at www.nationalfairhousing.org.

Fair housing complaints can be filed with local fair housing organizations, state or local government agencies, or HUD. HUD recently updated fair housing complaint handling policies to provide greater protections to the LGBT community. Under HUD's new guidance, many complaints of discrimination based on gender identity and sexual orientation can be handled as fair housing complaints of discrimination based on gender.

In addition, as mentioned above, all jurisdictions receiving funds through the CDBG and HOME programs, among other federal programs, including cities, counties, and states, are required to affirmatively further fair housing, and advocates should actively monitor their participation and make sure that they are taking the necessary fair housing planning steps and action steps. As demonstrated in a September 2010 Government Accountability Office report, "Housing and Community Grants: HUD Needs to Enhance Its Requirements and Oversight of Jurisdictions' Fair Housing Plans," many municipalities have disregarded their obligations. Vigilant civil rights and housing advocates must be willing to challenge this lack of compliance.

Advocates working with distressed homeowners who believe they may have been victims of lending discrimination should encourage borrowers to submit mortgage complaints to the CFPB. Individuals and advocates may submit mortgage complaints by visiting www.consumerfinance.gov or by calling (855) 411-CFPB (2372). Non-English speakers can receive information and submit mortgage complaints in any one of 200 languages by calling the CFPB. To be sure that a complaint with possible fair lending violations is treated as such, individuals must indicate that they believe their mortgage issue may include discrimination.

WHAT TO SAY TO LEGISLATORS

Advocates should speak to legislators with the message that private fair housing organizations investigate two-thirds of all fair housing complaints each year—twice as many as all government agencies combined. This important service is historically underfunded, and as a result, fair housing and fair lending violations remain under-reported and unaddressed. To help put an end to pervasive housing discrimination, funding for FHIP should be at least \$57 million, including \$5 million for a systemic testing program, and funding for FHAP should be \$40 million for FY14.

Fair Housing Programs

Advocates should ask legislators interested in increasing housing opportunity for their constituents to support the Veterans, Women, Families with Children, Race, and Persons with Disabilities Housing Fairness Act, and should urge legislators interested in ensuring and expanding equal access to housing and housing protections for vulnerable groups, and expanding the fair housing enforcement powers of the DOJ, to support the Housing Opportunities Made Equal Act of 2011 in either chamber of Congress.

FOR MORE INFORMATION

National Fair Housing Alliance • 202-898-1661 • 800-910-7315 • www.nationalfairhousing.org

Family Self-Sufficiency

By Judith Chavis, Executive Vice President/Public Policy, American Association of Service Coordinators

Family Self-Sufficiency (FSS) is a HUD program that helps low income families in public housing and also in the Housing Choice Voucher program to build assets and make progress toward self-sufficiency and economic independence.

The program is housed in HUD's Office of Public and Indian Housing.

History

FSS was enacted in 1990 as part of the Cranston-Gonzalez National Affordable Housing Act of 1990.

Program Summary

Family Self-Sufficiency helps housing choice voucher holders and public housing residents to build assets, increase their earnings, and achieve other individual goals including homeownership, if desired.

FSS supplements stable, affordable housing in two ways: (1) with case management to help families overcome barriers to work and develop individualized skills training and services plans, and (2) with escrow accounts that grow as families' earnings rise. The program is voluntary and allows participants up to five years to achieve their goals and "graduate" from the program.

The FSS program is administered through public housing agencies (PHAs) that elect to participate in FSS by filing an FSS Action Plan with HUD. Housing agencies may also choose to apply for funding for FSS coordinator costs as part of an annual competitive grant process. Some agencies are required to continue to participate in FSS until they graduate a sufficient number of families to satisfy mandates associated with receipt of incremental housing assistance in the mid-1990s. For all other agencies and for mandated agencies once they satisfy their mandate, participation is voluntary.

Services and case management. Each family in FSS works with a case manager who assists the family in developing an individual training and services plan and helps the family access work-promoting services in the community, such as résumé building, job search, job counseling and education and training. The nature of the services varies based on families' needs and local program offerings.

Escrow account. The escrow accounts serve as both a work incentive and an asset-building tool. Like most families in public or assisted housing, participants in the FSS program must pay higher rental payments if their incomes increase. FSS participants, however, have an opportunity to obtain a refund of some or all of these increased rent payments. As the rent of an FSS participant increases due to increased earnings, an amount generally equal to the rent increase is deposited into an escrow account. Upon graduation, the participant receives all of the escrowed funds to meet a need he or she has identified. If the housing agency agrees, the participant may also make an interim withdrawal when needed to meet expenses related to work or other goals specified in the participant's FSS plan. A participant who fails to successfully complete the FSS program loses the funds in his or her escrow account.

FSS has four separate funding streams, two for its voucher programs and two for its public housing programs. In the voucher program, FSS escrow deposits are eligible expenses for reimbursement under the housing assistance payments that HUD makes to housing authorities, while limited funding for FSS coordinators is provided through an annual competitive grant Notice of Funding Availability (NOFA).

Family Self-Sufficiency

In the public housing program, PHAs are compensated for FSS escrow deposits through the public housing operating subsidy calculation, and limited funding for FSS coordinators working with public housing residents is provided through an annual competitive grant NOFA of funds carved out of the Resident Opportunities for Self-Sufficiency (ROSS) Service Coordinator program.

Funding

For FY12, Congress maintained the \$60 million appropriation for FSS coordinators working with families with housing choice vouchers. Generally, \$12 million to \$15 million is available for FSS coordinators working with public housing residents as a carve-out of ROSS Service Coordinator funds. For at least the past five federal appropriations cycles, past and current Administrations have not requested any funding for ROSS. However, advocacy efforts were successful in restoring ROSS funds in the FY12 appropriations cycle.

Forecast for 2013

Funding and application process. The key federal advocacy issue related to FSS is funding stability, principally for FSS coordinators. Congress should renew and expand funding for FSS coordinators. The American Association of Service Coordinators (AASC) continues to advocate for an increase in funding for housing choice voucher FSS coordinators to \$65 million. In addition, AASC is advocating that FSS grant funds be allowed to cover the costs of training, computer equipment, and case management software for FSS case managers. AASC is also continuing its advocacy efforts to stabilize funding for the ROSS program at a level of \$60 million so that funding for public housing FSS coordinators is maintained with expanded use of funds for training, computer equipment and case management software.

It should be noted that shortfalls in Section 8 and public housing funding hurt FSS by making it more difficult for housing agencies to rely on HUD funding to cover the costs of escrow deposits for FSS participants.

In addition to ensuring adequate funding for FSS coordinators, it is essential that HUD make the process of applying for funding as simple and consistent as possible. In some past competitions, HUD changed the criteria for applying for voucher FSS coordinator funding, leading to the loss of funding for more than 200 FSS programs.

In the past two years, a number of legislative proposals have sought to streamline the FSS program and stabilize its funding including the Family Self-Sufficiency Act of 2011 sponsored by Rep. Judy Biggert (R-IL), the Family Self Sufficiency Act sponsored by Sen. Jack Reed (D-RI) and the informal discussion draft of the Affordable Housing and Self-Sufficiency Improvement Act of 2012 (AHSSIA). In addition to simplifying the funding, these proposals would have also opened up funding to additional agencies that wanted to start or expand their FSS programs. Unfortunately, all of these legislative initiatives failed to progress through the federal legislative process and will have to be re-introduced in the 113th Congress.

There are a number of steps Congress and HUD could take to improve funding stability for FSS coordinators, and thus continuity of services for FSS participants. However, due to the current continuing resolution (CR), FY13 funding for the FSS Coordinator competitive grant program has not been determined and no Notice of Funding Availability (NOFA) has been developed or released. For FY14 and beyond, Congress should allocate funding for voucher FSS coordinators as an administrative fee add-on, as it did for FY09, rather than as a competitive program and allow the funding to also cover FSS coordinator training and needed equipment.

Family Self-Sufficiency

Finally, advocates should be on the lookout for new proposed legislation that could further strengthen FSS by consolidating public housing and voucher FSS programs and expanding eligibility for FSS to project-based Section 8 properties. This provision was included in the discussion draft of AHSSIA and could be introduced in the current Congress.

Tips for Local Success

At the local level, the key issue is whether housing agencies are making effective use of the FSS program to help families build assets and make progress toward self-sufficiency. There is no limit to the number of families that may be enrolled in FSS, so one key goal for local advocacy is expansion of current programs to serve additional families. For housing agencies without an FSS program or with a program for voucher holders but not for public housing residents, advocates may wish to focus on starting a new FSS program.

At the same time, there is a limit to the number of families that can be effectively served with a given number of coordinators. There is no formal caseload standard, but HUD generally uses 50 families per coordinator as a rule of thumb. Caseloads vary dramatically from agency to agency, and in some cases, it may be more important to add coordinator staff to reduce caseloads to manageable levels at the outset and then work to expand the number of enrolled families. Advocates should work collaboratively with local housing agencies to find local in-kind or cash resources to expand the number of FSS program coordinators or case managers to serve additional families.

What to Say to Legislators

Advocates should speak to the person in the office of their Member of Congress who deals with housing policy with the message that:

- HUD's FSS program is critical for helping families in subsidized housing build assets and make progress toward self-sufficiency and economic independence.
- To better support FSS in the near term, Congress should increase funding for voucher FSS program coordinators to \$65 million for FY14 so as to include training for FSS coordinators as well as needed computer equipment, as allowable expenses.
- Congress should increase funding for the ROSS Service Coordinator program to the \$60 million level as a stand-alone appropriation line item since funding for public housing FSS coordinators is carved out of these funds.
- To improve continuity of services for participants, Congress should also allocate the FY14 funding for voucher FSS coordinators as an administrative fee add-on, rather than as a competitive program.
- Congress should introduce and pass legislation that strengthens and expands the FSS program, consolidates the voucher and public housing FSS programs, and stabilizes funding for FSS coordinators, their training and necessary equipment to effectively perform their case management duties.

For More Information

American Association of Service Coordinators • 614-848-5958 • www.servicecoordinator.org

Family Unification Program

By Ruth White, Executive Director, National Center for Housing and Child Welfare

HUD's Family Unification Program (FUP) is a federal housing program aimed at preventing family separation due to homelessness and easing the transition to adulthood for youth aging out of foster care. HUD provides FUP Section 8 vouchers to partnerships established between local public housing agencies and child welfare agencies. These vouchers can be used to prevent children from entering foster care, reunite foster children with their parents, and prevent homelessness among youth aging out of foster care. While recently funded after nearly nine years of inactivity, the program still reaches only a fraction of families and children in need.

FUP is administered by HUD's Office of Public and Indian Housing and funded out of the Tenant Protection Fund.

HISTORY AND PURPOSE

The Family Unification Program (FUP) was signed into law in 1990 by President George H. W. Bush. The program was created as a part of the Tenant Protection Fund within the Cranston-Gonzalez Affordable Housing Act of 1990.

FUP is designed to address the housing-related needs of children in the foster care system. Of the 423,000 children who live apart from their families in America's foster care system, nearly 150,000 are separated from their families because their parents lack access to safe, decent affordable housing. Equally troubling are the housing challenges faced by the 29,500 youth who age out of foster care each year without the support of a permanent family. Nearly a quarter of these young people experience homelessness within a year of leaving care. Despite these staggering figures, child welfare workers seldom have access to the housing resources or supportive services necessary to prevent and end homelessness among vulnerable families and youth.

PROGRAM SUMMARY

FUP is administered at the local level through a partnership between public housing agencies (PHAs) and public child welfare agencies. PHAs interested in administering FUP vouchers must complete and sign a memorandum of understanding (MOU) with their partner agency in order to apply to HUD in response to a Notice of Funding Availability (NOFA). FUP vouchers are awarded through a competitive process. Depending on the size of the PHA, communities can receive a maximum of 100, 50, or 25 vouchers. Communities are encouraged to apply only for the number of vouchers that can be leased up quickly, meaning that both families and youth have been identified and landlords have been recruited for the program.

PHAs receiving an allocation of FUP vouchers then administer these vouchers to families and youth who have been certified as eligible for FUP by the local public child welfare agency. The FUP vouchers work in the same way a typical housing choice voucher does. The child welfare agency is required to help FUP clients to gather the necessary Section 8 paperwork, find suitable housing, and provide aftercare services maintain their housing. If a child welfare agency elects to refer a young person aging out of foster care with a FUP voucher, the child welfare agency must offer educational and training vouchers, independent living programs, counseling, and employment assistance.

Eligible families include those who are in imminent danger of losing their children to foster care primarily due to housing problems and those who are unable to regain custody of their children primarily due to housing problems. Eligible youth include those who were in foster care any time after

Family Unification Program

the age of 16 and are currently between the ages of 18 and 21 (have not reached their 22nd birthday) and are homeless or at risk of homelessness.

FUNDING

Each year between 1992 and 2001, HUD awarded an average of 3,560 FUP vouchers to public housing agencies. Unfortunately, from FY02 through FY07, HUD used its rescission authority to avoid funding FUP, even though the Tenant Protection Fund out of which FUP is funded had carryover funds ranging from \$18 million to \$170 million. Thanks to the efforts of the Senate Appropriations Subcommittee on Transportation, Housing and Urban Development, \$55 million in new funding was awarded for new FUP vouchers in FY08 and FY11. No new FUP funding was provided in FY12.

FORECAST FOR 2013

In the absence of an adequate supply of affordable housing to intervene in and end youth and family homelessness, child welfare agencies are placed in the unenviable position of separating families in order to protect the children from the lingering effects of homelessness. This is a costly solution to homelessness, both in terms of the emotional impact upon each child and the cost to the taxpayer.

Given the government's growing interest in controlling spending, it is important to point out that placing children in the foster care system in lieu of a prudent investment in affordable housing is a poor use of federal money. Nationally, the average family involved in the child welfare system has 2.7 children. On average, it costs \$46,075 per family per year when children enter foster care. By contrast, it costs approximately \$15,382 to house one family and provide supportive services for one year. An investment of \$15 million in FUP can save as much as \$92 million in foster care expenditures. Additionally, providing affordable housing and self-sufficiency services to young people averages just \$5,600 annually, less than a tenth of the cost of undesirable outcomes such as homelessness, incarceration, and residential treatment.

TIPS FOR LOCAL SUCCESS

Over the years, it has become clear that the most successful FUP partnerships require cross-training, single points of contact (liaisons) within each partner agency, and ongoing communication. In fact, HUD's most recent FUP NOFA, FY10, includes a number of provisions intended to encourage sites to adopt these elements in their partnership and provide case management and other supportive services to FUP households. FUP sites must include robust and ongoing case management provided by the local child welfare agency or through a contract funded by the child welfare system. This NOFA also encourages child welfare partners to take part in landlord recruitment, housing training for frontline staff and encourages regular communication with the PHA point of contact. Finally, HUD encourages PHAs to enroll FUP households in the Family Self-Sufficiency program (FSS) because this adds an extra layer of supportive services to help ensure that FUP households will successfully maintain permanent housing.

The MOU required by HUD provides an excellent formula for all community partnerships designed to share resources and information in an effort to prevent and end family and youth homelessness. In communities across the country, PHAs use this model and demonstrate an extraordinary commitment to matching services to Section 8 vouchers in order to successfully serve hard-to-house families and youth leaving foster care.

Family Unification Program

WHAT TO SAY TO LEGISLATORS

Advocates interested in housing as a vital tool for promoting family unification, easing the transition to adulthood for foster youth, and achieving significant cost savings should contact members of the House and Senate Appropriations Subcommittees on Transportation, Housing and Urban Development and urge them to set aside a minimum of \$15 million in the FY14 budget for new FUP vouchers.

FOR MORE INFORMATION

National Center for Housing & Child Welfare • 301-699-0151 • www.nchcw.org

The Federal Home Loan Banks

By John von Seggern, President and CEO, Council of Federal Home Loan Banks

The Federal Home Loan Banks are 12 regional cooperative banks used by U.S. lending institutions to finance housing, community development, infrastructure, small business, and jobs in their communities. The Home Loan Banks are the largest single source of funds for community lending in the United States.

The Federal Home Loan Banks are regulated by the Federal Housing Finance Agency (FHFA), the successor to the Federal Housing Finance Board. The FHFA was created in the Housing and Economic Recovery Act of 2008 (HERA). The FHFA also regulates Fannie Mae and Freddie Mac.

HISTORY

The Federal Home Loan Banks System was created by Congress in 1932.

PROGRAM SUMMARY

The Federal Home Loan Banks, which are government sponsored enterprises (GSEs), are cooperatives that provide funding for housing through all market cycles. More than 8,100 lenders are members of the Federal Home Loan Bank System, representing approximately 80% of the insured lending institutions in the country. Community banks, thrifts, commercial banks, credit unions, community development financial institutions, insurance companies, and state housing finance agencies are all eligible for membership in the system. The 12 Home Loan Banks are located in Atlanta, Boston, Chicago, Cincinnati, Dallas, Des Moines, Indianapolis, New York, Pittsburgh, San Francisco, Seattle, and Topeka.

Each Federal Home Loan Bank has its own board of directors, comprised of members of that Home Loan Bank and independent (non-member) directors. The boards of directors represent many areas of expertise, including banking, accounting, housing, and community development.

The primary purpose of the Federal Home Loan Banks is to provide members with liquidity. In fact, the Federal Home Loan Bank System is the only source of credit market access for the majority of its members. Most community institutions do not have the ability to access the credit markets on their own.

Federal Home Loan Bank loans to members, called “advances,” are a nearly instantaneous way for members to secure liquidity. The Federal Home Loan Banks go to the debt markets several times a day to provide their members with funding. The size of the Federal Home Loan Bank System allows for these advances to be structured in any number of ways, allowing each member to find a funding strategy that is tailored to its needs.

In order to qualify for advances, a member must pledge high-quality collateral, in the form of mortgages, government securities, or loans on small business, agriculture, or community development. The member must also purchase additional stock in proportion to its borrowing. Once the member’s Home Loan Bank approves the loan request, it advances those funds to the member institution, which then lends the funds out in the community for housing and economic development.

Each of the 12 regional Federal Home Loan Banks is self-capitalizing. During times of high advance activity, capital automatically increases. As advances roll off the books of the Federal Home Loan Banks, capital is reduced accordingly.

During the recent financial crisis, the Federal Home Loan Banks continued to provide liquidity nationwide to members for housing and community credit needs through one of the most challenging

The Federal Home Loan Banks

periods of economic stress ever. As other sources of liquidity disappeared, and before the coordinated response of the federal government, the System increased its lending to members in every part of the country by 58% between the second quarter of 2007 and the third quarter of 2008. Advances exceeded \$1 trillion in the third quarter of 2008.

Member demand for advance borrowings continues to be lower as members' loans outstanding decreased while their deposit base continued to grow, both as a result of the economic contraction. As of the end of the third quarter of 2010, System advances outstanding totaled \$500 billion. This is a decline from \$631 billion in advances outstanding to start the year, and a decline from the high of \$1 trillion in advances for the third quarter of 2008. However, one of the benefits of the System's regional, self-capitalizing, cooperative business model is the ability to safely expand and contract to meet member lending needs throughout various business cycles.

Under the Community Investment Program, the Banks have lent nearly \$60 billion for a variety of projects since the program's inception two decades ago, creating nearly 700,000 housing units and more than 80,000 jobs.

Federal Home Loan Banks are jointly and severally liable for their combined obligations. That means that if any individual Federal Home Loan Banks would not be able to pay a creditor, the other 11 Federal Home Loan Banks would be required to step in and cover that debt. This provides another level of safety and leads to prudent borrowing throughout the System.

Affordable Housing Program (AHP). Federal Home Loan Banks contribute 10% of their net income to affordable housing through the AHP. This competitive grant program is the largest source of private sector grants for housing and community development in the country. Member banks partner with developers and community organizations seeking to build and renovate housing for low to moderate income households. To ensure that AHP-funded projects reflect local housing needs, each Home Loan Bank is advised by a 15 member Affordable Housing Advisory Council for guidance on regional housing and community development issues.

The Federal Home Loan Banks have distributed nearly \$4 billion in Affordable Housing Program funds since 1990. Close to 700,000 housing units have been built using AHP funds, including more than 400,000 units for very low income residents.

AHP is a flexible program that uses funds in combination with other programs and funding sources, such as Low Income Housing Tax Credits and Community Development Block Grants. These projects serve a wide range of needs.

Many are designed for seniors, persons with disabilities, homeless families and individuals, first-time homeowners, and others with limited resources.

Community Investment Program (CIP). Each Home Loan Bank also operates a CIP that offers below-market rate loans to members for long-term financing of housing and economic development that benefits low and moderate income families and neighborhoods.

FUNDING

No taxpayer funds are involved in the operation of the privately owned Federal Home Loan Banks. The Federal Home Loan Banks' Office of Finance, the clearinghouse for Home Loan Bank debt transactions, accesses the global capital markets daily. Federal Home Loan Bank debt is sold through a broad, international network of about 100 underwriters.

The Federal Home Loan Banks

FORECAST FOR 2013

In the wake of the nation's financial crisis, concerns over systemic risk are on the minds of advocates and of all Americans. In eight decades, the Federal Home Loan Banks have never incurred a credit loss on an advance. This record can be attributed to the collateralization of all advances, conservative underwriting standards, and strong credit monitoring policies.

In response to the crisis in the U.S. financial market, policymakers will consider proposals to restructure the regulatory system for U.S. financial institutions. Advocates should look at how any proposed restructuring would affect the Home Loan Banks.

In any discussion about the future of housing finance, advocates should remember that:

- The regional, self-capitalizing Federal Home Loan Bank cooperative model is designed to protect against pursuing risky behavior.
- Federal Home Loan Bank advances to members are fully secured and follow strict underwriting standards.
- The Federal Home Loan Bank mortgage programs require participating lenders to share in the credit risks of their mortgage loans, thereby keeping "skin in the game."
- The Federal Home Loan Banks have fulfilled their role in the housing finance system without any Congressional appropriations or direct federal assistance.

TIPS FOR LOCAL SUCCESS

The Affordable Housing Program is designed to help member financial institutions and their community partners develop affordable owner-occupied and rental housing for very low to moderate income families and individuals. Project sponsors partner with financial institutions to seek the competitive grants or low-cost loans. Applicants are encouraged to leverage their awards with other funding sources, including conventional loans, government subsidized financing, tax-credit equity, foundation grants, and bond financing.

Each Federal Home Loan Bank provides training and application assistance. See individual Home Loan Bank websites for details.

WHAT TO SAY TO LEGISLATORS

The Federal Home Loan Banks have a number of programs and products that can help drive economic recovery. Their community lending programs can be utilized to help drive job growth at the local level. The system's AHP grants have remained a reliable and stable source of much-needed affordable housing funding, even as other sources of affordable housing funding have dried up. As homeownership declines and foreclosures rise, more programs that support responsible homeownership are needed, which are supported by many initiatives nationwide funded by AHP through FHLBank members.

The role the Federal Home Loans Banks play in the financial system is vitally important. In any restructured housing finance system, the Federal Home Loan Banks must continue to function as steady and reliable sources of funds for housing and community development through local institutions.

FOR MORE INFORMATION

Council of Federal Home Loan Banks • www.cfhlb.org

Federal Housing Administration

By Sham Manglik, Policy Analyst, National Low Income Housing Coalition

The Federal Housing Administration (FHA) insures mortgages made by lenders across the United States, and in doing so helps provide single-family housing and multifamily housing for low and moderate income families.

The FHA was established in 1934 under the National Housing Act to expand homeownership, broaden the availability of mortgages, protect lending institutions, and stimulate home construction. In 1965, the FHA was consolidated into HUD's Office of Housing. FHA is now the largest part of HUD. The FHA Commissioner reports directly to the HUD Secretary.

PROGRAM SUMMARY

The FHA provides mortgage insurance to lenders on both single-family dwellings (one- to four-unit) and multifamily dwellings (five units or more). FHA programs do not lend money directly, but instead insure private loans made by FHA-approved lenders. When a loan defaults, lenders make a claim to FHA, triggering an FHA payment to the lender for the claim amount. FHA then takes possession of the property that secured the mortgage loan.

The FHA consists of several insurance funds supported by premium, fee, and interest income; Congressional appropriations if necessary; and other miscellaneous sources.

According to reports to Congress, the Federal Housing Administration has insured over 41 million home mortgages and 53,000 multifamily project mortgages since 1934.

Mutual Mortgage Insurance. FHA's primary single-family programs are within the Mutual Mortgage Insurance (MMI) fund, which is managed out of the Office of Single Family Housing. The fund receives upfront and annual premiums collected from borrowers, as well as net proceeds from the sale of foreclosed homes. Each year, the MMI pays out claims to lenders and is able to cover administrative costs without federal subsidies.

FHA insurance allows borrowers to purchase a home with a lower down payment than is often available in the nongovernmental market. Borrowers pay a fee for FHA insurance. For single-family loans, this fee consists of an upfront amount collected at the time the mortgage is closed, and an annual fee that varies with the loan-to-value ratio (LTV) and length of the mortgage. The annual fee is collected with the monthly mortgage payments. FHA borrowers are required to make a minimum down payment of 3.5%. FHA insures loans only in amounts under the set loan limits. Generally, the loan limits are set at 115% of area median home prices, with a floor of 65% of the Freddie Mac loan limit and a ceiling of 150% of the Freddie Mac limit. However, through December 2013 the limit is \$729,750 in high-cost areas. The mortgage amount also cannot exceed 100% of the property's appraised value.

The fiscal health of the MMI Fund was been a subject of significant concern in the 112th Congress, and will likely continue to be so in the 113th Congress. The MMI Fund capital reserve ratio is required to be at or above 2%. In FY12, however, the MMI Fund had a capital reserve ratio of -1.44%. FHA attributes this to loans insured prior to 2010. At the time of this writing FHA declined to state whether it will need to draw on Treasury funds to ensure an adequate capital balance in the MMI fund; this determination will be made through an MMI Fund portfolio valuation that will be included in the President's FY14 budget request. FHA expects \$11 billion in additional capital from new insurance volumes in FY13 that will greatly reduce the likelihood that FHA will need assistance from Treasury.

Federal Housing Administration

Special Risk Insurance and General Insurance Funds. In addition to the MMI fund, FHA also operates Special Risk Insurance and General Insurance Funds, which insure loans used for the development, construction, rehabilitation, purchase and refinancing of multifamily housing and health care facilities. Unlike the MMI Fund, this insurance requires subsidies from the federal budget.

Manufactured housing. FHA provides insurance for the purchase or refinancing of a manufactured home, a loan on a developed lot on which a manufactured home will be placed, or a manufactured home and lot in combination. The home must be used as the principal residence of the borrowers. The insured loan may not exceed \$69,678 for a manufactured home, \$23,226 for a manufactured home lot, or \$92,904 for a combined manufactured home and lot. These limits can be increased by 85% in high cost areas.

Ginnie Mae. The Government National Mortgage Association (Ginnie Mae), also part of HUD, is an important sister agency to FHA. Ginnie Mae guarantees the principal and interest on privately issued securities backed by FHA, the U.S. Department of Veterans Affairs (VA) and Rural Housing Service mortgages, thereby enabling a constant flow of capital for mortgage loans. In FY12, Ginnie Mae guaranteed \$388 billion in mortgage-backed securities (MBS), representing 1.7 million families.

FORECAST FOR 2013

The downturn in the housing market affected FHA by increasing its default rates and its insurance expenses. These increased losses reduced FHA reserves below statutory minimum requirements and forced FHA to tighten its underwriting requirements and take other steps to reduce losses. Advocates should expect additional Congressional oversight on the health of the MMI fund, and potential congressional action, such as a mortgage premium increase or an infusion of funding from the Department of the Treasury, if capital ratio projections change.

A Center for American Progress analysis shows that in addition, the FHA, along with Freddie Mac and Fannie Mae, provides the financing for about 95% of the mortgage loans in this country. This level of federal government support for the mortgage market is unsustainable and undesirable over the long run, and the 113th Congress will continue to look for ways to reduce the government's role and return the bulk of mortgage lending to the private sector.

Revenue generated by the FHA is used to underpin HUD's annual budget request. In FY13, HUD counted on more than \$9.4 billion in FHA receipts to undergird its budget, keeping HUD from making deep cuts in rental assistance programs. The amount of FHA revenue HUD will count on in FY14 may decrease. FHA's market share has been decreasing as the housing market starts to recover, resulting in a lower level of receipts that can be applied to the HUD budget. FHA's market share of mortgage loan originations was 17% in 2011, down from a high of 24% in the second quarter of 2010, though still much higher than the 2005 low of 3.1%. The Congressional Budget Office will ultimately determine if HUD's revenue projections for the FHA are accurate. Congress ultimately decides whether FHA revenue can be dedicated to HUD's bottom line or these revenues should flow into the general treasury of the United States.

FOR MORE INFORMATION

2012 FHA Management Report to Congress: <http://1.usa.gov/ZZP9oP> (PDF).

Ginnie Mae 2012 Annual Report to Congress: <http://1.usa.gov/WIcqdp> (PDF).

"The \$5 Trillion Question: What Should We Do with Fannie Mae and Freddie Mac?" from the Center for American Progress: <http://bit.ly/WIbPsw>.

Foreclosure Intervention: Protecting Homeowners

By Sham Manglik, Policy Analyst, National Low Income Housing Coalition

Foreclosures devastate families and neighborhoods and hamper economic recovery. In an effort to reduce the number of foreclosures, Congress, the Administration, and the lending community have created programs to help borrowers modify their mortgages. These efforts include new programs to help troubled borrowers and resources for housing counseling programs. Unfortunately, with the rise in unemployment, the number of foreclosures has continued to grow and foreclosure prevention programs have not been as successful as hoped.

ADMINISTRATION

Foreclosure prevention and counseling programs are administered by a variety of entities, including Freddie Mac, Fannie Mae, HUD and the Federal Housing Administration. In addition, banks and mortgage servicers modify mortgages outside of the federal programs.

PROGRAM SUMMARY

Since 2009, the Obama administration has created several programs to help struggling homeowners avoid foreclosure.

Home Affordable Modification Program. The Home Affordable Modification Program (HAMP) provides incentives to loan servicers (the organizations to whom monthly mortgage payments are made) and investors to modify first-lien mortgages for homeowners in default or in danger of default. By providing mortgage servicers with financial incentives to modify existing first mortgages, the Department of the Treasury (Treasury) hopes to help as many as 3 million to 4 million homeowners avoid foreclosure regardless of who owns or services the mortgage. Participation in the program is voluntary, and 145 servicers participate in the program under agreements with the Treasury. Modifications can be made under HAMP until December 31, 2013.

The HAMP modification program is available to owner-occupants in one- to four-unit properties at risk of default because of unaffordable mortgage payments. The unpaid principal balance on the mortgage loan must be equal to or less than \$729,750 for one-unit properties (there is a higher limit for two- to four-unit properties) and the mortgage loan must have been made on or before January 1, 2009. The mortgage payments must be unaffordable (i.e. exceed 31% of the borrower's pre-tax income). The modification will consist of a reduction of the interest rate to a point where loan payments do not exceed 31% of the borrower's income. This interest rate, which can be as low as 2%, will be in place for the first five years of the modified mortgage, at which time the interest rate will slowly increase to the market rate at the time the mortgage was modified. If a 2% interest rate does not result in a payment that is affordable, the servicer can take additional steps to make the mortgage affordable, including extending the loan term out to 40 years, deferring repayment on a portion of the amount owed until a later time, or forgiving a portion of the debt.

Borrowers request to participate in HAMP by sending their servicer an initial set of documents to establish their eligibility for the program. If eligibility is established and an economic model shows that it is worth more to the investor to modify the mortgage than foreclose, the servicer must offer the borrower a modification. If the modified mortgage is worth less than the foreclosed mortgage, the modification is optional. Slightly different rules apply in the case of loans owned or guaranteed by Freddie Mac or Fannie Mae.

Foreclosure Intervention: Protecting Homeowners

HAMP has several sub- or related programs.

- The Home Price Decline Protection (HPDP) program provides incentives to offset potential losses in home values after a modification to encourage servicers and investors to modify mortgages in declining markets. The incentives are based on projections of future home prices.
- The Principal Reduction Alternative (PRA) program provides funds to be used to reduce the principal for homes worth less than the amount remaining on the first-lien mortgage.
- Home Affordable Unemployment Program (UP) or Homeowners Loan Program is intended to offer assistance to unemployed homeowners through temporary forbearance of a portion of their mortgage payments.
- Home Affordable Foreclosure Alternatives (HAFA) provides incentives to servicers and borrowers to pursue short sales or deeds in lieu of foreclosure in cases where the borrower is unable or unwilling to enter into a modification. In a short sale, a servicer allows the borrower to sell the property at its current value, even if the sale nets less than the total amount owed on the mortgage. With a deed in lieu, the borrower simply voluntarily transfers ownership of the property to the servicer. While not desirable alternatives, these procedures allow the homeowner and the servicer to avoid the time and expense of a foreclosure.
- Second Liens. According to the Treasury Department up to 50% of at-risk mortgages have second liens, and many properties in foreclosure have more than one lien. Under the Second Lien Modification Program, when a HAMP modification is initiated on a first lien, servicers participating in the Second Lien Program must modify or extinguish the associated second lien. Modifications to the second lien are made based on the nature of the second lien according to a set of specific rules, or the servicer can extinguish the second lien in return for a lump sum payment from Treasury.
- The Housing Finance Agency Innovation Fund for the Hardest-Hit Housing Markets (Hardest-Hit Fund or HHF) is designed to support innovative programs created by state housing finance agencies (HFAs) to stabilize housing markets and help families avoid foreclosure. HHF provides targeted aid to families in the states most impacted by the housing downturn. These HFA programs include assistance to unemployed homeowners, principal reduction, funding to extinguish second liens, and facilitation of short sales and deeds-in-lieu. HHF is available in Arizona, Florida, California, Michigan, Nevada, Ohio, Rhode Island, North Carolina, Oregon, South Carolina, Alabama, Georgia, Kentucky, Mississippi, Illinois, New Jersey, Indiana, and Tennessee.
- HAMP Tier 2. Treasury further expanded the HAMP program in 2012. These expansions, known as HAMP Tier 2, expands HAMP eligibility. Borrowers must still have a mortgage on a single family property. The mortgage must have been originated prior to January 2, 2009. Borrowers must also have a documented difficulty in making the payments, and the borrower's unpaid principal balance must fall below thresholds established in the program. Notably, HAMP Tier 2 allows for some rental properties to be eligible for modifications.

FHA refinance program. This program, begun in September 2010, writes down the mortgages of FHA-insured homeowners who are up to date on their mortgage payments, and provides Troubled Asset Relief Program (TARP) funds to cover a share of the lenders' losses when a mortgage loan is written down.

Emergency Homeowner Loan Program (EHLA). The 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act created this emergency homeowner loan program to help distressed homeowners keep current on their mortgages by providing loans to people who have experienced significant reduction in income and are at risk of foreclosure due to involuntary unemployment, underemployment or a medical condition. On June 20, 2011, HUD announced the launch of the program, after significant delays. The Dodd-Frank Act required that EHLA funds be expended by September 30, 2011, leaving a very short application window. The application deadline, originally set in June, was extended through September 15, 2011. Homeowners in 27 states and Puerto Rico were eligible to apply for assistance through the

Foreclosure Intervention: Protecting Homeowners

EHLPP program. Five additional states were authorized to directly administer EHLPP funds through their preexisting state programs.

Home Affordable Refinance Program. Through the Home Affordable Refinance Program (HARP), Fannie Mae and Freddie Mac will allow the refinancing of mortgage loans they own or that they placed in mortgage-backed securities. This refinancing will allow borrowers to move to a less expensive fixed-rate mortgage even if their mortgage is greater than the current value of their homes, a situation known as being “underwater.” Currently, these underwater mortgages cannot be easily refinanced, leaving few options for borrowers facing unaffordable increases on their adjustable rate mortgages. To be eligible, the mortgage must be on an owner-occupied one- to four-unit home and the borrower must be current on his or her mortgage payments and be able to afford the new mortgage. Initially, homeowners were eligible if, among other criteria, they owe up to 105% of the value of their homes. The program was expanded by the Administration in 2009 to include homeowners who owe up to 125% of the value of their homes. This cap was removed entirely by FHFA altogether in 2011. The HARP program will expire on December 31, 2013. To determine if a mortgage loan is owned by Freddie Mac or Fannie Mae, the borrower can call his or her mortgage lender or servicer and ask about the program. Contact information can be found on monthly statements or in mortgage coupon books. In addition, Fannie Mae and Freddie Mac have established toll-free telephone numbers and websites to help borrowers.

Fannie Mae • 1-800-7FANNIE (8am to 8pm EST) • www.fanniemae.com/loanlookup
Freddie Mac • 1-800-FREDDIE (8am to 8pm EST) • www.freddiemac.com/mymortgage

HOPE NOW. An alliance composed of counselors, mortgage companies, investors, and other mortgage market participants, HOPE NOW members work together to reach out to homeowners in distress to help them stay in their homes and to create a unified, coordinated plan to help as many homeowners as possible. The alliance supports the HOPE for Homeowners Hotline, 1-888-995-HOPE, where borrowers can receive pre-foreclosure counseling.

National Foreclosure and Mitigation Counseling Program. This program was launched in December 2007 to increase the availability of counseling services to homeowners at risk of foreclosure across the country. Under this program, NeighborWorks America makes grants to HUD-approved housing counseling intermediaries, qualifying state housing finance agencies, and NeighborWorks organizations. The entities then provide counseling to troubled borrowers to assist them in exploring loan modification or refinance options, including those offered through the Making Home Affordable program. NeighborWorks maintains an interactive website to help borrowers identify a counselor in their area at www.findaforeclosurecounselor.org/network/nfmc_lookup.

Foreclosure legal assistance. The Dodd-Frank Wall Street Reform and Consumer Protection Act created, but did not fund, a HUD-administered program for making grants to provide legal assistance to low and moderate income homeowners and tenants related to home ownership preservation, home foreclosure prevention, and tenancy associated with home foreclosure.

Mortgage Settlement. In February 2012 a legal settlement was announced between the five largest mortgage servicers in the country and 49 state attorneys general, as well as several federal agencies with respect to the servicing of mortgages. Under the settlement, the servicers must provide approximately \$25 billion in assistance to borrowers, as well as assistance to states and the federal government. In addition to the aid provided through the settlement, the servicers must develop and implement new servicing standards, and policies for communication with borrowers.

Foreclosure Intervention: Protecting Homeowners

FORECAST FOR 2013

While many homeowners have been helped by the various federal efforts, the numbers served have fallen far short of expectations. Three federal foreclosure assistance programs were targeted for elimination in the 112th Congress by bills in the House and Senate: HAMP (H.R. 839 and S. 527), the Emergency Homeowner Loan Program (H.R. 836), and the FHA refinancing program (H.R. 830). H.R. 830 and H.R. 836 passed the House on March 11, 2011. H.R. 839 passed the House on March 29, 2011. However, the Senate never considered these measures and the bills expired at the end of the 112th Congress.

In August 2011, the Federal Housing Finance Agency (FHFA) released a Request for Information (RFI) on options for the sale of single-family real estate-owned (REO) properties owned by the FHA and the GSEs, Fannie Mae and Freddie Mac. In January 2012, the Federal Reserve Bank submitted a white paper to Congress stating that the GSEs, through the direction of their regulator, the FHFA, should play a larger role in the national housing recovery. One suggested action is the implementation of an REO-to-rental program. FHFA unveiled a limited REO-to-rental program in 2012. However, the program did not include any income targeting.

WHAT TO SAY TO LEGISLATORS

Advocates should contact their Members of Congress with the message that the variety of efforts and programs targeted to helping stop foreclosures is indicative of the seriousness of the problem. If foreclosures cannot be reduced, the economy is likely to take longer to recover and more families and communities will experience housing instability. Congress should work to create and refine programs and initiatives to enable more homeowners to receive help.

If future versions of an REO-to-rental program are created, advocates should urge lawmakers and FHFA to require that a significant portion of rental properties created by the program be targeted to extremely low income people. Funding should be allocated to make these properties affordable.

Advocates should urge FHFA to allow for principal write-downs and other proactive steps that would assist underwater homeowners.

FOR MORE INFORMATION

Additional information about the Making Home Affordable initiatives www.makinghomeaffordable.gov

More information on the homeowner's loan program www.nw.org/network/foreclosure/nfmcp/ehlp.asp

HUD information on foreclosure avoidance <http://1.usa.gov/VBqaKL>

FHA modification and refinancing programs www.fha.com

Foreclosure Intervention: Protecting Renters

By Sham Manglik, Policy Analyst, National Low Income Housing Coalition

As the foreclosure crisis has taken hold, experience and research have revealed that rental properties and renters are at significant risk, with renters comprising 40% of the families affected by foreclosure. These families often have no idea that their landlord has fallen behind on mortgage payments, and have usually continued to pay their rent even as their landlord has failed to pay the mortgage.

Before the enactment of the federal Protecting Tenants at Foreclosure Act (PTFA) in May 2009, in most states it was legal for tenants to be required to move on only a few days' notice. Under the PTFA most tenants now have the right to remain in the home for the remainder of their lease, or at least 90 days.

The PTFA is set to expire at the end of 2014. Representative Keith Ellison (D-MN) introduced legislation in the 112th Congress, H.R. 3619, to remove the PTFA sunset date and add a private right of action as an enforcement mechanism for the law. Similar legislation is expected in the 113th Congress.

ADMINISTRATION

The PTFA is self-executing; no agency is responsible for administering the act.

HISTORY AND PURPOSE

In recent years, inappropriate lending, falling home prices and high unemployment have led to a very high number of foreclosures across the United States. However, the impact of these foreclosures is not limited to homeowners; renters lose their homes every day when the owner of the home they are renting goes into foreclosure. In fact, one in five properties in the foreclosure process is likely to be a rental. Further, research from NLIHC concludes that since these properties often contain more than one unit, and many owner-occupied homes also house renters, roughly 40% of the families facing eviction as a result of the foreclosure crisis are renters. And unlike homeowners, who have some indication that a foreclosure is coming, renters are often caught entirely off-guard.

As might be expected, very low income families and low income and minority communities are bearing the brunt of rental foreclosures. Analysis from NLIHC shows that for four states in New England, the census tracts with the lowest percentage of white individuals and the highest percentage of households that are under the poverty line have the highest foreclosure rates. Multifamily foreclosures, which more often than not impact at least some renters, also occur in these high-poverty, high-minority census tracts.

Prior to May 2009, protections for renters in foreclosed properties varied from state to state, and in most states tenants had few protections. The National Law Center on Homelessness and Poverty (NLCHP) and NLIHC issued a joint report on the foreclosure and eviction laws in each state and the District of Columbia. Recognizing the hardships experienced by tenants in foreclosed properties, Congress acted in early 2009 to provide a basic set of rights for such tenants.

On May 20, 2009, President Obama signed the Protecting Tenants at Foreclosure Act (PTFA; Public Law 111-22, division A, title VII). The PTFA was extended and clarified in the Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111-203, section 1484).

Foreclosure Intervention: Protecting Renters

PROGRAM SUMMARY

Protecting Tenants at Foreclosure Act. The PTFA requires the immediate successor in interest at foreclosure to provide bona fide tenants with a notice 90 days before requiring them to vacate the property, and allows tenants with leases to occupy the property until the end of the lease term. A bona fide lease or tenancy is one in which the tenant is not the mortgagor or the spouse, parent or child of the mortgagor, the lease or tenancy is the result of an arm's length transaction, and the lease or tenancy requires rent that is not substantially lower than fair market rent or is reduced or subsidized due to a federal, state or local subsidy. If the property is purchased by someone who will occupy the property, then that purchaser can terminate the lease on 90 days' notice, even when the tenant has a lease that extends beyond 90 days after foreclosure.

Tenants with Section 8 housing choice voucher assistance have additional protections, which allow them to retain their Section 8 lease and require the successor in interest to assume the housing assistance payment contract associated with that lease.

The PTFA applies to all foreclosures on all residential properties; traditional one-unit single family homes are covered, as are multi-unit properties. The law applies in cases of both judicial and non-judicial foreclosures. Tenants with lease rights of any kind, including month-to-month leases or leases terminable at will, are protected as long as the tenancy was in effect as of the date of transfer of title at foreclosure.

The 90-day notice to vacate can only be given by the successor in interest at foreclosure. The successor in interest is whoever acquires title to the property at the end of the foreclosure process. It could be the financial institution that held the mortgage or it could be an individual who purchased the property at foreclosure. Notices of the pending foreclosure, while desirable, do not serve as the 90-day notice required by the PTFA.

The PTFA applies in all states, but does not override more protective state laws. The PTFA specifically provides that it does not affect "any [s]tate or local law that provides longer time periods or other additional protections for tenants." Consequently, state law should be examined whenever there is a tenant in a foreclosed property to maximize the protections available to tenants. State and local law may also help fill some of gaps in the federal law, such as the form (e.g., written or oral) and delivery mechanism for the 90-day notice (e.g., in person, by mail, or by another method).

The PTFA provisions expire at the end of 2014 unless extended.

Other protections. Prior to creation of the PTFA, some financial institutions and Freddie Mac and Fannie Mae independently developed programs to assist renters in foreclosed properties to remain in their homes and offered "cash for keys" programs that provide monetary assistance to occupants of foreclosed properties if the occupants agree to leave in a specified period of time, usually 30 days or less. While both the month-to-month lease programs and cash for keys program are options tenants should consider, these options are in addition to, and not a substitute for, the rights provided under the PTFA. Tenants should seek the advice of counsel before accepting these options.

The American Recovery and Reinvestment Act of 2009 (ARRA), which predates the PTFA, applied similar renter protections to any foreclosed property purchased with Neighborhood Stabilization Program funds. However, in addition to the 90 days' notice requirement and the right to remain in the home for the remaining term of any lease, ARRA further prohibits recipients of NSP funds from discriminating against (i.e., refusing to rent to) holders of Section 8 assistance.

Foreclosure Intervention: Protecting Renters

FORECAST FOR 2013

In the 112th Congress Representative Keith Ellison (D-MN) introduced H.R. 3619, the Permanently Protecting Tenants at Foreclosure Act. The measure, if enacted, would have repealed the sunset date for the PTFA and add a private right of action for renters whose rights under the PTFA have been violated. Unfortunately, Congress failed to act on the legislation in the 112th Congress. Rep. Ellison is expected to re-introduce the legislation in the 113th Congress, and a companion bill is expected in the Senate. It is imperative that Congress act on extending the PTFA as soon as possible, as the law is set to expire at the end of the 113th Congress.

TIPS FOR LOCAL SUCCESS

Implementing PTFA provisions can be challenging. The law was effective upon enactment, and no federal agency is charged with interpreting the law or with writing regulations to enforce it. Because the law is self-implementing, if challenged individual tenants need to be able to assert their rights. NLIHC, in conjunction with the National Housing Law Project, has developed a toolkit for renters in foreclosed properties. The toolkit contains sample letters, copies of the PTFA, and other materials designed to assist tenants and their advocates in implementing the law and protecting tenants' rights.

Relying on individual tenants to assert their rights is a time-consuming process. A better approach is for the entities and institutions involved in the foreclosure process, like financial institutions, lawyers, judges, and real estate professionals, to recognize and abide by the law. Advocates at the local level should make area courts and attorneys aware of the law through letters and other contacts.

All federally insured or chartered financial institutions have been informed of the law and instructed to comply with it. If a financial institution does not comply with the law, it is important that advocates identify the foreclosing institution and hold it accountable for the outcome. Federal financial institution regulators have information on their websites that will help identify the relevant regulator for a foreclosing institution and help tenants and advocates lodge a complaint against the institution.

WHAT TO SAY TO LEGISLATORS

Legislators should be educated on the fact that as many as 40% of families faced with foreclosures are renters who are truly blameless in the situation. Federal lawmakers also need information on financial institutions compliance or lack thereof with the PTFA. Lawmakers should also be urged to consider changes to bankruptcy laws and other legislation that would encourage lenders to allow former homeowners and renters to stay in their homes.

In addition, because PTFA protections expire at the end of 2014, advocates should ask lawmakers to support the Permanently Protecting Tenants at Foreclosure Act, which would remove the law's sunset date and would add a private right of action for tenants whose rights under the PTFA have been violated. The private right of action is important as it would add an enforcement mechanism to the protections included in the law. It is critical that Congress take action before the end of the 113th Congress.

FOR MORE INFORMATION

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

NLIHC renter's toolkit can be found at www.nlihc.org/library/other/foreclosure

Renters in Foreclosure: A Fresh Look at an Ongoing Problem, from NLIHC: www.nlihc.org/library/other/periodic/rif2012

Foreclosure Intervention: Protecting Renters

Staying Home: The Rights of Renters Living in Foreclosed Properties, from NLCHP: <http://bit.ly/VBrT2u> (PDF).

“HUD Regulatory Guidance” fact sheet from NLIHC <http://nlihc.org/issues/foreclosure/ptfa>
Guidance for FHA <http://1.usa.gov/VBuQAf> (PDF)

For regulatory agency guidance, see:

- Federal Deposit Insurance Corporation (FDIC) <http://1.usa.gov/VBuXf3>
- Federal Reserve Board of Governors (FRB) <http://1.usa.gov/VBv1LX>
- National Credit Union Administration (NCUA) <http://1.usa.gov/VBvsG5>

For information on the regulatory agency complaint process, see :

- FDIC: <http://1.usa.gov/VBvKwB>
- FRB: www.federalreserveconsumerhelp.gov
- OCC: www.helpwithmybank.gov/complaints/index.html
- OTS: www.ots.treas.gov/?p=ConsumerComplaintsInquiries
- NCUA: <http://bit.ly/VBvXQg>.

The Future of Housing Finance

By Sham Manglik, Policy Analyst, National Low Income Housing Coalition

The Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac), collectively known as the , government sponsored enterprises, or GSEs, were established by Congress to provide liquidity and create a secondary market for residential mortgages, both single-family (one- to four- units) and multifamily (five or more units). Financial troubles have beset both agencies in recent years, and in 2008 they were placed under the conservatorship of the Federal Housing Finance Agency (FHFA), their regulator. Because of their financial issues, the future of Freddie Mac and Fannie Mae is unclear. Payments from the GSEs were to provide the initial source of funds for the National Housing Trust Fund (NHTF), but the financial problems at both enterprises caused these payments to be suspended. FHFA was created in the Housing and Economic Recovery Act of 2008 (HERA). In addition, FHFA regulates the 12 Federal Home Loan Banks, which are also GSEs.

History

While Fannie Mae and Freddie Mac were created at different times and for different purposes, they have effectively had identical charters and responsibilities since 1992. Prior to September 7, 2008, when they were placed in conservatorship, Freddie Mac and Fannie Mae were privately owned and operated corporations. Today, their regulator, FHFA, acting as conservator, has all the authority of each company's directors, officers, and shareholders. Until the conservatorship is ended, the FHFA operates the companies through appointed management in each company. During conservatorship the enterprises remain critically important to the housing finance system by providing liquidity for new mortgages, assisting in resolving the mortgage crisis, and supporting the multifamily market.

Program Summary

Through their activities as financial intermediaries, Fannie Mae and Freddie Mac help provide liquidity and stability to the conventional (non-government insured) conforming (below applicable loan limits) single-family mortgage market and the multifamily market. By buying mortgages from lenders, Fannie Mae and Freddie Mac ensure that lenders always have funds available with which to make new loans. They primarily purchase single-family, 30-year fixed rate mortgages that are not insured by the federal government, but they also support the multifamily rental market.

The GSEs do not make mortgage loans directly to individual borrowers. Instead, they carry out their secondary market functions by buying mortgages from banks, savings institutions, and other mortgage originators. This allows lenders to free up dollars with which to buy new mortgages. The GSEs either hold the mortgages they purchase in their portfolios or package them into securities, known as mortgage-backed securities (MBS), which they sell to investors. According to Congressional testimony of FHA Acting Director Edward Demarco, as of February 2012, the GSEs regulated by FHFA owned or guaranteed 5.7 trillion worth of mortgages, about 60% of the outstanding mortgages in this country. However, in any given year their share of the mortgage market can vary widely; in 2006 the GSEs' share of single-family mortgage originations was 54%; since FHFA became the GSEs' conservator in 2008 their share has grown to roughly 75%.

The GSEs also play a significant role in the multifamily market. According to the GAO, in 2006 their share of multifamily financing was 33%, growing to 86% in 2009, but decreasing to 57% in 2011.

Although Fannie and Freddie hold some mortgages in their portfolios, most mortgages are placed in mortgage pools to support mortgage-backed securities (MBSs). When the GSEs securitize a mortgage, they are guaranteeing the timely payment of interest and principal to the purchaser of the MBS. In order

The Future of Housing Finance

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

Single-family mortgages. Generally, the GSEs provide support for 30-year fixed-rate mortgages on single-family homes. Fannie and Freddie can only purchase mortgages whose principal balance is equal to or less than the conforming loan limit established annually by FHFA. For FY13, the limit is \$417,000 generally, with a maximum of \$729,750 in areas with high home prices. The limit is also adjusted for property size and different and higher limits apply in Alaska, Guam, Hawaii, and the U.S. Virgin Islands.

Multifamily mortgages. The GSEs also purchase mortgages on multifamily dwellings. These mortgages are generally held in portfolio, but they can be securitized and sold to investors. Currently, Freddie Mac and Fannie Mae hold about 15% of the outstanding multifamily debt, and their combined purchases represent almost 60% of the multifamily market. In the past, Freddie Mac and Fannie Mae have also played a significant role in supporting the Low Income Housing Tax Credit (LIHTC) market; however, since the institution of the conservatorships this support has decreased.

Housing goals. Because they are chartered by the federal government, the GSEs are required to meet certain percentage-of-purchase goals to ensure that they serve the low and moderate income markets, underserved, and special affordable markets. In other words, the GSEs are each required to purchase a certain number of mortgages on properties that meet certain characteristics. These housing goals are set annually, as a percentage of the regulated entity's single family and multifamily business lines.

In 2009, both Fannie Mae and Freddie Mac exceeded some goals and missed others. On June 3, 2010, FHFA determined that the housing goals and subgoal that were not met by either Fannie Mae or Freddie Mac in 2009 were infeasible and would not be enforced. FHFA determined that the housing goal and subgoal that were exceeded by Fannie Mae but not by Freddie Mac were feasible.

In November 2012, FHFA published housing goals for the 2012-2014 period. As required by HERA, the new goals include a single family purchase money goal for low income families, a single-family purchase money goal for families residing in low income areas, a single-family purchase money goal for very low income families, a single-family goal for the refinancing of mortgages for low income families and goal for the purchase of multifamily loans affordable to low income families. There is also a multifamily subgoal targeting very low income families. The goals for the 2012-2014 period are lower than those that were set for the 2010-2011 period, in part because FHFA believes that due to the housing market recovery, the GSEs should have a smaller footprint in the market.

HERA also created a new duty to serve, which requires the enterprises to lead the industry in developing loan products and flexible underwriting guidelines for manufactured housing, affordable housing preservation, and rural markets. FHFA has not implemented this requirement.

National Housing Trust Fund. HERA also established Freddie Mac and Fannie Mae as sources of funding for the National Housing Trust Fund (NHTF; Public Law 110-289, division A, title I, subtitle B, section 1131). Under HERA, Fannie Mae and Freddie Mac were required to set aside an amount equal to 4.2 basis points for each dollar of total new business purchases. Of these amounts, 75% is to be used to fund the NHTF and the Capital Magnet Fund (CMF) maintained by the Treasury, with the NHTF receiving 65% of the allocation and the CMF receiving 35%. The remaining 25% is transferred to the Treasury.

The Future of Housing Finance

In 2008, FHFA suspended Fannie's and Freddie's contributions due to the financial conditions of the entities. The GSEs are now once again turning profits. Given this improvement in the GSEs' financial conditions, advocates argue that they should now begin to make contributions to the NHTF.

The GSEs have led on the issue of addressing the needs of renters in foreclosed properties. Freddie Mac and Fannie Mae have also been instrumental in addressing the foreclosure crisis and implementing the Obama Administration's Home Affordable Modification Plan.

Funding

Prior to their being placed in conservatorship, the GSEs had received no federal funds to support their operations. Instead, Fannie Mae and Freddie Mac raised money in the capital markets to fund their activities. The GSEs' incomes come from the difference between the interest they receive on the mortgages they hold and the interest they pay on their debt, from the fees they charge to investors for guaranteeing payment on the mortgage-backed securities they issue, and from income earned on non-mortgage investments.

Since the establishment of the conservatorship, both Fannie Mae and Freddie Mac have realized substantial losses. These losses have exhausted each enterprise's capital, and as of February 2012, the federal government had provided more than \$180 billion in assistance to Fannie Mae and Freddie Mac. The Treasury has also committed to provide an additional support for the GSEs as needed to ensure the strength and security of the mortgage market, to help maintain mortgage affordability and to help keep interest rates low. In addition, both the Treasury Department and the Federal Reserve Bank supported the housing market by purchasing mortgage backed securities and debt securities issued by Freddie Mac and Fannie Mae.

In 2012, Fannie Mae and Freddie Mac returned to profitability, and have begun make payments to the Treasury, although they are not expected to repay the full amount of assistance received.

Forecast for 2013

Freddie Mac and Fannie Mae remain in conservatorship; however, both the Obama Administration and Congress are developing plans to end the conservatorships and move to a new secondary market model. Policymakers are trying to determine if the functions Fannie Mae and Freddie Mac perform are needed by the housing finance system and, if so, in what form should those functions be carried out in the future. As Congress and the Obama Administration look to reform the GSEs, advocates need to ensure that there is support for long-term fixed-rate mortgages for lower income families, affordable rental housing, and the National Housing Trust Fund.

What to Say to Legislators

Freddie Mac and Fannie Mae play important roles in both the single-family market and in the affordable multifamily market. These functions, as well as the contributions to the NHTF, need to be part of any future secondary market. Further, whether or not housing finance reform happens in the 113th Congress, the obligation for Fannie and Freddie to make contributions to the NHTF remains. Now that the entities are turning profits, FHFA should require them to begin making contributions immediately.

For More Information

Federal Home Loan Mortgage Corporation • www.fanniemae.com

Federal Housing Finance Agency • www.fhfa.gov

Federal National Mortgage Association • www.freddiemac.com

FHFA published housing goals for the 2012-2014 period at <http://1.usa.gov/Xoyudr> (PDF).

Information about the loan limits for single-family mortgages in specific counties can be found at <http://1.usa.gov/XoywLL>.

Healthy Housing and Lead Hazard Control

By Jane Malone, Director of Policy, National Center for Healthy Housing

Indoor pollution and hazards inside our homes typically pose far greater risks to children's health than outdoor exposure. This is due to the fact that children spend as much as 90% of their time indoors, and toxic substances can reach more concentrated levels indoors than they do outside. Older, dilapidated housing with lead-based paint, and the dust and soil it generates, are the biggest sources of lead exposure for children. Often these units have a combination of health dangers that include dust mites, molds, and pests which can cause or trigger asthma; carcinogens, such as asbestos, radon and pesticides; and other deadly toxins such as carbon monoxide.

ADMINISTRATION

Both programs are administered by HUD's Office of Healthy Homes and Lead Hazard Control (OHHLHC). EPA and the Centers for Disease Control and Prevention administer complementary programs.

HISTORY AND PURPOSE

Healthy Homes Program. The Healthy Homes Program was established by HUD in 1999 to protect children and their families from residential health and safety hazards. The goal of this program is a comprehensive, integrated approach to housing hazards through two grant programs which create and demonstrate effective, low-cost methods of addressing mold, lead, allergens, asthma, carbon monoxide, home safety, pesticides, and radon. These grant programs are housed in the HUD's OHHLHC.

Lead Hazard Control. The Residential Lead-Based Paint Hazard Reduction Act, or Title X of the Housing and Community Development Act of 1992, was enacted to focus the nation on making housing safe for children by preventing exposure to lead-based paint that has deteriorated due to moisture problems and poor maintenance, and invisible lead dust caused by repair and painting work that disturbs lead-based paint. The law established the Lead Hazard Control Grants Program to provide grants to communities to control lead-based paint hazards in privately owned, low income owner-occupied and rental housing. In 2003, Congress created Lead Hazard Reduction Demonstration Grants to target additional lead hazard control grants to the nation's highest-risk cities. Both programs and enforcement of related regulations are housed in the HUD OHHLHC. More than 195,000 homes have been made lead-safe under the lead hazard control programs.

While these represent just a fraction of the estimated 35 million U.S. housing units with lead-based paint hazards, the programs have rendered some of the nation's highest-risk homes safe for future occupants and built lasting capacity to continue to prevent and control lead hazards.

The beneficiaries of the lead hazard control program are low income households. Rental units must be available on a priority basis for families with children under age six for at least three years. Ninety percent of owner-occupied units must house or be regularly visited by a child under age six. Because the funds do not cover all housing eligible under federal policy, each grantee develops its local plan and is permitted to target investment of grant funds based on factors such as the presence of a lead-poisoned child and location in a high-risk neighborhood. The programs' funds are awarded via a competitive combined Notice of Fund Availability (NOFA).

ISSUE SUMMARY

Recent research confirms that housing policy has a profound impact on public health, and for any public health agenda to be effective, it must include a housing component. The statistics and key findings regarding the long-term effects of housing-related health hazards are alarming.

Healthy Housing and Lead Hazard Control

Lead poisoning, chronic low-level carbon monoxide exposure and asthma all greatly interfere with a child's ability to learn and perform in school. In fact, 10% of juvenile delinquency is attributed to lead poisoning. Elevated blood levels are associated with decreased academic achievement cognition problems, increased incidence of Attention Deficit Hyperactivity Disorder and other behavior problems. In 2008, the economic costs to society of lead poisoning alone were estimated at \$60 billion. Housing-related injuries result in significant costs as well, including lost learning and earning potential of children; lost work days for parents caring for ill children's medical expenses, including emergency room visits; and special education costs. Asthma costs the U.S. economy \$16 billion each year in direct and indirect expenses.

The burden of housing-related health hazards falls disproportionately on the most vulnerable children and communities, making for striking disparities in health impacts. African-American children are twice as likely to have asthma and are six times more likely to die from it than white children. Households with annual incomes less than \$30,000 are twice as likely as others to have lead hazards in their homes. Children of low income families are eight times more likely to be lead-poisoned than those of higher income families, and African-American children are five times more likely than whites to be lead-poisoned. In some locales, African-American and Latino children are eight to nine times more likely to enter school with a history of lead poisoning. Children poisoned by lead are seven times more likely to drop out of school and six times more likely to end up in the juvenile justice system.

Those numbers begin to multiply and add up to even bigger consequences when dealing with the cumulative effects of multiple hazards. Thorough visual assessments, air tests, remediation activities, and a 'whole-house' approach are critical. Inadequate ventilation increases the concentration of lethal indoor air pollutants such as radon and carbon monoxide and exacerbates moisture and humidity problems. Moisture causes paint deterioration, which puts children at risk of exposure to leaded dust and paint chips. Moisture also encourages growth of mold, mildew, dust mites, and microbes, which contribute to asthma and other respiratory diseases. Asthma is an allergic reaction to certain triggers such as dust, mold, pests (such as cockroaches, rats and mice), cold air, and dry heat. Use of common pesticides to control infestations contaminates homes with known carcinogens.

The ballooning costs for medical care and other housing-related health hazards justify investments in primary prevention to address unhealthy housing conditions before they cause illness. A whole-house approach must become the focus since housing-related health hazards often have overlapping effects, causes, and solutions. Additionally, solutions and opportunities may arise through existing weatherization and rehabilitation work. Since improperly disturbing lead-based paint may cause lead poisoning, it is necessary to use lead-safe work practices and comply with EPA's renovation rule. Many weatherization treatments have healthy homes benefits: window replacement can help with lead poisoning prevention; roof repair and insulation may help reduce moisture intrusion and prevent mold. Improving ventilation to ameliorate the ill effects of tightening a building can help ensure no harm from energy-efficiency measures.

Much of the technical infrastructure to achieve healthy housing is in place, but missed opportunities to make housing healthier occur within some existing programs. Modest adjustments in policies and practices could minimize those missed opportunities, maximize resources and achieve better results.

Programs based at HUD:

Healthy Homes Production Grant Program. The Healthy Homes Production grant program, modeled after the previously successful Healthy Homes Demonstration programs, funds preventive and corrective measures to address housing-related health and safety hazards. Eligible entities include

Healthy Housing and Lead Hazard Control

nonprofits, for-profits, state and local governments, tribes, and colleges and universities. Funds can be used for direct remediation of housing units, for education and outreach activities to protect children from health and safety hazards, and for building capacity to sustain healthy homes programs. HUD's OHHLHC annually awards 12 cooperative agreements of up to \$1 million each.

Healthy Homes Technical Studies Grant Program. The goal of the Healthy Homes Technical Studies grant program is to develop and improve cost-effective methods for evaluating and controlling residential health and safety hazards. Eligible entities include academic and nonprofit institutions, state and local governments, tribes, and for-profit organizations. Funds can be used to develop validated assessment tools, improve environmental sampling and Integrated Pest Management protocols, and evaluate interventions. HUD's OHHLHC annually awards between six and 10 cooperative agreements of up to \$1 million each.

Lead Hazard Control Grants. The typical award of \$3 million addresses hazards in several hundred homes and provides needed outreach and capacity-building services. At least 65% of the grant must be used for direct activities such as abatement, interim control, clearance, and risk assessment. Grantees are required to partner with community groups, typically by awarding sub-grants, and to provide a match of 10% from local or CDBG funds. More than \$1 billion has been awarded since the program started in 1993. The combined budget authority for lead hazard control grants and demonstration grants was \$197 million in FY09, \$114 million in FY10, \$ 94 million in FY11, and \$107 million in FY12. The President and the Senate proposed \$86 million for FY13.

Lead Hazard Reduction Demonstration Grants. This program targets funds for lead hazard control to the nation's 100 highest-risk cities as defined by the prevalence of lead poisoning and the number of pre-1940 rental housing units. The operation of the program mirrors the core lead hazard control program in that grants can only be awarded to states, counties, and cities for lead hazard control in private housing. Grants may be as high as \$4 million, but 80% of the funds must be spent on direct activities, and HUD requires a 25% local match from local or CDBG funds, which can be waived based on well-justified need. High-risk cities can receive demonstration grants in addition to basic lead hazard control grants. This program has been subsumed into the Lead Hazard Control Grants program in recent years.

Lead Technical Studies Program (LTS). This program funds academic institutions, nonprofit and for-profit organizations, states, Native American tribes and local governments to conduct research to gain knowledge on improving the efficacy and cost-effectiveness of methods for evaluation and control of residential lead-based paint hazards. Each year the OHHLHC awards roughly between two and four cooperative agreements of up to \$500,000 each.

Disclosure Law Enforcement. Title X also directed HUD to enforce the required disclosure of lead hazards to the potential renter or purchaser of every pre-1978 home. As a result of disclosure enforcement actions, more than 200,000 dwelling units in multifamily rental properties have received ordered repairs. The regulation is published at 24 CFR 35 Subpart A.

Lead-Safe Housing Rule. At least one million federally subsidized homes have been made and kept safe due to requirements under the Lead Safe Housing Rule (24 CFR 35 Subparts B-R).

Programs at Other Federal Agencies:

Healthy Homes and Lead Poisoning Prevention Program. Until 2012, CDC's Childhood Lead Poisoning Prevention Program provided funding to state and local health departments to determine the extent

Healthy Housing and Lead Hazard Control

of childhood lead poisoning by screening children for elevated blood lead levels, helping to ensure that lead-poisoned infants and children receive medical and environmental follow-up, and developing neighborhood-based efforts to prevent childhood lead poisoning. This program's funding was reduced from \$31 million in FY11 to \$2 million for a small federal effort in FY12.

Renovation, Repair, and Painting Rule. The EPA's Renovation, Repair, and Painting Rule requires contractor certification and use of lead-safe work practices for paint-disturbing work in all pre-1978 residences unless there is proof that lead-based paint is not present. The rule took effect on April 22, 2010. The rule provides a framework for educating and regulating the construction industry to work safely in order to prevent health hazards in housing.

Maternal, Infant, and Early Childhood Home Visiting Grants Program. This is a \$1.5 billion, five-year, state-based formula grant program for home visiting programs that provide services and support to pregnant women, infants, children up to kindergarten age and their families. In the program's third year, Congress appropriated \$250 million. To secure funding, states completed a needs assessment and developed a plan for addressing these needs. There is growing agreement that programs visiting the homes of high-risk families should include a healthy homes assessment; three states have piloted this approach.

FORECAST FOR 2013

Title X Amendments Act. In the 113th Congress, Senators Jack Reed (D-RI), Mike Johanns (R-NE), Barbara Boxer (D-CA) and Al Franken (D-MN) introduced S. 290 to align legislative authority with current needs and practices. Permitting lead hazard control grantees to help families residing in efficiency apartments, address multiple housing-related health hazards, and accept a family's income eligibility information from other federally funded programs will improve the nation's ability to protect children living in high-risk neighborhoods. The bill expands the existing Title X statute, which focuses solely on lead hazards, to enable the use of up to 30% of grant funds to correct other health and safety threats. The bill also expands eligibility for grants, presently limited to state and local governments, to include tribal governments, and non-profit organizations if they have the support of the applicable state or local government.

Healthy Housing Council Act and Safe and Healthy Housing Act. In the 113th Congress, Senators Reed, Johanns, Boxer and Franken re-introduced the Healthy Housing Council Act (S. 291) that would help move the federal government towards an integrated approach in addressing health hazards in housing.

TIPS FOR LOCAL SUCCESS

Many communities have improved the quality of their housing stock and have eliminated housing-related health hazards by implementing or better enforcing minimum housing codes. For example, sanitary codes prohibit peeling paint, standing water, chronic moisture, roof and plumbing leaks, and pest infestation. The International Residential Code requires carbon monoxide detectors in new homes with fuel-burning appliances or attached garages. Efforts are underway to require carbon monoxide detectors in existing housing, add a requirement for radon-resistant new construction, and prohibit lead hazards and excessive moisture that leads to mold. Increasing public awareness and concern about other housing-related hazards is fueling new attention to state and local regulation of healthy homes issues.

WHAT TO SAY TO LEGISLATORS

Advocates should contact their Members of Congress, ask to speak to the person who deals with housing policy, and deliver the message that funding is needed in FY13 to correct health and safety hazards and ensure that privately owned affordable housing is safe and healthy. Advocates should inform legislators

Healthy Housing and Lead Hazard Control

of the following ways through which they can lend support for reducing housing-related health problems:

- Fully fund HUD's Healthy Homes and Lead Hazard Control Program through which communities can fix homes with health hazards including lead-based paint problems. Support the President's FY13 proposal for \$120 million, including \$30 million for healthy homes, \$86 million for lead hazard control and demonstration, and \$4 million for technical studies.
- Restore funding for CDC's Healthy Homes and Lead Poisoning Prevention Program so local and state health departments can promote prevention and respond to lead-poisoned children.
- Pass and implement the Title X Amendments and Healthy Housing Council Acts.

FOR MORE INFORMATION

National Center for Healthy Housing • 202-280-1982 • www.nchh.org

National Safe and Healthy Housing Coalition

www.nchh.org/Policy/National-Safe-and-Healthy-Housing-Coalition.aspx

HOME Investment Partnerships Program

By Ed Gramlich, Director of Regulatory Affairs, National Low Income Housing Coalition

The HOME program is a federal block grant designed to expand the supply of decent, affordable housing for lower income people.

ADMINISTRATION

The HOME program is administered by the Office of Affordable Housing Programs in HUD's Office of Community Planning and Development (CPD). The HOME program regulations are at 24 CFR Part 92.

HISTORY

The HOME Program was authorized in 1990 as part of the Cranston-Gonzalez National Affordable Housing Act.

PROGRAM SUMMARY

HOME is a federal block grant to 643 participating jurisdictions (PJs), which are states and certain localities that use the funds to provide affordable housing to low and moderate income households. States and localities use the funds for a variety of homeownership and rental activities. In general, all HOME money must benefit people with low or moderate incomes, rents must be affordable, and units must remain affordable for a set period of time.

Eligible activities. HOME dollars can be used as a grant or a loan to meet a variety of development costs such as buying existing housing or vacant land for affordable housing, building new housing, rehabilitating existing housing, demolition to make way for affordable housing, relocation, site improvements, and various soft costs such as engineering plans, attorneys' fees, title search, and fair housing services. HOME can also be used to help people purchase or rehabilitate a home by offering loans, loan guarantees, or down payment assistance. Tenants can be given grants for security deposits and rental assistance so that they need pay no more than 30% of their income for rent and utilities. Although tenant-based assistance agreements are limited to two-year terms, they can be renewed without limit.

At least 15% of a participating jurisdiction's HOME funds must be spent for housing that is developed, sponsored, or owned by Community-based Housing Development Organizations (CHDOs). Up to 10% of the CHDO set-aside can be used to provide loans for project-specific technical assistance and site control, such as feasibility studies and consultants, as well as for seed money to cover pre-construction costs, such as architectural plans and zoning approval. If a PJ fails to reserve any portion of the minimum 15% CHDO set-aside within two years, the PJ and its low income residents lose that amount of money.

Any nonprofit can receive a HOME grant or loan to carry out any eligible activity, but not every nonprofit is a CHDO. In order to be considered a CHDO, the law requires accountability to low income community residents through significant representation on the organization's governing board. However, the regulations merely require that one-third of a CHDO's board members be elected representatives of low income neighborhood organizations, residents of low income neighborhoods, or other low income community residents. Since a low income neighborhood is one where only 51% of the residents have incomes below 80% of AMI, it is possible that more affluent people with very different priorities could be on a CHDO board. Also, because the regulations allow 'community' to be defined as broadly as an entire city, county or metropolitan area, it is possible to construct a CHDO that is not accountable to low income residents in a HOME project's neighborhood.

HOME Investment Partnerships Program

PJs can spend no more than 10% of their HOME dollars for overall program planning and administration, but there is no set limit on the use of HOME funds for project-specific administrative costs. Up to 5% of a PJ's HOME funds can be given to CHDOs for operating expenses. This amount is separate and apart from the minimum 15% CHDO set-aside and does not count against the PJ's 10% cap on administrative uses.

Among other limitations, PJs cannot spend HOME dollars on public or assisted housing modernization, operation, or preservation, as public housing has its own separate funding accounts.

Formula allocation. A formula based on six factors reflecting measures of poverty and the condition and supply of the rental housing stock determines which local jurisdictions are PJs. Jurisdictions that do not meet the formula's threshold can get together with neighboring jurisdictions to form a consortium in order to get HOME funding.

Each year, the formula distributes 60% of the HOME dollars to local governments and consortia; the remaining 40% is allocated to states. Local PJs are eligible for an allocation of at least \$500,000. Each state receives the greater of its formula allocation or \$3 million. The state share is intended for small cities, towns, and rural areas not receiving HOME money directly from HUD. Every HOME dollar must be matched by 25 cents of state, local, or private contributions, which can be cash (but not Community Development Block Grant funding), bond financing proceeds, donated materials, labor or property, or other noncash contributions.

Beneficiaries. When HOME is used to assist renters, at least 90% of the PJ's assisted rental units must be occupied by households with incomes below 60% of the area median income (AMI); the remaining 10% of the rental units can benefit those with incomes up to 80% of AMI, known as low income households. If a rental project has five or more HOME units, at least 20% of the HOME units must be occupied by households with incomes below 50% of AMI, known as very low income households. When HOME is used to assist people who are homeowners or who will become homeowners, all of that money must be used for housing occupied by households with incomes below 80% of AMI. These are minimum standards required by law. Advocates should work to improve HOME's targeting to people with extremely low incomes, those below 30% of AMI.

Affordability. To qualify as affordable rental housing, rent can be no greater than the lower of fair market rent (FMR) or 30% of the adjusted income of a hypothetical household with an annual income of 65% of AMI. In projects with five or more HOME units in which at least 20% of the HOME units must be occupied by households with very low incomes, rent is considered affordable to them if it less than 30% of their adjusted income or less than 30% of the income of a hypothetical household with an annual income at 50% of AMI. Actual rent limit figures are posted on the HOME program web page at <http://1.usa.gov/XoCnz7>.

Newly constructed rental projects must remain affordable for 20 years. Existing rental housing that is either purchased or rehabilitated must remain affordable for 15 years if more than \$40,000 is spent per unit, 10 years if between \$15,000 and \$40,000 is spent per unit, and five years if less than \$15,000 is spent per unit.

Homeowner-assisted units are considered affordable if, in general, the value of the home after assistance is less than 95% of the median area purchase price. Homeowner units must remain affordable for the same periods mentioned above. PJs must have resale and recapture provisions to ensure affordability during the required periods. A resale provision must require purchase by an income-eligible household

HOME Investment Partnerships Program

if an original homeowner sells before the end of the affordability period. A recapture provision must ensure that all or a portion of HOME assistance is recouped if an owner sells or is foreclosed upon.

According to an email from HUD, based on data as of December 31, 2012, HOME has delivered 1,104,666 completed physical units and provided 268,195 tenant-based rental assistance contracts since 1992. Out of the 1,104,666 physical units, 38.6% (426,594) were rental units, 19.4% (213,957) were homeowner rehabilitation units and 42% (464,115) were home buyer units.

At the time of initial occupancy, households with incomes below 30% of AMI occupied 43.8% of the physical rental units, 30.7% of the homeowner units, and 6.0% of the home buyer units. In addition, 79.4% of the tenant-based rental assistance units were occupied by extremely low income people.

FUNDING

In FY11, Congress appropriated \$1.6 billion for HOME formula grants. The Administration requested \$1.65 billion for FY12 but Congress appropriated only \$1 billion, a 38% cut. For FY13, the Administration only sought \$1 billion.

FORECAST FOR 2013

In May 2011 the *Washington Post* began a series of articles critical of the HOME program. In response, NLIHC wrote that while the series did expose the existence of some project mismanagement and private sector greed, the articles used sensationalized language and failed to report that more than 1 million affordable units have been completed. Nonetheless, Congress used the articles as a basis for making a 38% cut, to \$1 billion, to the program for FY12.

Unless Congress acts to prevent it as it did for FY12, a \$1 billion appropriation for FY13 would trigger a statutory requirement lowering the threshold for PJ designation to \$335,000 from \$500,000. This would result in an increased number of PJs, many of which do not have the capacity to carry out HOME activities and leading to noncompliance.

The Administration's FY13 budget request seeks a statutory change which would allow recaptured CHDO funds to be reallocated by formula as regular HOME funds. Rather than reallocate CHDO funds, advocates think that HUD should augment capacity building assistance for CHDOs and encourage PJs to do likewise.

On December 16, 2011 HUD published for comment long-awaited proposed revisions to the HOME regulations. The majority of the proposed regulations made operational sense. However, there is considerable concern about possible adverse consequences for CHDOs if the final rule mirrors the proposed rule. NLIHC's comment letter is available at <http://nlihc.org/library/testimony>. HUD's Regulatory Agenda plans a spring 2013 release of the final HOME regulations.

TIPS FOR LOCAL SUCCESS

At the local level advocates will want to continue to be actively involved in the Consolidated Plan's Annual Action Plan public participation process in order to influence the type of housing, location, and beneficiaries of HOME dollars.

Advocates can best influence how HOME dollars are allocated if they know how a jurisdiction has spent its previous allocations. To monitor their local PJ's accomplishments, advocates can access several useful reports on HUD's website at www.hud.gov/offices/cpd/affordablehousing/reports.

HOME Investment Partnerships Program

- The monthly Open Activities report lists each HOME project in a PJ, indicating tenure type (renter or homeowner), type of activity (such as rehabilitation, acquisition, or new construction), ZIP code, number of units, and amount budgeted and spent.
- The Vacant Unit Reports identify units marked vacant in HUD's reporting system.
- SNAPSHOT is a quarterly cumulative report that shows, in the aggregate, income category, race, household size, and household type of beneficiaries, as well as the number of units completed for each type of housing.
- Dashboard Reports are quarterly reports intended to provide a quick overview of a jurisdiction's use of HOME dollars. Using charts and graphs, Dashboard Reports show:
 - Cumulative HOME dollars received and percentage disbursed, committed, and uncommitted.
 - Cumulative number of units completed, and percentage of rental, homeowner rehab, and home buyer units.
 - Net number of units completed in the most recent quarter, with percentage of rental, homeowner rehab, and home buyer units.
 - Cumulative number and the last quarter's net new number of tenant-based rental assistance units.
 - Race and ethnicity percentages among rental, homeowner rehab, and home buyer projects.
 - Average total development cost per unit for rental, homeowner rehab, and home buyer projects.

WHAT TO SAY TO LEGISLATORS

The major responsibility of advocates is to continue pushing for increased federal appropriations.

FOR MORE INFORMATION

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

HOME Program Information • 202-708-2470 • <http://1.usa.gov/XoDfUk>.

Housing Bonds

By Greg Zagorski, Legislative and Policy Associate, National Council of State Housing Agencies

Housing bonds are used to finance low-interest mortgages for low and moderate income homebuyers and the acquisition, construction, and rehabilitation of multifamily housing for low income renters. Investors purchase housing bonds at low interest rates because the income from them is tax-free. The interest savings made possible by the tax exemption is passed on to homebuyers and renters in reduced housing costs.

The housing bond program is overseen by the Department of the Treasury.

History

Private activity bonds were established under the Tax Code of 1954. These bonds were known as Industrial Development Bonds until the Tax Reform Act of 1986 and other legislation changed their name.

Program Summary

Private activity bonds, a category that includes housing bonds, are distinct from other tax-exempt bonds because they are issued for private activities as opposed to governmental activities. The private activities must fulfill public purposes, and each private activity bond issuer must hold public hearings to demonstrate such public purposes. Private activity bonds are tax-exempt for the purchaser and are issued by state and local governments to support the stated public purpose. Purchasers, or investors, of private activity bonds can include individuals and corporations. In addition to housing, private activity bonds can be issued for public purposes that include student loans, infrastructure, and redevelopment activities.

State and local housing finance agencies (HFAs) have authority under the Internal Revenue Code to issue housing bonds to support affordable housing activities in their states. Issuing bonds is a way for HFAs to access private financing. HFAs sell the tax-exempt bonds to individual and corporate investors, who are willing to purchase bonds paying lower than market interest rates because of the bonds' tax-exempt status. This interest savings is passed on through private lenders to support housing purchase and development.

There are two main types of housing bonds: Mortgage Revenue Bonds (MRBs), which finance single-family home purchases for qualified low income homebuyers, and multifamily housing bonds, which finance the acquisition, construction, and rehabilitation of multifamily developments for low income renters.

Mortgage Revenue Bonds. Proceeds from MRBs finance discount mortgages to support the purchase of single-family homes. By lowering the interest rate, MRBs make homeownership affordable for families who would not be able to meet mortgage payments on a conventional loan. Congress limits MRB mortgages to first-time homebuyers who earn no more than the greater of area or statewide median income. Families of three or more can earn up to 115% of the greater of area or statewide median income. Congress also limits the price of homes purchased with MRB mortgages to 90% of the average area purchase price.

HFAs also use their MRB authority to issue Mortgage Credit Certificates (MCCs), which provide a nonrefundable federal income tax credit for part of the mortgage interest qualified homebuyers pay each year. The MCC program is a flexible subsidy source which can be adjusted depending on the incomes of different homebuyers, and provides a relatively constant level of benefit to first-time homebuyers regardless of the spread between market and MRB rates.

Housing Bonds

Interested borrowers should contact their state or local HFA for information on obtaining an MRB loan or MCC.

Multifamily bonds. Multifamily bonds provide funding for multifamily housing development that reaches income groups the market might not otherwise serve.

Multifamily housing bonds finance the acquisition, construction, or rehabilitation of affordable rental housing. Multifamily housing bond financed developments must set aside at least 40% of their apartments for families with incomes of 60% of area median income (AMI) or less, or 20% for families with incomes of 50% of AMI or less. The income-restricted apartments financed by those bonds must remain affordable for at least 15 years.

States increasingly combine multifamily bonds with other resources, such as Low Income Housing Tax Credits (LIHTC) and HOME Investment Partnerships (HOME) program funds, to serve even lower income families for longer periods of time than the law requires. Furthermore, many multifamily bonds finance special needs housing, such as housing for formerly homeless people, transitional housing, senior housing, assisted living housing, housing for persons with disabilities, housing for persons with AIDS, migrant worker housing, and rural housing.

Funding

By law, the annual issuance of private activity bonds, including MRBs and multifamily bonds, is capped based on population and indexed to inflation. The 2013 cap is \$95 per capita, with a minimum of \$291,875,000 in private activity bonding authority allowed each state.

Forecast for 2013

With the Administration, Congressional leaders, and key committee members all expressing support for reforming the tax code and reducing the deficit, the tax-exemption for housing bonds, and all municipal bonds, faces its biggest threat since Congress last considered tax reform in 1986.

Some have called for the tax exemption for housing bonds and other municipal bonds to be repealed. The President's National Commission on Fiscal Responsibility and Reform proposed eliminating private activity bonds in its December 2010 report. Representative Dave Camp (R-MI), Chair of the House Ways and Means Committee, and Senator Max Baucus (D-MT), Chair of the Senate Finance Committee, have both expressed strong interest in looking at tax reform this year, which could eliminate Housing Bonds, or remove or cap the tax deduction for interest earned on municipal bonds, as an effort to simplify the tax code and lower rates. In addition, President Obama has several times advanced a proposal to cap the value of income deductions and exemptions for high income taxpayers by limiting the tax value of those deductions and exemptions to 28%.

The cap, if enacted, would have a significant negative impact on municipal bond investment, directly increasing borrowing costs for HFAs and detracting from their ability to provide affordable housing opportunities to lower-income and special needs Americans. It is estimated that the president's proposal would cause issuers to pay yields of up to half a percent higher to continue attracting investors, resulting in an additional \$10 billion annually in debt payments. The ultimate impact, however, would likely fall not on bond issuers and investors but on the bond programs' ultimate beneficiaries, including homebuyers and renters, who would bear the cost of higher interest rates demanded by investors. Further, lower and middle income taxpayers could face increases in taxes if state and local governments are forced to increase revenue to cover higher borrowing costs.

Housing Bonds

In 2011, the most recent year for which data are available, MRBs provided \$8.4 billion to support the purchase of nearly 55,019 homes nationwide. This represents an increase of \$1 billion over 2010, and a decrease of just over 4,000 homes. Some bond issuance was used to raise proceeds that were escrowed for use in future years, and to refund prior-year bonds. HFAs also issued 4,014 MCCs in 2011, a slight decrease from 2010.

States issued over \$4.1 billion in multifamily bonds, and those bonds financed 27,258 units in 2011. This represents an increase of nearly 5,000 units over 2010.

Housing bonds have been an unqualified success in providing lower income Americans a unique and otherwise unavailable chance to own a decent and affordable home and to access quality rental opportunities. Using MRBs, HFAs have made homeownership possible for more than four million low and moderate income families. They help another approximately 100,000 families buy their first homes with MRB mortgages in a typical year. The average income of an MRB borrower in 2011 was approximately \$38,967, representing 77% of the national average income.

HFAs have also provided almost 170,000 lower- and moderate-income homeowners with critical tax relief through the MCC program. Forty-two percent of all MCC borrowers in 2011 earned less than 80% of the area median income.

HFAs have financed an additional 1 million affordable rental apartments with Multifamily Bonds. About 40% of all annual Housing Credit rental home production includes Housing Bond financing. HFAs have used the Housing Credit to produce more than 2.5 million rental apartments for families earning 60% of AMI or less. They add another 100,000 Housing Credit apartments every year.

What to Say to Legislators

Advocates should tell legislators to preserve the tax-exemption for all municipal and private activity bonds, including housing bonds.

Advocates should speak with staff in their Members' offices responsible for housing or tax policy and deliver the message that support is needed for housing bonds in any tax reform or deficit reduction proposal.

Specifically, lawmakers should:

- Preserve the tax exemption for municipal and housing bonds.
- Maintain and strengthen the Mortgage Credit Certificate program.
- Increase the MRB home improvement loan limit by an amount at least adequate to reflect the rise in construction costs since it was first established and index it for construction cost inflation annually thereafter.

For More Information

National Council of State Housing Agencies • 202-624-7710 • www.ncsha.org

Housing Choice Vouchers

By Linda Couch, Senior Vice President for Policy and Research, National Low Income Housing Coalition, and Barbara Sard, Vice President for Housing Policy, Center on Budget and Policy Priorities

Housing Choice Vouchers help people with the lowest incomes afford housing in the private housing market by paying landlords the difference between what a household can afford to pay in rent and the rent itself, up to a reasonable amount. The Housing Choice Voucher program is HUD's largest rental assistance program, assisting more than 2.1 million households; it also serves the lowest income people because of deep income targeting requirements.

This year, advocates will seek sufficient resources to renew all vouchers in use as well as identify ways to avoid cuts in the number of families served by the program due to overall cuts in funding for discretionary, or annually appropriated, programs. Advocates will also seek passage of reform legislation, referred to as the Affordable Housing and Self-Sufficiency Improvement Act in the House in the last Congress. This broad bill, in development since at least 2004, may be a focal point for affordable housing policy revisions in 2013.

ADMINISTRATION

The voucher program is administered by HUD's Office of Public and Indian Housing and about 2,300 state and local public housing agencies.

HISTORY AND PURPOSE

Federal tenant-based rental assistance was established as part of a major restructuring of federal housing assistance for low income families in 1974. President Richard Nixon supported the creation of the tenant-based Section 8 program as an alternative to the government's involvement in producing affordable multifamily apartments. In recent decades, the program has enjoyed broad bipartisan support, and grew incrementally between 1974 and 1996, the first year when no new, incremental vouchers were appropriated. Since then, Congress has authorized HUD to award about 700,000 additional vouchers, but about half of these have simply replaced public housing or other federally subsidized housing that has been demolished or is no longer assisted.

In the last 10 years, Congress has funded incremental vouchers (new vouchers that are not replacements for other assisted housing) only for special populations, primarily for the HUD - Veterans Affairs Supportive Housing (VASH) program. These new vouchers are targeted to specifically address the housing needs of a particular group, as opposed to vouchers which would add to a community's overall voucher pool.

PROGRAM SUMMARY

Today, more than 2.1 million households have HUD Housing Choice Vouchers, also called Section 8 tenant-based rental assistance. Nearly half of voucher households are headed by a person who is elderly or has disabilities; 51% of voucher households have minor children and about a fifth of these families with children are headed by a person who is elderly or has disabilities. Housing vouchers are one of the major federal programs intended to bridge the gap between the cost of housing and the incomes of low wage earners, people on limited fixed incomes and other poor people. The Housing Choice Voucher program provides flexibility and options by issuing vouchers to eligible households to help them pay rent in privately owned apartments of the households' choosing, and allowing public housing agencies (PHAs) to attach a portion of their vouchers to particular properties (project-based vouchers) or to help families buy homes. The national average income of a voucher household in 2011 was \$12,549.

Housing Choice Vouchers

The housing voucher program has deep income targeting requirements. That is, a majority of its resources must assist extremely poor households. Since 1998, 75% of all new voucher holders must have extremely low incomes, at or below 30% of the area median income (AMI). The remaining 25% of new vouchers can be distributed to tenants with incomes up to 80% of AMI.

HUD has annual contracts with about 2,300 PHAs to administer vouchers. Funding provided by Congress is distributed to these agencies by HUD based on the number of vouchers in use in the last year, the cost of vouchers, an increase for inflation as well as other adjustments.

To receive a voucher, residents put their names on local PHA waiting lists. The Housing Choice Voucher program, like all HUD affordable housing programs, is not an entitlement program. Many more people need and qualify for vouchers than actually receive them: only one in four households eligible for housing vouchers receives any federal rental assistance. The success of the existing voucher program and any expansion because of new vouchers depend on sufficient annual appropriations.

Local agencies distribute vouchers to qualified families who then conduct their own housing searches and identify private apartments with rents within the PHA's rent payment standards. The agency's inspection of the unit must also demonstrate that the unit meets HUD's housing quality standards. The amount of the housing subsidy is capped at a payment standard set by the PHA. A PHA can set its payment standard between 90% and 110% of HUD's Fair Market Rent, the rent in the area for a modest apartment. HUD sets FMRs annually. Nationally, voucher households pay almost \$300 a month for rent and utilities, on average.

Generally, voucher program participants pay 30% of their income toward rent and utilities. The value of the voucher then makes up the difference between the tenant's rent payment and the housing agency's rent payment standard. Tenants renting units for more than the payment standard pay 30% of their income plus the difference between the payment standard and the actual rent (up to 40% of adjusted income for new and relocating voucher holders). After a year in an apartment, a family can choose to pay more than 40% of its income toward rent.

Housing vouchers are portable, meaning families can use them to move nearly anywhere in the country where there is a functioning voucher program; their use is not limited to the jurisdiction of the administering agency. A PHA is permitted to impose some restrictions on portability in the first year if a family did not live in the jurisdiction of the PHA when it applied for assistance. Portability has been restricted or disallowed by some PHAs due to alleged inadequate funding. Recent HUD guidance requires approval of the local HUD office before a PHA may prohibit a family from using a voucher to move to a new unit due to insufficient funding.

FUNDING

Beginning in 2003, Congress shifted away from providing renewal funding for all authorized vouchers. Annual changes in funding policies that failed to base renewal funding on the actual cost of vouchers in use, combined with funding shortfalls, resulted in the loss of more than 150,000 vouchers nationwide. In 2007 Congress returned to basing each agency's eligibility for renewal funding on the cost of vouchers in use in the prior year. But renewal funding has been about 1% below the full amount needed, adjusting for inflation, for the last four years.

Funding for voucher administrative fees has been sharply cut since 2011. These funding cuts could result in PHAs issuing turnover vouchers at a slower rate. Over time, this could result in the loss of vouchers by attrition. Attrition happens when a PHA cannot afford to issue a voucher to the next family on its waiting list and the voucher sits unused, and the family remains unassisted.

Housing Choice Vouchers

FORECAST FOR 2013

Funding. Funding for 2013 remains uncertain. Congress has not enacted an appropriations bill for HUD programs, which are operating under a continuing resolution that expires March 27. This means that funding has remained at the FY12 level. There is a significant risk that funding for the year will be cut by at least another 5.1%, based on sequestration due to take effect on March 1, 2013. Due to sharp reductions in the permitted total amount of funding for discretionary programs in FY14, there is also a risk that the voucher program will be underfunded in FY14. If the President's FY14 budget prioritizes voucher program funding, however, that will increase the chances of adequate renewal funding for next year. The President's budget is not expected to be released until March.

New vouchers. For many years, the primary source of increased federal housing assistance for very poor people was new annual appropriations for additional vouchers. Between FY95 and FY98, however, no such incremental vouchers were funded. Congress then approved the following incremental vouchers: 50,000 new vouchers for FY99; 60,000 for FY00; 87,000 for FY01; and 26,000 for FY02. Congress approved no new vouchers in FY03, FY04, FY05, FY06 or FY07. Since FY08, Congress has appropriated funding for a small number of incremental vouchers each year, no more than about 17,000, for special populations, mostly for homeless veterans under the VASH program. Because of the program's success in reducing the number of homeless veterans, there is a reasonable chance of continued funding of about 10,000 new VASH vouchers each year. Funding constraints, however, mean that there is a likely tradeoff between funding for new vouchers and other HUD programs.

Affordable Housing and Self-Sufficiency Improvement Act. A revised draft bill was developed by the House Financial Services Committee after approval of an earlier version in subcommittee. The bill is based on long-standing housing reform legislation in development since at least 2004. It would have reformed many aspects of the voucher program as well as the public housing and project-based Section 8 programs. The bill would make simplifications to the rent-setting processes in the voucher, public housing and project-based Section 8 programs, as well as to the income recertification processes for tenants in these programs. The bill would also streamline how inspections are done in the voucher program, make improvements to the project-basing of vouchers, expand the Moving to Work program (with significantly stronger protections for low-income families than under the current demonstration) and make other reforms. The Congressional Budget Office estimated that the draft bill would save nearly \$3 billion over five years. Such savings could help avoid cuts in the number of families receiving vouchers or other HUD rental assistance.

The draft House bill also includes a damaging provision that would permit minimum monthly rents of \$75 in the voucher, public housing and project-based Section 8 programs. This provision could increase rents for up to 500,000 of the very lowest income households in these programs, but the April 2012 version of the bill included strengthened hardship exemption policies. The House did not act on the bill due to an inability of bipartisan HFSC leaders to resolve conflicts, particularly over the expansion of the MTW program. The Senate Banking Committee held two hearings in 2012 on the House bill and related issues. Advocates hope that the Senate Banking Committee will act on a bipartisan version of the bill in 2013.

WHAT TO SAY TO LEGISLATORS

Advocates should encourage Members of the House and Senate to:

- Fully fund all vouchers currently in use.
- Oppose proposals to increase mandatory minimum rents.
- Enact voucher reform legislation that streamlines key program policies, saves costs, and avoids controversial provisions that would undermine the consensus behind the bills' core reforms.

Housing Choice Vouchers

FOR MORE INFORMATION

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

Center on Budget and Policy Priorities • 202-408-1080 • www.cbpp.org (Information on housing policy and funding, including for the Housing Choice Voucher program is at <http://bit.ly/XoFPtG>.)

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

The Housing Needs of Victims of Domestic Violence, Sexual Assault, Dating Violence and Stalking

By Monica McLaughlin, Senior Public Policy Specialist, National Network to End Domestic Violence

The Family Violence Prevention and Services Act (FVPSA), the Violence Against Women Act (VAWA) and the HEARTH Act create federal protections and support lifesaving programs for victims of domestic violence, sexual assault, dating violence, and stalking. For these federal laws and programs to realize their full potential in meeting victims' housing needs, new and existing VAWA housing protections must be fully implemented, HEARTH Act implementation must address victims' needs, and program funding must be preserved.

FVPSA is administered by the Department of Health and Human Services (HHS), while VAWA programs are administered by the Department of Justice's (DOJ) Office on Violence Against Women (OVW).

History and Purpose

FVPSA, originally passed in 1984, created the first and only dedicated federal funding stream for community-based domestic violence programs and shelters. The programs rely on this funding to provide and sustain lifesaving support to victims trying to escape violence. VAWA, originally passed in 1994 and reauthorized in 2000, 2005 and 2013, created the first federal law to encourage coordinated community responses to combat domestic and sexual violence. The 2005 VAWA reauthorization instituted landmark protections, including those that ensured that victims can access the criminal justice system without jeopardizing their current or future housing, strengthened confidentiality protections for victims accessing the housing and homelessness services, and maintained the transitional housing grant program.

The need for funding and protections in this area remains great. Domestic violence is consistently identified as a significant factor in homelessness (U.S. Conference of Mayors, December 2009). A staggering 92% of homeless women report having experienced severe physical or sexual assault at some point in their lives, and upwards of 50% of all homeless women report that domestic violence was the immediate cause of their homelessness. Victims continue to face housing discrimination.

Advocates and survivors identify housing as a primary need of victims and a critical component in breaking the cycle of violence. While programs do their best to serve those in need, every day thousands of abused adults and children are turned away from shelters and denied housing services because programs lack adequate resources and funding. The National Domestic Violence Census found that in just one 24-hour period in 2012, 6,818 requests for shelter and housing went unmet due to a lack of resources.

As a result, many victims face the impossible choice between returning to their abusers and becoming homeless. In fact, victims of domestic violence often return to their abusers because they cannot find affordable long-term housing. Victims consistently report that without available transitional housing services, they would either return to their abusers or be incarcerated for trying to make ends meet through illegal behavior, such as prostitution. Demand for services rises as more victims learn about the resources available to them and seek to leave abusive relationships. Unfortunately, transitional housing programs across the country reported funding cuts in 2009, ranging from 15% to 50% of their total operating budgets.

Program Summary and Funding

FVPSA and VAWA housing programs and protections are a critical part of the effort to reduce homelessness and housing instability among victims of domestic and sexual violence. These essential programs respond to an array of victims' needs, from emergency shelter to permanent housing. The protections included in this legislation help to ensure that victims can maintain safe and confidential housing.

FVPSA. FVPSA funds approximately 1,600 emergency domestic violence shelters and programs across the country. The funds are primarily distributed through a state formula grant. In addition to lifesaving emergency shelter, FVPSA-funded programs provide counseling, legal assistance, crisis intervention, and services for children. Although authorized at \$175 million, FVPSA funding has never reached that level. In FY12, FVPSA was funded at \$130 million, \$45 million below its funding authorization. Advocates recommend funding FVPSA at \$140 million to meet the growing demand for services.

VAWA. VAWA includes many discretionary grant programs, including the transitional housing grant program. In addition, VAWA provides legal protection from unfair eviction and from denial of public and subsidized housing. VAWA reauthorization was signed into law in March 2013.

VAWA Transitional Housing Grants. This VAWA housing program is administered by the Office of Violence Against Women (OVW) at the DOJ. The program distributes grants to over 225 organizations annually across the country on a competitive basis. The grants may be awarded to states, units of government, Indian tribes, and other organizations, including domestic violence and sexual assault victim service providers or coalitions, other nonprofit and nongovernmental organizations, or community-based and culturally specific organizations that have a documented history of effective work concerning domestic violence, dating violence, sexual assault, or stalking. Transitional housing grants allow entities to offer direct financial assistance for housing and housing-related costs, operate transitional housing programs, and provide supportive services, including advocacy securing permanent housing. With VAWA Transitional Housing funding, organizations can provide a critical bridge from crisis to stability for victims of domestic and sexual violence, stalking, and dating violence. VAWA transitional housing is authorized at \$40 million but received \$25 million in FY12.

VAWA Housing Protections. Victims of domestic violence are often punished for the actions of their abusive partners. For example, victims of domestic violence living in public housing sometimes face unfair eviction and denial of housing benefits. The landmark housing provisions passed in the 2005 VAWA reauthorization are designed to protect victims from such housing discrimination and allow them to access the criminal justice system while maintaining their housing. VAWA housing protections allow public housing agencies (PHAs) to prioritize victims for housing when their safety dictates it, prohibit PHAs from denying housing or evicting a victim based solely on grounds of domestic violence, and clarify portability of Housing Choice Vouchers for victims. VAWA 2013 builds on the 2005 law. The law expands to cover the following federally subsidized housing programs: USDA Rural Housing properties, Low-Income Housing Tax Credit properties, HUD's McKinney-Vento homeless programs, the HOME Investment Partnerships program, the Section 221(d)(3) Below Market Interest Rate (BMIR) program and the Section 236 Rental program, Housing Opportunities for Persons with AIDS (HOPWA), Section 202 supportive housing for the elderly, and Section 811 supportive housing for people with disabilities; expands protections to victims of sexual assault; and requires housing programs to adopt emergency housing transfer policies.

VAWA housing protections are designed to allow victims to maintain or access safe housing, and yet the lack of consistent implementation has limited the effectiveness of these protections. Many of the

The Housing Needs of Victims of Domestic Violence, Sexual Assault, Dating Violence and Stalking

housing provisions and protections under VAWA are not fully executed at the local level. HUD issued a final rule on the VAWA housing protections in October 2010 that, by and large, responds to advocates' concerns. The final rule will help foster consistent implementation and provide clearer guidance to housing providers on how to apply the VAWA housing protections. The final rule also indicates that HUD will continue to provide further guidance on the housing protections. Clearly the new protections, covering additional programs, will require swift and consistent implementation as well.

Additionally, VAWA requires grantees and subgrantees to maintain the confidentiality of personally identifying victim information. It prohibits disclosure of personally identifying information or individual information collected in connection with services requested, utilized, or denied through grantees' and subgrantees' programs without the informed, written, reasonably time-limited consent of the person.

Forecast for 2013

Funding for VAWA and FVPSA. Maintaining funding for FVPSA and VAWA programs is critical to ending domestic and sexual violence and homelessness. To realize the benefits of these programs, VAWA funding must be maintained in the FY14 budget, with at least \$25 million specifically for transitional housing. Additionally, investments in FVPSA funding of at least \$140 million ensure that emergency domestic violence shelter is available when victims flee. When adequately funded, these Acts help to reduce the societal cost of violence against women. In fact, by supporting critical services for victims, VAWA saved \$12.6 billion in net averted social costs in its first six years alone.

VAWA reauthorization. VAWA was recently reauthorized. The newly reauthorized law should build upon the strengths of the housing programs and protections with key improvements. The law expands protections to include victims of sexual assault, includes protection to victims in all federally subsidized housing programs and delineates an emergency transfer policy process for victims who are face continued threats or violence.

Tips for Local Success

VAWA implementation. Advocates can play a key role in promoting safe housing for victims of domestic and sexual violence by encouraging consistent implementation of VAWA housing protections within local jurisdictions. Housing advocates should work in partnership with domestic violence advocates to familiarize themselves with VAWA housing protections, to improve advocacy for individuals, and to improve PHAs' policies and procedures. Domestic violence advocates can train PHA staff, hearing officers, Section 8 owners, and resident groups on VAWA and the dynamics of domestic violence. PHAs should be encouraged to institute a preference for victims when making admission decisions. Advocates should also get involved with their PHA's planning process to ensure that victims' needs are addressed and that VAWA housing protections are adequately communicated to consumers. The 2010 HUD final rule on VAWA should be a resource for advocates, landlords, and housing providers in understanding and utilizing the VAWA housing protections.

Advocates should engage with current and newly covered housing programs to begin implementation of the new VAWA housing protections.

McKinney-Vento. HUD's interim rule on the Continuum of Care process for McKinney Vento homelessness programs outlines the basic requirements for a coordinated assessment or centralized intake process. The interim rule proposes allowing domestic violence and other victim service providers to opt out of the coordinated assessment system, citing safety concerns for victims. Advocates are waiting for the final rule for clarity on the requirements for victim services providers. In the meantime,

The Housing Needs of Victims of Domestic Violence, Sexual Assault, Dating Violence and Stalking

advocates should work in their communities to ensure that coordinated assessment systems meet the needs of victims, maintain confidentiality, reduce trauma, and increase victims' access to housing resources.

As victims access both victim service programs and general housing and homelessness programs, these policies must be present in systems that include victim service providers and those that do not. At a minimum, such coordinated assessment systems must be built on shared tools and standards, not shared databases or other structures that inherently expose victims to unnecessary danger; meaningfully and significantly involve victim service providers in their design and implementation; proactively address safety and privacy concerns; adhere to confidentiality and safety policies with regard to record-keeping or sharing and physical locations; and allow direct, immediate access to safe housing for victims. It is imperative that victim advocates are significantly involved in the design of such systems to ensure that victims' needs are considered and addressed.

What to Say to Legislators

Advocates should tell Members of Congress why emergency shelter and longer-term housing are essential for victims of domestic and sexual violence. Housing providers should talk about the victims that programs serve and about the struggles programs face in meeting victims' unique needs for safety. Advocates should share the latest information about the pervasive scarcity of emergency and transitional housing, and of safe, affordable long-term housing in their communities.

VAWA and FVPSA funding. Advocates should ask the House and Senate Appropriations Committees to maintain targeted investments in FVPSA and all VAWA programs, including:

In the Commerce, Justice, Science Appropriation:

- \$25 million for VAWA Transitional Housing

In the Labor, Health and Human Services Appropriation:

- \$140 million for FVPSA/domestic violence shelters

For More Information

National Network to End Domestic Violence • 202-543-5566 • www.nnedv.org & www.nnedv.org/census

NNEDV Tools on Confidentiality • www.nnedv.org/tools

National Housing Law Project • 510-251-9400 • www.nhlp.org

National Law Center on Homelessness and Poverty • 202-638-2535 • www.nlchp.org

The HUD final rule on VAWA can be found on HUD's website at <http://1.usa.gov/XoHShh> (PDF).

VAWA 2005 Housing Protections Fact Sheets and outline available from NHLP at <http://bit.ly/XoHZcP> (PDF).

Housing Opportunities for Persons with AIDS

Nancy Bernstine, Executive Director, National AIDS Housing Coalition

Housing Opportunities for Persons with AIDS (HOPWA) provides funding to eligible jurisdictions to address the housing needs of persons living with HIV/AIDS and their families.

ADMINISTRATION

HOPWA is administered by the Office of HIV/AIDS Housing (OHH), which is located in the Office of Community Planning and Development at HUD.

HISTORY AND PURPOSE

HOPWA was created in the AIDS Housing Opportunities Act, a part of the Cranston-Gonzales National Affordable Housing Act of 1990, to provide housing assistance and related supportive services for low income persons living with HIV/AIDS and their families.

There remains the perception that the HIV/AIDS epidemic in America is under control, but in reality, AIDS is still an active crisis. According to a 2010 Centers for Disease Control (CDC) report, about 56,000 people became infected with HIV in the past year, which translates to about 40% more cases than originally estimated. The CDC also estimates that there are now 1.1 million people living with HIV/AIDS in the United States, one fourth of whom are unaware they have the virus.

For people struggling with the disabling and impoverishing effects of HIV/AIDS, housing is the cornerstone of health and stability. Maintaining both is essential when managing HIV. For people living with HIV/AIDS, housing is healthcare. It has been estimated that as many as half of all people living with HIV/AIDS will need housing assistance at some point in their illness. For many, short-term assistance with rent, mortgage, or utility costs alone will provide the necessary support to remain healthy and in stable housing. But for others, more intensive supportive services are needed. HOPWA facilitates community efforts in developing comprehensive strategies to address HIV/AIDS housing need.

HOPWA assists communities in devising long-term housing strategies for persons living with HIV/AIDS that prevent them from becoming homeless. As with other chronic conditions that prevent people from finding or maintaining gainful employment, HIV/AIDS can be an impoverishing disease, requiring public subsidies for basic needs, including housing. With improvements in drug therapies and medical care reducing the number of deaths from AIDS, more people are living longer with HIV/AIDS, thus increasing the demand for supportive housing.

PROGRAM SUMMARY

The HOPWA program provides housing assistance and related supportive services for low income persons living with HIV/AIDS and their families, and supports communities in the development of long-term housing strategies for persons living with HIV/AIDS that prevent them from becoming homeless. As a supportive housing program, HOPWA helps ensure that persons living with HIV/AIDS can access and can adhere to necessary medical care and other services.

HOPWA consists of two grant-making programs. Ninety percent of the funds are distributed as formula grants to states and localities, which must serve the metropolitan area in which they are located. The formula is based on population size and the number of people living with HIV/AIDS as confirmed by the CDC. Currently, 135 formula grantees with 139 eligible areas receive three-quarters of available funding based on AIDS surveillance data for their metropolitan areas and areas of states outside of eligible metropolitan areas. In addition, one-quarter of the formula allocation is awarded to metropolitan areas

Housing Opportunities for Persons with AIDS

that have a higher-than-average per capita incidence of AIDS. Funds can be used for a wide range of housing, social services, program planning, and development costs. These include, but are not limited to, the acquisition, rehabilitation, or new construction of housing units; costs for facility operations; rental assistance; and short-term payments to prevent homelessness. The National HIV/AIDS Strategy directs HUD to “work with Congress to develop a plan (including seeking statutory changes if necessary) to shift to HIV/AIDS case reporting as a basis for formula grants for HOPWA funding.”

The other 10% of HOPWA funds are distributed through a competitive process to states and localities that do not qualify for a formula allocation, or to states, localities or nonprofit organizations that propose projects of national significance. During FY12, 29 HUD competitive grants were renewed, and for the first time an additional seven Special Projects of National Significant (SPNS) were awarded funding. This funding supports projects that demonstrate model, replicable approaches to providing permanent or transitional housing assistance.

In the competitive program, grantees can distribute funds to projects that provide one or more of the following services: housing information and referral; housing search assistance, shelter or rental assistance; the development or operation of single room occupancy (SRO) housing and other community-based residences; and technical assistance. HOPWA also provides technical assistance to help support sound management in local programs as well as develop strategies to address HIV/AIDS housing need.

Eligibility for HOPWA assistance is limited to low income individuals with HIV/AIDS and their families. Approximately 91% of the clients assisted through HOPWA funds have family incomes of less than \$1,000 per month. Sixty-five percent of people living with HIV/AIDS cite stable housing as their second greatest need, exceeded only by health care. Preliminary data from 40 HOPWA grantees, reporting on client outcomes under a new performance measurement format, demonstrates that 94% of clients receiving rental assistance have stabilized their housing.

FUNDING

The HOPWA program is funded at \$332 million per year until March 27, 2013, when the continuing resolution expires. This funding level is a continuation of the FY 12 appropriated funding level but it represents a reduction of \$2.3 million in funding from FY11 level. This represents at least 384 households in need who will be unable to receive housing assistance this year.

HOPWA is authorized according to the AIDS Housing Opportunity Act (42 U.S.C. 12901) as amended. The HUD appropriation is authorized under annual appropriation acts.

FORECAST FOR 2013

The current economic climate puts the most vulnerable low income people with HIV/AIDS at risk, including those who are multiply diagnosed with substance abuse, mental illness, and other co-infections. For FY14, the National AIDS Housing Coalition (NAHC) requests \$365.2 million for HOPWA, an increase of \$33.2 million above the FY12 appropriation. This recommended funding level, while meeting only a fraction of need, would sustain existing programs, permit small program expansions at the local level, and support newly added jurisdictions.

A funding level of \$365.2 million in FY14 would enable housing assistance and housing-related supportive services for 62,450 households.

During 2011, \$8.8 million in competitive HOPWA funds were awarded to seven projects which will offer permanent and transitional housing and support services to more than 200 households with individual and families living with HIV/AIDS.

Housing Opportunities for Persons with AIDS

HOPWA remains sorely underfunded relative to the need. HOPWA would need \$1.12 billion to serve all those living with HIV/AIDS in need of housing assistance.

The National HIV/AIDS Strategy, released in 2010, acknowledges the need to revise the HOPWA formula to better reflect today's epidemic. To that end, the Administration is expected to propose an update to the formula that will include counting living cases (HIV) rather than cumulative AIDS cases as in the current formula. A housing cost factor and a poverty factor area also expected to be included. It is hoped a measure will be introduced in and considered by the 113th Congress to address the regional disparities in the formula distribution and make other program improvements.

WHAT TO SAY TO LEGISLATORS

Advocates should speak to their Members of Congress with the message that HIV/AIDS is an active crisis, and that housing is an essential component of healthcare for people living with HIV/AIDS. Advocates should let Members know that a \$380 million appropriation for HOPWA will provide urgently needed housing assistance for 72,960 people with HIV/AIDS and their families.

FOR MORE INFORMATION

National AIDS Housing Coalition • 202-377-0333 • www.nationalaidshousing.org

Housing Plus Services

By Sham Manglik, Policy Analyst, National Low Income Housing Coalition

The term Housing Plus Services was coined by NLIHC and is used to describe permanent affordable housing that incorporates various levels of services provided by trained professionals. Service providers' primary responsibility is caring for tenants, rather than managing a property. NLIHC's Housing Plus Services principles describe the basic philosophy underlying the combination of these two resources, housing and services, for extremely low income people.

HISTORY

The importance of providing services within homes to help tenants continue to live independently is a model that has gained increased attention and recognition in recent years. NLIHC has used the term Housing Plus Services for about a decade.

ISSUE SUMMARY

A range of households can benefit from services to stabilize tenancies or enhance quality of life, including households with members with disabilities, who are elderly, or who are moving into housing after experiencing homelessness. Services can range in intensity from minimal to comprehensive, matching the needs of a household. Common types of services include programs and activities, assistance in accessing community resources, assistance with life skills, case management, and crisis intervention. It is critical that these services, at whatever level provided, be financially linked to the housing units, creating consistency for tenants and guaranteeing services will remain with the housing assistance.

Housing Plus Services units are found in a variety of housing models with an assortment of service offerings. Some public housing agencies (PHAs) provide youth activities, childcare, job training, and transportation assistance. Units serving people with disabilities and integrated into mainstream developments may come with comprehensive case management and in-home health care services. Federally funded service coordinators, whose job is to link residents of HUD-assisted housing to services in the community, represent yet another implementation of the Housing Plus Services concept. Increasingly, even private affordable housing developers collaborate with nonprofit service providers to include a service component in housing.

These models are illustrated in NLIHC's revised services typology based on housing type, target population, role of addressing homelessness, eligibility, service plans, practices and staffing. (See chart on pages xx - xx.)

As Housing Plus Services programs developed organically, project by project, no common language or generally agreed-upon service definitions exist. This causes communication problems among groups who could be more effective in both advocacy and service delivery. NLIHC developed two tools to assist in creating a common language and standards for Housing Plus Services models: a set of principles and a typology of programs. The program typology offers a three-tiered framework for defining and implementing Housing Plus Services programs in an effort to find common ground. The NLIHC Housing Plus Services Policy Committee revised the typology chart in 2010 to clarify the service types that may cross multiple categories.

NLIHC Housing Plus Services Principles for Program Design and Implementation:

- Housing is a basic human need, and all people have a right to safe, decent and affordable permanent housing.
- All people are valuable and capable of being valuable residents and valuable community members.

Housing Plus Services

- Housing and services should be integrated to enhance the social and economic well-being of residents and to build healthy communities.
- Residents, owners, property managers and service providers should work as a team in integrated housing and services initiatives.
- Programs should be based on assessment of residents' and community strengths and needs, supported by ongoing monitoring and evaluation.
- Programs should strengthen and expand resident participation to improve the community's capacity to create change.
- Residents' participation in programs should be voluntary, with an emphasis on outreach to the most vulnerable.
- Community development activities should be extended to the neighboring area and residents.
- Assessment, intervention and evaluation should be multi-level, focusing on individual residents, groups and the community.
- Services should maximize the use of existing resources, avoid duplication and expand the economic, social and political resources available to residents.

FUNDING

As there is no single program for creating Housing Plus Services units, this housing has evolved as developers and service providers have learned to cobble together a variety of funding sources. The portfolio of units is varied by type and service level, and is not tracked by HUD or other federal agencies as a single discreet category of housing.

Depending on the population served, housing providers piece funding together through various HUD and Department of Health and Human Services (HHS) sources, Medicaid, Medicare, Temporary Assistance for Needy Families (TANF) funds, state funds and private foundations. Common sources include HUD's self-sufficiency initiative and service coordinator programs, and TANF work and training programs. While the availability of multiple funding sources creates flexibility in program design and targeting, it is often difficult for developers and managers of properties to secure and coordinate a comprehensive and consistent services program. The challenge of coordinating services that are independent of housing funding sources can be a deterrent to developers wishing to offer services within housing. Additionally, the lack of coordination between federal agencies' service funding can lead to inconsistent access to services for households in need.

While HUD allows some of its funding to be dedicated to services to enhance and stabilize tenancies, there is concern among advocates about using limited affordable housing funding for services when other federal agencies could provide those services. Most advocates would prefer that HUD utilize its funds for permanent housing and see services funded by HHS, the U.S. Department of Veterans Affairs (VA), and other sources that have service provision as their primary function. HUD's homeless assistance funds, which provide a significant source of existing services funding, require that 30% of funds be allocated to creating permanent housing, ensuring that housing resources are part of addressing homelessness.

FORECAST FOR 2013

Providing services to households in their housing units can not only enhance quality of life for tenants struggling to maintain independence and improve their lives, but can prevent evictions that result in a person becoming homeless. In the last congressional session, both the House and Senate introduced legislation that proposed using services in housing as a homeless prevention tool. Advocates, the administration and legislators recognize these services as a necessary component in helping many households currently experiencing homelessness end their homelessness. Legislators have significantly

Housing Plus Services

increased their focus on providing services in housing for veterans experiencing homelessness. As attention to veteran homelessness increased, so did the understanding that housing with services is a critical component to supporting veterans who lack stable housing situations. In 2010, the VA also introduced a five year plan to end veteran homelessness, which relies heavily on services as a source of support for newly housed veterans.

Many of the bills focusing on services as a tool to prevent homelessness that did not pass in the 112th Congress are expected to be reintroduced in the 113th Congress.

WHAT TO SAY TO LEGISLATORS

Advocates should urge legislators to support collaborations between HUD, HHS and other agencies that can provide services within HUD-funded housing. This will ensure that services dollars are tied to permanent affordable housing units to support stable and self-sufficient tenancies.

Legislators should also know that HUD's homeless assistance grants, self-sufficiency and service coordinator funds are all critical to providing services in housing. Without these funding sources, many households that are currently affordably housed could lose their housing and become homeless.

FOR MORE INFORMATION

National Low Income Housing Coalition • www.housingplusservices.org

**National Low Income Housing Coalition
Differentiating Three Models of
Permanent Affordable Rental Housing Plus Services (HPS)**

	SERVICE-ENRICHED HOUSING	SUPPORTIVE HOUSING	SPECIAL NEEDS HOUSING
Overview of Housing Models			
Housing and Service Combination	<ul style="list-style-type: none"> Housing with coordinated access to optional services and community resources for all residents. Services address moderate or temporary housing stability problems or assist households in pursuing social or economic improvement goals. Units are in multi-unit developments <i>Examples include: (1) public housing with a day-time resident services coordinator; (2) a project based development with a service coordinator providing crisis intervention and resource and referral.</i> 	<ul style="list-style-type: none"> Housing with a comprehensive array of intensive and case managed services for all residents. Services address moderate to severe housing stability problems and assist households in integrating into the local community. Units may be in multi-unit developments or in scattered-site settings. <i>Examples include: (1) project-based developments with 24-hour on site staff providing intensive services; (2) scattered site units with access to assertive community treatment (ACT) teams.</i> 	<ul style="list-style-type: none"> Housing where specific types of services are provided on site for specific residents. Services may include independent or assisted living resources or accessibility modifications. Units may be facility-based in group homes, set aside in multi-unit buildings, or individually accessed with tenant-based rental assistance. <i>Examples include: (1) rent-subsidized group homes for people with mental retardation with services for all residents; (2) individual project-based subsidized units within a mainstream building where independent living assistance is available only to residents of these units.</i>
Target Population	<ul style="list-style-type: none"> Low-income families and individuals with low to moderate service needs. Prevents loss of tenancies by increasing housing stability through access to as needed services and community resources. 	<ul style="list-style-type: none"> Low-income families and individuals of all ages with moderate to high service needs. Ends homelessness for people with significant housing barriers; prevents loss of tenancies through housing stabilization services. 	<ul style="list-style-type: none"> Low-income individuals with disabilities, older adults or youth with specialized needs. Prevents loss of tenancies through housing stabilization services.
Role in Addressing Homelessness			
Property Management and Housing Operations Practices			
Eligibility, Preferences and Priorities	<ul style="list-style-type: none"> Income-based eligibility based on type of housing subsidy, between 0-60% of AMI. May have preferences or priorities for particular populations such as seniors, families or formerly homeless. 	<ul style="list-style-type: none"> Income based eligibility, between 0-30% of AMI. Homeless and formerly homeless households. Based on an evaluation of need for services to maintain tenancy including persons with disabilities or chronic health conditions. 	<ul style="list-style-type: none"> Income based eligibility varies depending upon subsidy or funding requirements. Based on an evaluation of need for specialized services for people with disabilities and other target populations.
Rent Levels	<ul style="list-style-type: none"> Subsidized either based on income so that tenant pays no more than 30% of income or at levels affordable to households at specific AMI levels. 	<ul style="list-style-type: none"> Subsidized based on income so that tenant pays no more than 30% of income. 	<ul style="list-style-type: none"> Subsidized either based on income so that tenant pays no more than 30% of income or according to licensing or funding agreements.
Marketing, Screening, and Leasing	<ul style="list-style-type: none"> Marketed to households with qualifying incomes. Screens out households with significant credit or CORI issues, except when units are set aside for formerly homeless households. Lease agreement provides the same rights and obligations as other renters in the jurisdiction. 	<ul style="list-style-type: none"> Marketed through referral and outreach systems for homeless or recently institutionally discharged persons. Screens in households with high service needs and challenges to obtaining and retaining units. Lease agreement may or may not provide similar rights and obligations as other renters. 	<ul style="list-style-type: none"> Marketed through referral and outreach systems for people with defined "special need." Screens in households with specific types of service needs. Lease agreement may or may not provide similar rights and obligations as other renters, per licensing or funding agreements.

Housing Plus Services Typology

	SERVICE-ENRICHED HOUSING	SUPPORTIVE HOUSING	SPECIAL NEEDS HOUSING
Property Management and Housing Operations Practices			
Marketing, Screening, and Leasing <i>Continued</i>	<ul style="list-style-type: none"> Participation in services is voluntary 	<ul style="list-style-type: none"> Participation in services may be voluntary or a requirement of ongoing tenancy depending on program guidelines. 	<ul style="list-style-type: none"> Participation in services may be voluntary or a requirement of ongoing tenancy depending on program guidelines.
Supportive Services Plans, Practices and Staffing			
Service Provision	<ul style="list-style-type: none"> Service coordination provides access to community based services and crisis intervention. Service coordination includes: <ul style="list-style-type: none"> referrals to community services for childcare, child educational enrichment, youth development, adult educational and vocational activities, financial literacy, as well as organizing of community building activities. Service coordination can be provided through in-house resident services staff or an external agency. 	<ul style="list-style-type: none"> Service plans emphasize: <ul style="list-style-type: none"> case management with community based service referral; meeting lease obligations; accessing non-emergency health care; obtaining public benefits; accessing employment or vocational training; peer support; counseling; life skills training and community building; mental health and substance use crisis intervention; Case management is provided through in-house supportive staff and additional specialized services may be contracted through an external agency. 	<ul style="list-style-type: none"> Services are specialized to the needs of the target tenant population and may include some or all of the resources described for supportive housing. Additional services may include special or interdisciplinary services for the full length of the tenancy. For group homes case management is provided by in-house staff and additional specialized services may be contracted through an external agency; for scattered site units services are provided by one or more external agencies.
Staffing Levels	<ul style="list-style-type: none"> Service coordinator to household ratio ranging from 1:50 to 1:150 depending upon coordination complexity. Service coordinator has only periodic contact with households and primarily in group settings. 	<ul style="list-style-type: none"> Case management to household ratio of 1:10 to 1:25 depending upon service delivery intensity. Service provider staff has daily or frequent one-on-one contact with tenants and assertively engages tenants in available services. 	<ul style="list-style-type: none"> Case management to household ratio of 1:10 to 1:25 depending upon service delivery intensity. Service provider may have daily one-on-one contact with households or may only be on call for periodic assistance. Depending upon need, services may phase out over time.
Staff Qualifications	<ul style="list-style-type: none"> Service coordinators may or may not need advanced degrees. 	<ul style="list-style-type: none"> Case managers often need advanced degrees. Service providers often need clinical training/licensing. Other staff may include peer counselors who have experienced homelessness, mental illness, and/or recovery from addiction. 	<ul style="list-style-type: none"> Varies by disabling condition. Case managers often need advanced degrees. Service providers often need clinical training or licensing.

Interagency Council on Homelessness

By Sham Manglik, Policy Analyst, National Low Income Housing Coalition

The U.S. Interagency Council on Homelessness (ICH) is an independent federal agency that coordinates the homeless policies of 19 federal departments, including HUD, the Department of Health and Human Services (HHS), the Department of Labor (DOL), and the Department of Veterans Affairs (VA). The Secretaries of these 19 agencies constitute the council, and the four primary agencies, HUD, HHS, DOL, and VA, rotate responsibility for chairing it. The ICH's main task is implementing the federal 10-year plan to end homelessness, *Opening Doors*, which was released in the spring of 2010. In addition to coordinating the work of federal agencies on the 10-year plan, the ICH also coordinates with state and local governments on developing and implementing strategies to end homelessness.

HISTORY

The federal government invests tens of billions of dollars in health, education, housing, and other programs serving low income households, including households experiencing homelessness. Historically, these programs have often operated in isolation from one another, from programs in other departments and from mainstream resources, resulting in a less efficient and less effective response to households experiencing homelessness. The connection between the federal administration of these programs and state and local efforts to end homelessness has also lacked sufficient coordination.

Created in 1987 through the Stewart B. McKinney Homeless Assistance Act (later renamed the McKinney-Vento Homeless Assistance Act), the ICH became dormant for a number of years and was reestablished in 2002. The current executive director was hired in 2009 along with additional departmental staff.

PROGRAM SUMMARY

The Council's mission is to plan for and oversee the use of federal resources to end homelessness in the United States. The Council is comprised of 19 cabinet secretaries and agency heads and is currently chaired by Department of Veterans Affairs Secretary Eric Shinseki, who is serving a one-year term.

Among other roles, the council is responsible for organizing and supporting local governments in implementation of local 10-year plans to end homelessness, maintaining relationships with every federal agency, communicating with Congress, promoting research and evaluation on ending homelessness, and engaging private sector stakeholders in ending homelessness. The ICH promotes states' establishment and implementation of 10-year plans to end homelessness and provides regional coordinators throughout the country to support state and local governments, advocates, providers, and consumers in this work. These state and local plans, begun during the last administration, are developed by governments in partnership with nonprofit providers, foundations, private businesses, faith-based groups and other important community organizations. The plans can bring attention to the issue of homelessness, focus state and local funds on targeted strategies to reduce the need for shelter by creating housing resources and attract new private investment from foundations and private sector business.

FEDERAL PLAN TO END HOMELESSNESS

The ICH's current main charge is implementing the federal plan to end homelessness, which established goals and priorities for federal agencies to pursue between FY10 and FY14. The federal agencies responsible for providing leadership in implementing the plan are the departments of Agriculture, Energy, HUD, Labor, Transportation, Veterans Affairs, Health and Human Services, Justice and Treasury, as well as the Office of Management and Budget and the General Services Administration. Additional implementation partners include state housing finance agencies, state health and human services agencies, local housing authorities, developers and service providers.

Interagency Council on Homelessness

The plan's four main goals include:

- Ending chronic homelessness within five years.
- Ending homelessness for veterans within five years.
- Ending homelessness for families, youth and children within 10 years.
- Establishing a path to end all other types of homelessness.

The plan is organized around five themes: (1) leadership, collaboration and civic engagement; (2) access to stable and affordable housing; (3) economic security; (4) health and stability; and (5) homeless crisis response system. The plan outlines four strategies to provide affordable housing: (1) supporting additional rental subsidies, (2) expanding the supply of affordable rental homes, (3) improving access to housing assistance, and (4) increasing the availability of service-enriched housing.

In 2012 ICH issued an amendment to *Opening Doors*. The amendment expands on the section of *Opening Doors* focused on ending homelessness for families, youth, and children, by outlining ways to improve educational outcomes for children and youth, and identifying ways to meet the needs of unaccompanied youth.

The plan does not identify the amount of funding or the sources of funding that will be needed to achieve the goals of ending homelessness over the 10-year period.

FUNDING

In FY12 the ICH was funded by Congress at \$3.3 million dollars to support the staffing and initiatives of the Council. The President's FY13 budget request includes \$3.6 million for the ICH. Appropriations have not been determined for FY13 as of this writing, nor has the President's FY14 budget request been released.

FORECAST FOR 2013

The approach of the director and staff at ICH in implementing the federal plan includes extensive outreach to advocates working on the local, state and federal levels. Advocates provided input in developing the plan and feedback on the strengths and weaknesses of the plan. ICH has developed quarterly advocates' forums to solicit new items of concern, provide updates on ICH progress on the plan and receive feedback.

Given the chairmanship of Secretary Shinseki, it is expected that there will be an added emphasis on veterans, particularly as the *Opening Doors* target of ending homelessness among this population by 2015 is now less than two years away.

Achieving the goals of the new federal plan to end homelessness will require additional funding for HUD programs, including new incremental vouchers and full funding of homeless assistance programs. Advocates should urge HUD and Congress to significantly increase funding for HUD programs to ensure that there are sufficient resources to end homelessness.

FOR MORE INFORMATION

Interagency Council on Homelessness • 202-708-4663 • www.ich.gov

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

National Coalition for the Homeless • 202-462-4822 • www.nationalhomeless.org

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

The Low Income Home Energy Assistance Program (LIHEAP)

By Olivia Wein, Staff Attorney, National Consumer Law Center

The Low Income Home Energy Assistance Program (LIHEAP) is a targeted block grant program to help struggling families pay their heating and cooling bills. States have flexibility in setting eligibility criteria, benefit amounts, how much to direct to energy crisis situations where the health of the household is in jeopardy, as well as other program components. As more families struggle to pay their heating bills in the winter and afford air conditioning in the summer due to the high price of energy and the weak economy, the main challenge for LIHEAP is securing adequate annual appropriations.

LIHEAP is administered by the Office of Community Services, under the Administration for Children and Families at the Department of Health and Human Services (HHS).

HISTORY

LIHEAP was created in response to rising energy prices in the 1970s and the decreasing purchasing power of low income households. In 1980, LIHEAP was part of the Crude Oil Windfall Profit Act and since then it has been reauthorized several times, targeting the assistance within the pool of eligible households, adding new program components, and expanding authorization levels for funding.

PROGRAM SUMMARY

The regular LIHEAP is a federal block grant program to the states to help low income families meet the costs of heating and cooling their homes.

LIHEAP is intended to “assist low income households, particularly those with the lowest incomes, that pay a high proportion of household income for home energy, primarily in meeting their home energy needs” (42 U.S.C. § 8621(a)). States are to target assistance to low income households with the lowest incomes and highest energy needs (i.e., those who pay a large percentage of their income on home energy), and to households with populations vulnerable to extreme heat or cold. These are households with very young children, individuals with disabilities and the frail elderly. The LIHEAP program focuses on home energy, which is defined as a source of heating or cooling in residential dwellings.

In order to receive LIHEAP funds, states must submit an application to the Secretary of Health and Human Services. All 50 states, the District of Columbia, numerous tribes and the territories participate in the LIHEAP program. In the majority of states, LIHEAP is administered by the state social services agency. In many states, the state agency contracts with local providers, such as community action agencies, to handle intake.

While states have a great deal of flexibility in designing their programs each year, the vast majority of states’ LIHEAP grants are used to provide bill payment assistance to eligible low income households to help with heating and cooling costs. LIHEAP benefits cover all forms of residential heating or cooling fuels. This includes a range of fuels from natural gas and electricity for heating or cooling, to home heating oil, propane, kerosene and wood. Assistance is often in the form of a vendor payment or two-party check (the customer and the utility).

States also have the flexibility to set their program’s eligibility criteria in the annual state LIHEAP plan based on income eligibility. The maximum eligibility for LIHEAP is 150% of poverty or 60% of state median income. States are prohibited from setting income eligibility below 110% of the poverty level.

The Low Income Home Energy Assistance Program

States can also rely on participation in another means-tested program to determine eligibility. Low income households are also eligible for LIHEAP through participation in Temporary Assistance for Needy Families (TANF), Supplemental Security Income (SSI), the Supplemental Nutrition Assistance Program (SNAP, also known as food stamps) and certain needs-tested veterans' benefits.

There are several additional components to LIHEAP:

- **Crisis grants.** Each fiscal year, states must reserve a reasonable amount of their regular LIHEAP block grant until March 15 for individual crisis intervention grants. States have the discretion to define what constitutes a crisis for this component. Common definitions include an imminent shut-off, empty heating fuel tank or broken furnace. The state crisis intervention funds must be made available to a household within 18 hours if the household is in a life-threatening situation, and within 48 hours in other circumstances. The state crisis intervention component is different from the LIHEAP emergency contingency funds that are at the discretion of the President to release.
- **Low-cost weatherization or other home energy-related repairs.** States may use up to 15% of their annual LIHEAP block grant (or 25% with a waiver) for low-cost residential weatherization or other home energy-related repair. In 32 states, the same agency administers LIHEAP and the Department of Energy's low income weatherization program.
- **Self-sufficiency.** States can use up to 5% of their block grant to provide services to encourage and enable households to reduce their home energy needs through activities such as needs assessments, counseling, and assistance with energy vendors.

LIHEAP emergency contingency fund. The LIHEAP emergency contingency fund is funded separately from the regular LIHEAP block grant. The President can release LIHEAP emergency contingency funds to help meet low income home energy needs arising from a natural disaster, a significant increase in the cost of home energy, or other emergency.

FUNDING

H.J. Res. 117, the continuing resolution (CR) on the budget currently funding FY13 through March 27, 2013 (Public Law 112-175) includes funding for HHS along with other government agencies. Under this CR, \$3.068 billion was released to the LIHEAP program. This is roughly 90% of the \$3.47 billion in LIHEAP funds states received in FY12. It is unclear how the LIHEAP program will be affected by the sequestration deliberations. It is estimated that the potential impact could mean up to a 5% to 8% cut from the FY12 funding levels (\$177 million to \$284 million). No emergency contingency funding is provided in the continuing resolution.

FORECAST FOR 2013

It will be good to keep in mind the severe recent cuts to the program in gauging whether the President's proposed FY14 budget and the upcoming FY 14 appropriations bills will be appropriate. Final funding for LIHEAP in FY13 is still unknown, but the Continuing Resolution assumes level funding at the FY12 amount (\$3.47 billion). It is important to note that funding for LIHEAP has dropped dramatically since the high point of \$5.1 billion in FY 09 and FY10. The program has been scaled back to \$4.7 billion in FY11 and then \$3.47 billion in FY12. Advocates should also keep in mind that there are no LIHEAP emergency contingency funds in the continuing resolution. There could be Congressional attempts to secure emergency funding to address this shortfall.

According to the National Energy Assistance Director's Association (NEADA), in FY12 LIHEAP provided essential energy assistance to 8.9 million households, an increase of 54% since 2008. NEADA also

The Low Income Home Energy Assistance Program

reports that the number of veteran households accounted for almost 35% of the total growth in LIHEAP from FY08 to FY11.

The high water mark for LIHEAP was in FY09 and FY10, when LIHEAP was funded at a total of \$5.1 billion: \$4.509 billion through the regular formula and \$590 million through the LIHEAP emergency contingency fund. The authorized funding level for LIHEAP is \$5.1 billion for the regular block grant program and \$600 million in LIHEAP emergency contingency funds.

TIPS FOR LOCAL SUCCESS

Advocates should become involved in the development of their state's annual LIHEAP program. LIHEAP state plans are required to be made available to the public in a manner that facilitates meaningful review and comment, and states are required to hold public hearings on the LIHEAP plan. The plans will set out eligibility criteria and benefit amounts, as well as other aspects of the program, such as the percentage of the state's LIHEAP grant requested in each quarter.

Each state's LIHEAP office is listed at <http://1.usa.gov/XoKsnn>. Please note that some tribes receive their LIHEAP grant directly through the federal agency (as opposed to the state).

Advocates should also become familiar with the other energy assistance programs and utility consumer protections. In addition to LIHEAP, some states and some utilities have separate low income energy assistance programs. For a list of some of the additional assistance programs, see <http://bit.ly/XoKAN3> or contact the consumer protection division of a state's utility commission. Some states also have charitable energy assistance funds called fuel funds; check with the National Fuel Funds Network at www.nationalfuelunds.org.

Advocates should also become familiar with certain utility rules. For utilities regulated by the state utility commission (generally, private investor-owned utilities), the commission website should have a link to rules regarding customer shut-offs, for example, a winter shut-off rule, an extreme temperature rule, or severe illness shut-off protection rule; rules regarding payment plans; special protections for low income or LIHEAP customers; rules regarding deposits and reconnection fees. Staff in the consumer protection division of the utility commission may be able to help you find the relevant rules. For municipal utilities or cooperatives, the rules will reside with the municipality or the co-op.

Supporters of LIHEAP should contact the LIHEAP Coalition to receive action alerts on legislative efforts in Congress to provide additional funding for LIHEAP. See contact information at the end of the article.

WHAT TO SAY TO LEGISLATORS

Advocates should meet with Members of Congress with the following messages:

- LIHEAP is a critical safety-net program to help households afford residential energy.
- There is significant need in your district (provide, for example, the number of clients seeking help with their utility bills, newspaper clips or data regarding the number of households being disconnected).
- The current funding level will not be sufficient to meet the record high levels of applications. At a time of great need, FY13 LIHEAP has been operating with over \$1.5 billion less funding than in years past.
- For three years in a row there have been record-high levels of households served by LIHEAP, and this demand is expected to remain high due to the high levels of unemployment and these challenging economic times. Thus, for FY13 and FY14, the regular LIHEAP block grant must be fully funded at \$5.1 billion.

The Low Income Home Energy Assistance Program

FOR MORE INFORMATION

For advocates seeking more information about LIHEAP program design:

- The LIHEAP Clearinghouse is a wealth of information regarding the various ways states have designed their LIHEAP programs. In addition to LIHEAP, the clearinghouse also tracks states supplemental energy assistance activities (listed as 'State Supplements' in the menu on the homepage). View this at www.liheap.ncat.org.

For those seeking information about advocacy regarding LIHEAP funding:

- The National Energy Assistance Directors' Association's website provides information on LIHEAP funding needs and current funding levels. View this at www.neada.org.
- The National Fuel Funds Network (NFFN) is an organization of utility and human services organizations focused on charitable energy assistance. NFFN also organizes an annual LIHEAP Day on the Hill in the winter. View this at www.nationalfuelfunds.org.
- The LIHEAP Coalition provides email alerts and updates on fast-breaking legislative efforts to increase funding for LIHEAP. The LIHEAP Coalition also coordinates letters to appropriators seeking adequate funding for the program. To be added to the LIHEAP Coalition list, contact Ms. Shirlron Williams at swilliams@nclc.org. Please indicate in the subject line that you would like to be added to the LIHEAP Coalition email alert list.
- The Campaign for Home Energy Assistance has helpful fact sheets for advocates that describe the need for increased LIHEAP funding. View this at www.liheap.org.

Low Income Housing Tax Credits

By Ed Gramlich, Director of Regulatory Affairs, National Low Income Housing Coalition

The Low Income Housing Tax Credit program (LIHTC) finances the construction, rehabilitation, and preservation of housing affordable to lower income households. The LIHTC program encourages private investment by providing a tax credit: a dollar-for-dollar reduction in federal taxes owed on other income. Although housing tax credits are federal, each state has an independent agency that decides how to allocate the state's share of federal housing tax credits within a general framework dictated by the Treasury Department.

ADMINISTRATION

This program is administered by the Treasury Department's Internal Revenue Service (IRS).

HISTORY

LIHTC was created by the Tax Reform Act of 1986 and is codified at Section 42 of the Internal Revenue Code, 26 U.S.C. 42, so tax credit projects are sometimes referred to as Section 42 projects. The IRS provides additional guidance through revenue rulings, technical advice memorandums, notices, private letter rulings and other means.

PROGRAM SUMMARY

The LIHTC program finances the construction, rehabilitation, and preservation of housing affordable to lower income households. LIHTC can be used to support a variety of projects: multifamily or single-family housing, new construction or rehabilitation, special needs housing for elderly people or people with disabilities, and permanent supportive housing for homeless families and individuals. The LIHTC has provided more than 2.2 million rental units to date.

LIHTC is designed to encourage private individuals and corporations to invest cash in housing affordable to lower income people by providing a tax credit over a 10-year period: a dollar-for-dollar reduction in federal taxes owed on other income. The cash investors put up, called equity, is used along with other resources to build new affordable housing or to make substantial repairs to existing affordable housing. Tax credits are not meant to provide 100% financing. The infusion of equity reduces the amount of money a developer has to borrow and pay interest on, thereby reducing the level of rent that needs to be charged.

The Furman Center for Real Estate and Urban Policy at New York University released a report in October 2012 using tenant-level data from 15 states representing 30% of all LIHTC units. The report found that LIHTC recipients tend to have higher incomes than households assisted by other federal rental assistance programs, but that 43% of the households were extremely low income, with incomes below 30% AMI. However, 69% of those extremely low income households also had other forms of rental assistance, such as vouchers. For the 31% of extremely low income LIHTC households who do not have rental assistance, more than half pay more than 50% of their income for rent, have "severe cost burden."

Although housing tax credits are federal, each state has an independent agency, generally called a housing finance agency, or HFA, that decides how to allocate the state's share of federal housing tax credits. Tax credits are allocated to states based on population. For 2013, each state received \$2.25 per capita, with small states receiving a minimum of \$2.590 million.

Each HFA must have a qualified allocation plan (QAP), which sets out the state's priorities and eligibility criteria for awarding federal tax credits, as well as tax-exempt bonds and any state-level tax credits, to

Low Income Housing Tax Credits

housing projects. Developers apply to an HFA and compete for tax credit allocations. The law requires that a minimum of 10% of an HFA's total tax credits be set aside for nonprofits.

Once awarded tax credits, a developer then sells them to investors, usually to a group of investors pulled together by someone called a syndicator. Syndicators sometimes pool several tax credit projects together and sell investors shares in the pool.

The equity that the investors provide is used by the developer, along with other resources such as conventional mortgages, state loans, and funds from the HOME program to construct or substantially rehabilitate affordable housing. A typical LIHTC project has 50%-60% investor equity and 20% mortgage debt, with the remainder in a variety of subsidies and soft financing.

When applying to an HFA for tax credits, a developer has two lower income unit set-aside options, and must stick with the chosen option during a required lower income occupancy period. The two lower income unit set-aside choices are:

- Ensuring that at least 20% of the units are rent-restricted and occupied by households with income below 50% of area median income (AMI).
- Ensuring that at least 40% of the units are rent-restricted and occupied by households with income below 60% AMI.

Rent-restricted units have fixed maximum gross rents, including allowance for utilities, that are less than the rent charged to a hypothetical tenant paying 30% of either 50% AMI or 60% AMI, whichever option the developer chose. Tenants may have to pay rent up to that fixed maximum tax credit rent even if it is greater than 30% of their income. In other words, the maximum rent a tenant pays is not based on 30% of the tenant's income; rather it is based on 30% of the fixed AMI level (50% or 60%).

Consequently, lower income residents of tax credit projects might be rent burdened, meaning they pay more than 30% of their income for rent and utilities. Or, tax credit projects might simply not be financially available to very low and extremely low income people because rents charged are not affordable to them. HUD's tenant-based or project-based vouchers or USDA Rural Development Section 521 Rental Assistance are often needed to fill the gap between 30% of a resident's actual income and the tax credit rent.

Tax credits are available only for rental units that meet one of the above rent-restricted minimums (20/50 or 40/60). With these minimums it is possible for LIHTC projects to have a mix of units occupied by lower income people and moderate and middle income people. These are minimums; projects can have higher percentages of rent-restricted units occupied by lower income people, even 100%. In fact, the more rent-restricted lower income units in a project the greater the amount of tax credits provided. Some HFAs choose to create deeper targeting in order to serve households with even lower incomes.

The law requires units to be rent-restricted and occupied by income-eligible households for at least 15 years, called the compliance period, with an extended use period of at least another 15 years, for a total of 30 years. Some states require low income housing commitments greater than 30 years or provide incentives for projects that voluntarily agree to longer commitments. Where states do not mandate longer restricted-use periods, an owner can submit a request to the HFA to sell a project or convert it to market rate during year 14 of the 15-year compliance period. The HFA then has one year to find a buyer willing to maintain the rent restrictions for the balance of the 30-year period. If the property cannot be sold to such a preservation purchaser, then the owner's obligation to maintain rent-restricted units is removed and lower income tenants receive enhanced vouchers enabling them to remain in their units for three years.

Low Income Housing Tax Credits

HFAs must monitor projects for compliance with the income and rent restriction requirements. The IRS can recapture tax credits if a project fails to comply, or if there are housing code or fair housing violations.

There are two levels of tax credit, 9% and 4%, formally known as the applicable percentages. Projects can combine 9% and 4% tax credits. For example, buildings can be bought with 4% tax credits and then substantially rehabilitated with 9% tax credits. Instead of 9% and 4%, tax credits are sometimes referred to by the net present value they are intended to yield, either 70% or 30%. This is just another way of saying, in the case of a 9% credit, that the stream of tax credits over the 10-year credit period has a value today equal to 70% of the eligible development costs.

The 9% tax credit is available for new construction and substantial rehabilitation projects that do not have other federal funds.

- Federal funds include loans and bonds with below market-rate interest.
- Rehabilitation is substantial if the greater of an average of \$3,000 is spent on each rent-restricted lower income unit or 10% is spent on the eligible basis during a 24-month period.
- The 4% tax credit is available for three types of activities:
- Acquisition of existing buildings for substantial rehabilitation.
- New construction or substantial rehabilitation subsidized with other federal funds.
- Projects financed with tax-exempt bonds. (Every year, states are allowed to issue a set amount, known as the volume cap, of tax-exempt bonds for a variety of economic development purposes.)

The figures 9% and 4% were only approximate rates. IRS computed actual rates monthly based on Treasury Department interest rates, the applicable percentage. For any given project, the real tax credit rate was set the month a binding commitment was made between an HFA and developer, or the month a finished project was first occupied, or placed in service. This applicable percentage is applied to the 'qualified basis' to determine the investors' tax credit each year for 10 years (the credit period). However, for 9% projects, the Housing and Economic Recovery Act of 2008 (HERA) established a fixed 9% value for projects placed in service between July 30, 2008 and January 1, 2014. Without that provision, the February 2013 the applicable percentage for a 9% tax credit would have been 7.40%. The American Taxpayer Relief Act of 2012 allows any project receiving a LIHTC allocation before January 1, 2014 to qualify for the fixed 9% credit. The 4% credit continues to float, and in February 2013 was 3.17%.

The amount of tax credit a project can receive, and therefore how much equity it can attract, depends on a several factors. First, the eligible basis must be determined by considering cost such as building acquisition, construction, soil tests, engineering costs and utility hookups. Land acquisition and permanent financing costs are not counted toward the eligible basis. The eligible basis is usually reduced by the amount of any federal funds. The eligible basis of a project can get a 30% increase, or basis boost, if the project is located in a census tract designated by HUD as a low income tract (Qualified Census Tract, or QCT) or a high-cost area (Difficult to Develop Area, or DDA). HERA expanded the use of this basis boost to areas designated by a state as requiring an increase in the credit amount in order to be financially feasible.

Next, the applicable fraction must be determined. This is a measure of rent-restricted lower income units in a project. There are two possible percentages: the ratio of lower income units to all units (the unit fraction), or the ratio of square feet in the lower income units to the project's total square feet (the floor space fraction). The lowest percentage is the applicable fraction. The applicable fraction agreed to by the developer and IRS at the time a building is first occupied is the minimum that must be maintained during the entire affordability period.

Low Income Housing Tax Credits

The qualified basis is the eligible basis multiplied by the applicable fraction. The amount of annual tax credits a project can get is the qualified basis multiplied by the tax credit rate (9% or 4%).

FUNDING

The LIHTC is a tax expenditure, which does not require an appropriation. The Joint Committee on Taxation estimates that the program will cost \$5.9 billion in tax expenditures in 2013.

FORECAST FOR 2013

The main issues of concern for the LIHTC program in the upcoming year continue to be tax reform and deficit reduction. Several advisory commissions have recommended either the elimination of or a substantial reduction in tax expenditures. In 2012 there was strong bipartisan support in both the House and the Senate for lowering statutory corporate tax rates; therefore, there is a good chance for tax reform in 2013. Because the LIHTC is one of the largest corporate tax expenditures, it is vulnerable to being eliminated or substantially cut to help pay for the lowered rates.

Some advocates seek to permanently set the 9% credit at that level rather than return to a lower floating rate when the HERA and American Taxpayer Relief Act of 2012 fixed 9% provisions expires on January 1, 2014. In addition advocates want to establish a fixed rate for 4% credits. Bills were introduced in the 112th Congress to achieve these aims and similar bills are anticipated for the 113th Congress.

At the end of the 112th Congress, in December 2012, Representative Keith Ellison (D-MN) introduced a bill to reform the mortgage interest deduction by changing it to a refundable tax credit and lowering the maximum mortgage amount eligible for a tax break from \$1 million to \$500,000. Such reform is estimated to both make the tax break available to more households and save the federal government \$27 billion or more each year. Mr. Ellison proposed to dedicate 60% of the savings to the National Housing Trust Fund. Before determining that 60%, Mr. Ellison's bill had significant LIHTC provisions. Most importantly, the LIHTC program would create an incentive to develop units affordable to extremely low income people by providing a 150% basis boost. The bill would also increase the per capita LIHTC allocation to \$2.70 and adjust it by an annual cost of living. The minimum allocation for small states would also be increased by an annual cost-of-living adjustment. Mr. Ellison intends to reintroduce the bill in the 113th Congress.

The President's budget request for FY13 had four LIHTC proposals. First, as in FY12, a third rent-restricted category (in addition to the 20/50 and 40/60 options) would be available. That option would require at least 40% of the units to be occupied by households with incomes averaging 60% of AMI, allowing LIHTC units to serve households with income up to 80% AMI. Proponents of this provision think it will provide an incentive to include some units targeted to extremely low income households in a project's mix. For purposes of computing the average, the proposal would treat any unit with an income limit below 20% of AMI as if it were at 20% AMI, a feature that would be a disincentive to provide housing for people with Supplemental Security Income (SSI)-level incomes.

The second proposal in the President's FY13 budget, as in FY12, would provide a 30% basis boost to preserve projects that were previously financed with federal funds and have at least half of the basis financed by tax-exempt bonds.

The third proposal would provide protections similar to those in the Violence Against Women Act (VAWA) for both low income and market-rate units. S. 1982 would extend VAWA to LIHTC projects as well as others. The fourth proposal would permit a Real Estate Investment Trust (REIT) to designate as tax exempt some of the dividends it distributes.

Low Income Housing Tax Credits

NLIHC and other advocates are seeking to modify the program to deepen the income targeting and modify the rent structure in order to reduce potential rents burdens on extremely low and very low income tenants.

TIPS FOR LOCAL SUCCESS

Low Income Housing Tax Credits are distributed based on a state's Qualified Allocation Plan. See the QAP chapter for advocacy ideas for influencing how LIHTC is used in your state.

WHAT TO SAY TO LEGISLATORS

LIHTC is an important source of funding for affordable housing. Congress should act to protect the program and provide a means to target more units that are affordable to extremely low income residents paying no more than 30% of their income for rent and utilities.

FOR MORE INFORMATION

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

Affordable Rental Housing A.C.T.I.O.N. Campaign • <http://rentalhousingaction.org>

HUD training material about LIHTC at www.hud.gov/offices/cpd/affordablehousing/training/web/lihtc.

HUD's database of LIHTC projects, updated through 2010, is at www.huduser.org/datasets/lihtc.html.

A list of QCTs and DDAs are posted at www.huduser.org/datasets/qct.html.

Novogradac, a consulting firm, lists the HFAs in all states at <http://bit.ly/XoOL2b>.

Manufactured Housing

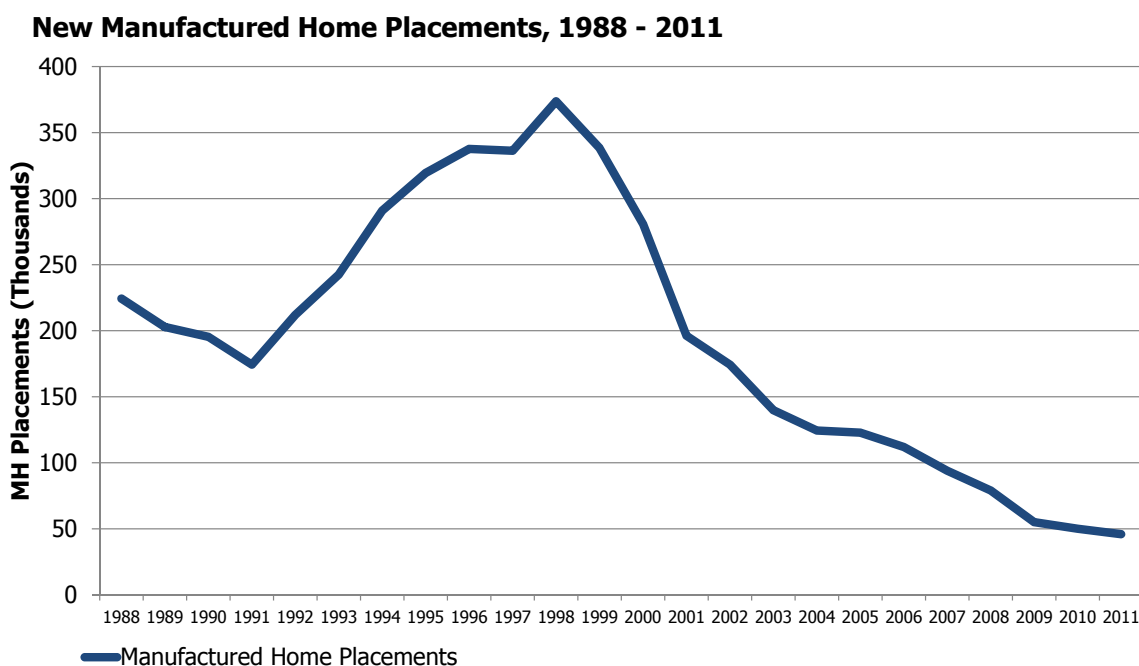
By Lance George, Director of Research and Information, Housing Assistance Council (HAC)

Manufactured homes, often referred to as mobile homes or trailers, are an overlooked segment of our nation's housing stock. But these structures are an important source of housing for millions of Americans, especially those with lower incomes and in rural areas.

Issue Summary

Manufactured housing in the United States is an assortment of varied structures, technologies, perceptions, and persisting challenges. There are approximately seven million occupied manufactured homes in the U.S., comprising about 7% of the nation's housing stock. More than half of all manufactured homes are located in rural areas around the country. More than half of all manufactured homes are located in southeastern states.

The income demographics of those living in manufactured housing are changing. Increasingly people with a variety of incomes are living in manufactured homes, but households at the lower end of the income spectrum are still their primary residents. According to Housing Assistance Council tabulations of American Community Survey data, the median annual income of households living in manufactured housing nationwide is \$30,000, nearly 40% less than that of households living in non-manufactured homes.



Source: HAC Tabulations of U.S. Census Bureau Construction Reports

Financial and market factors. While the physical and structural attributes of manufactured housing have improved over time, issues related to the sale, finance, appraisal, and placement of this type of housing often remain problematic. A report from the U.S. Census shows that today, the majority of manufactured homes are still financed with personal property, or chattel, loans. With shorter terms and higher interest rates, personal property loans are generally less beneficial for the consumer than more conventional mortgage financing. Exacerbating these finance issues, manufactured homes are typically sold at retail sales centers where salespersons or “dealers” receive commissions. Consumers Union found in 2002 that in some cases, dealers resort to high-pressure sales tactics, trapping consumers into unaffordable loans.

Manufactured Housing

Such lending and retail practices, along with the downturn in the economy, have contributed to a decline in sales of new manufactured homes. After experiencing dramatic growth throughout much of the 1990s, sales and shipments of manufactured housing spiraled downward into a sustained slump. An overextension of credit and risky financing backfired after record-high foreclosure rates produced a glut of manufactured units, depressing the market. Placements of new manufactured housing units are at their lowest levels in decades, and many large manufacturers and retailers have exited the market or declared bankruptcy. The number of manufactured home placements has declined steadily from over 370,000 in 1998, to less than 47,000 in 2011, according to Census Bureau data.

Manufactured home communities. Land-lease manufactured home communities, often referred to as “mobile home” or “trailer” parks, are home to over 2.3 million households nationally. Contrary to popular perception, most manufactured homes are not located in park or community settings. Still, the Housing Assistance Council estimates that there are more than 50,000 manufactured home communities in the United States. Households who reside in park settings have lower incomes and are more likely to be elderly than their counterparts in scattered site manufactured homes.

In manufactured home communities, usually one individual or entity owns the land, while residents own their homes and rent the land on which their homes sit. In this land tenure arrangement, residents are frequently both owners and renters, and are often caught in a gray area of legal protection and recourse. Several states and jurisdictions have enacted special protections for residents of manufactured housing communities, but these vary widely. Rent controls, advance eviction notices, and first right of refusal to buy a community are important protections. In some states the legal status for manufactured housing community residents is similar to an apartment renter where a management company may evict tenants with only 30 days’ notice.

Another concern is the increased number of manufactured home park closures in recent years. In many instances, closures are driven by increasing land values where higher rents or incomes from the sale of land can be commanded. Other communities close due to lack of revenue in declining or unprofitable housing markets. Whatever the cause, closures of manufactured home communities have hit epidemic levels in some places. Exacerbating the rapid nature of closures are weak legal protections for tenants and prohibitively expensive relocation and moving costs. The combination of these factors is threatening an already vulnerable population residing in one of few affordable housing resources in this nation.

Regulations. An important factor in the designation of a manufactured home is whether the unit was built before or after June 15, 1976. This date marked the implementation of the Manufactured Home Construction and Safety Standards Act (42 U.S.C. Sections 5401-5426) regulating the construction of manufactured homes and commonly referred to as the HUD code. HUD developed and administers the code that implements the statute. These federal standards regulate manufactured housing design and construction, strength and durability, transportability, fire resistance, and energy efficiency. The HUD code evolves over time and has undergone several major modifications since 1976.

The Manufactured Housing Improvement Act of 2000 established a Consensus Committee to amend, revise, and develop manufactured housing safety standards and enforce regulations. The manufactured Housing Consensus Committee (MHCC), appointed by the HUD Secretary, is composed of 21 voting members representing three interest categories, with seven representing producers of manufactured housing, seven representing users of manufactured housing, and seven representing other interest groups or public officials. The committee must adopt proposed standards by at least a two-thirds vote; standards adopted are then sent through the conventional federal rule-making process. HUD may adopt standards not adopted by the MHCC, but must send such standards to the MHCC for comment prior to posting in the *Federal Register*.

Manufactured Housing

Legislative and Regulatory Actions. The Uniform Manufactured Housing Act was passed by the Uniform Law Commission in 2012. This model legislation provides more uniform system for converting manufactured homes from personal to real property. The act provides a framework for states to develop a system allowing a new manufactured home to be considered real property when located on land controlled by the homeowner.

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111-203) includes several provisions to enhance consumer protections for purchasers of manufactured homes. Dodd-Frank revised the Truth in Lending Act (TILA) to establish specific protections for mortgage loans, origination activities, and high-cost lending. Dodd-Frank also directs the newly created Bureau of Consumer Financial Protection (CFPB) to supervise manufactured housing finance activities.

The Housing and Economic Recovery Act of 2008 (HERA) included several provisions important to manufactured housing.

- **SAFE Act.** The Secure and Fair Enforcement of Mortgage Licensing (SAFE) Act was implemented to reduce fraud and improve consumer protections by establishing minimum standards for the licensing of mortgage loan originators.
- **HUD's Title I Manufactured Home Loan Insurance program.** HUD's Title I program insures mortgage loans made by private lending institutions to finance the purchase of a new or used manufactured home. Title I loan limits increased from \$48,000 to \$69,678, and is indexed annually.
- **Duty to Serve.** HERA also required Fannie Mae and Freddie Mac (the GSEs) to meet a "duty to serve underserved markets." Manufactured housing was identified in the act as one of three underserved markets along with rural areas and housing preservation. Under the act, the GSEs were tasked with increasing mortgage investments and improving the distribution of capital available for mortgage financing in these markets. The Federal Housing Finance Agency (FHFA) has issued a proposed rule on the duty to serve requirements. Under the proposed rule FHFA will only consider loans for manufactured homes as part of the GSE's duty to serve requirement if the homes are located on real property.

The Energy Independence and Security Act (EISA) of 2007 requires the Department of Energy (DOE) to establish, implement, and oversee energy efficiency standards for manufactured housing.

Funding

Manufactured housing is largely financed and funded in the private marketplace. However, there are several existing federal programs that support the development, financing, and rehabilitation of affordable manufactured housing, such as Community Development Block Grants (CDBG), HOME, USDA Rural Development, and weatherization.

What to Say to Legislators

Advocates should speak to lawmakers with the message that:

- Manufactured homeowners should be provided opportunities to obtain standard mortgage lending instead of the personal property loans often used to finance this type of housing.
- Borrowers with personal property loans should be afforded consumer protections consistent with real property or standard mortgage loans.
- Legislation should be enacted that limits predatory lending practices involving manufactured homes.

Manufactured Housing

- Policies and programs should be enacted to facilitate manufactured housing community preservation, such as protection from community sales, closures, and rent increases. Residents should be properly notified, and given first right of refusal on the sale of a community.
- Enhanced reporting of manufactured home-specific data and information should be incorporated into publically available data resources such as the Home Mortgage Disclosure Act (HMDA), The American Community Survey (ACS), and the American Housing Survey (AHS). Manufactured home data should indicate property status (a personal property or real property) and location information indicating whether the unit is located in a manufactured home community, or on a scattered site lot. The inclusion of these updated and enhanced manufactured home data would provide a much more complete assessment of manufactured housing.

FOR MORE INFORMATION

Housing Assistance Council 202-824-8600

www.ruralhome.org/storage/documents/movinghome.pdf

CFED I'M HOME 202-409-9788

http://cfed.org/programs/innovations_manufactured_homes

ROC USA 603-856-0246

www.rocusa.org

Consumers Union 512-477-4431

www.consumersunion.org/mh

AARP 888-687-2277

assets.aarp.org/rgcenter/consume/d18138_housing.pdf

National Consumer Law Center 202-452-6352

www.nclc.org/issues/manufactured-housing.html

National Manufactured Home Owners Association

www.mhoaa.us

McKinney-Vento Homeless Assistance Programs

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

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

ADMINISTRATION

The program is administered by HUD's Office of Community Planning and Development.

HISTORY AND PURPOSE

Congress enacted the Stewart B. McKinney Homeless Assistance Act in 1987 in response to the homelessness crisis that had emerged in the 1980s. In 2000, the act was renamed the McKinney-Vento Homeless Assistance Act. After a decade of disagreement about reauthorization of these programs, Congress finally passed the HEARTH Act in May 2009. HUD has issued a series of implementing regulations. The HEARTH Act, by its own terms, was to have gone into effect in FY11, but HUD delayed this by one year. In 2009 Congress also included in economic recovery legislation \$1.5 billion for the Homelessness Prevention and Rapid Re-Housing Program (HPRP), providing funding to virtually all states and larger communities to attempt to prevent a recession-related increase in homelessness. HPRP expired in late 2012, but Congress intended that the HEARTH Act and particularly ESG would step in to fulfill the same purposes.

PROGRAM SUMMARY

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

ESG program. Prior to implementation of the HEARTH Act, approximately 10% of funds have been allocated for the ESG program, which provided resources for renovation and operation of emergency shelters and related services. ESG is granted by formula to city, county, and state governments. The HEARTH Act renames and expands the program, but retains the formula structure.

Under HEARTH, the program is called the Emergency Solutions Grant program, retaining the ESG acronym. The amount of funding provided for ESG is in the first instance set at 20% of HUD's homeless assistance grants, although if overall funding levels are insufficient to meet that allocation and fund all existing CoC grants (which was the case in FY12 and would be under existing proposals for FY13 funding), then HUD is allowed to allocate less to ESG. Emergency shelter and related services continue to be eligible activities. Under HEARTH, new homelessness prevention and re-housing activities similar to those provided by HPRP are added. Prevention and re-housing activities include short or medium term rental assistance, utility assistance, housing search assistance, and other activities that are effective at preventing homelessness or helping people move into stable housing. People would be eligible for prevention or re-housing assistance if they are homeless or at risk of homelessness. Being at risk of homelessness means an individual or family has income below 30% of area median income and are losing their housing, doubled up, living in motels, or in other precarious housing situations.

McKinney-Vento Homeless Assistance Programs

Continuum of Care program. Prior to the HEARTH act, there were three competitive programs, although they were combined in one competition:

1. The Supportive Housing program, which funded transitional housing, permanent supportive housing, and supportive services.
2. The Shelter Plus Care program, which funded rental assistance in permanent supportive housing for homeless people with disabilities.
3. The Moderate Rehabilitation/Single Room Occupancy (SRO) program, which funded operating assistance in SRO buildings.

A unique feature of HUD's competitive homeless assistance programs, which continues under the HEARTH Act, is the application process. Applicants in a community, including local governments, nonprofit providers, advocates, homeless people and other stakeholders organize into a Continuum of Care and submit a joint application to HUD for all of their project requests. The entire application is scored, and specific projects are funded in the order that they are prioritized in the application.

The HEARTH Act combines these three programs into a single Continuum of Care program that includes all of the same eligible activities as the previous programs. The entity that submits the application for funding is known as a Collaborative Applicant. Changes made by the HEARTH Act and implementing regulations to the competitive program include the following:

- The selection criteria includes performance measures for reducing the duration of homelessness, reducing the number of people who become homeless, and reducing the number of people who re-experience homelessness after they exit.
- Incentives include creating new permanent supportive housing for individuals and families experiencing chronic homelessness, and rapid re-housing for homeless families with children.
- The match is simplified to 25% for all activities. Leasing projects will continue to have no match requirement.
- A new rural program is created that would provide rural areas with more flexibility and also increase funding to rural areas. (This program has not yet been funded by appropriations.)
- More funding is available for administrative costs. For Continuum of Care projects, up to 10% is allowed, and 3% is allowed for the Collaborative Applicant.

In addition to HUD's homeless assistance grants, several other programs are authorized by the McKinney-Vento Act:

- Education for Homeless Children and Youth (EHCY), which provides grants to schools to aid in the identification of homeless children and services to help them succeed in school; EHCY also requires that schools make a number of accommodations to improve the stability of homeless children's education.
- Title V Surplus Properties, which requires that federal surplus property be offered to nonprofit organizations for the purpose of assisting homeless people.
- The Interagency Council on Homelessness, which coordinates the federal response to homelessness and is charged with creating a federal plan to end homelessness.

FUNDING

The McKinney-Vento homeless assistance programs received \$1.901 billion for both FY11 and FY12. For FY13, the Administration proposed a \$330 million increase to \$2.231 billion. This amount would renew existing grants under the Continuum of Care; provide \$286 million for ESG, the same amount as HUD actually released for FY12; provide some funding for Continuum of Care leaders to improve local homelessness systems; and provide a modest amount for new CoC projects, including under the new rural provisions in the HEARTH Act. The Senate bill for FY13 includes \$2.146 billion: \$286 million for

McKinney-Vento Homeless Assistance Programs

ESG and enough to continue existing CoC grants at their current level. The House bill would provide \$2.005 billion, not enough to maintain existing funding; because of accounting issues, in years such as this where many multi-year contracts with providers are expiring, a small increase in appropriations can result in a decrease in the amount of money actually available to providers.

FORECAST FOR 2013

In recent years, HUD's homeless assistance programs helped communities reduce homelessness. The economic recovery legislation passed in 2009 included an extra \$1.5 billion for homelessness prevention and rapid re-housing, which helped the country prevent a recession-related increase in homelessness. That money, however, has run out. Given continued weakness in the economy, strong funding for the HUD homelessness programs is necessary to avoid increases in homelessness and instead to get more people off the streets and in to housing.

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

TIPS FOR LOCAL SUCCESS

The best way to maximize the impact of McKinney-Vento funding in a community is to participate in the local ten-year plan to end homelessness and Continuum of Care process.

WHAT TO SAY TO LEGISLATORS

Advocates should ask their Members of Congress to support the Administration's proposed funding level of \$2.231 billion to deal with continuing effects of high unemployment. Specifically, advocates should communicate the following points:

- Many thousands of hard-working American families, veterans, and people with disabilities are being left newly homeless by the continuing effects of the recession. Communities have been dealing with these effects with HPRP, but that has run out. The HEARTH act provides exactly what is needed to give homeless or near-homeless people the hand up they need, but only if it is fully funded.
- An increase in funding is needed because of the changes made by the HEARTH act, made with strong bipartisan support, particularly the increased focus on preventing homelessness and serving people who living in precarious situations like doubling up.
- HUD's McKinney-Vento programs work. They helped reduce homelessness by 17% between 2005 and 2011.

FOR MORE INFORMATION

National Alliance to End Homelessness • 202-638-1526 • www.endhomelessness.org
Corporation for Supportive Housing • 212-986-2966 • www.csh.org

Moving to Work Demonstration Program

By Linda Couch, Senior Vice President for Policy and Research, and Ed Gramlich, Director of Regulatory Affairs, National Low Income Housing Coalition

Moving to Work (MTW) is a HUD public housing agency (PHA) demonstration program that provides PHAs with enormous flexibility from most HUD statutory and regulatory requirements. The flexibilities, regarding key programmatic features such as rent affordability and income targeting requirements, can impact residents in both the public housing and Housing Choice Voucher programs. Authorized in 1996, the demonstration program continues even though it has not been evaluated on a broad scale.

While some underfunded PHAs are desperate for flexibility from HUD rules, NLIHC and others contend that the MTW demonstration may result in more harm than good for extremely low income people in the public housing and voucher programs. In early 2012, NLIHC and several other groups developed a compromise “stakeholder agreement” that would provide for MTW expansion but require significant resident protections and rigorous evaluation.

Legislation to expand the number of PHAs that participate in MTW was introduced in the 112th Congress. In addition, the draft Affordable Housing and Self-Sufficiency Improvement Act (AHSSIA) contained MTW provisions suggested in the stakeholder agreement; however, it was never formally introduced. Advocates will work to pass AHSSIA in the 113th Congress.

ADMINISTRATION

MTW is administered by HUD’s Office of Public and Indian Housing.

HISTORY

The Moving to Work demonstration program was initially created in a 1996 appropriations act. The act authorized 30 PHAs to participate in the demonstration.

Since 1996, various HUD appropriations bills have authorized additional housing authorities to participate in this demonstration. Meanwhile, some demonstrations ran their course and ended. As of the close of 2012, 39 PHAs have MTW status, including four designated in December 2012. No more MTW demonstrations are currently authorized.

Expanding MTW to additional public housing agencies has long been a point of contention in a broader housing reform bill, which was referred to as the Section 8 Voucher Reform Act, then the Section 8 Savings Act. Because of the stakeholder agreement it was not a point of contention in the current draft Affordable Housing and Self-Sufficiency Improvement Act.

PROGRAM SUMMARY

As stated in Section 204 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, the demonstration’s authorizing statute, the purpose of MTW is to give PHAs and HUD the flexibility to design and test various approaches for providing and administering housing assistance that:

1. Reduce cost and achieve greater cost-effectiveness in federal expenditures.
2. Give incentives to families with children in which the head of household is working, is seeking work, or is preparing for work by participating in job training, educational programs, or programs that assist people to obtain employment and become economically self-sufficient.
3. Increase housing choices for low income families.

Moving to Work Demonstration Program

PHAs selected for the MTW demonstration can seek waivers from most of the existing statutes and regulations governing the public housing and Section 8 voucher programs. For example, they can seek HUD approval to merge public housing and operating funds with voucher funds. Waivers can harm residents if PHAs are allowed to divorce rents from incomes by charging rents that are unaffordable, serve higher income residents even though the lowest income households have the greatest need, or impose work requirements and time limits.

Analyses by both the HUD Inspector General and the Urban Institute concluded that the MTW demonstration was not designed to enable a meaningful demonstration and lacked a data system that could lead to an assessment of MTW's impact, especially on residents. Given the lack of proof that the program is accomplishing its goals, expansion of MTW has long seemed ill-considered. Perhaps influenced by the compromise stakeholder agreement, according to HUD summaries of the final four MTW PHAs announced in December 2012, controlled studies of rent reform will be conducted at each, along with mobility studies at two and cost savings studies at two.

In 2005, the HUD Inspector General found that HUD did not design the MTW demonstration to collect any data. Instead, HUD relied on its existing systems to collect data. But, the report says, "the existing system could not accept tenant information and was not adapted in time to support the interim evaluation and, as a result, HUD was not able to collect tenant information needed to measure interim program impact on costs, family self-sufficiency, and housing choices as planned."

Further, the report found that "HUD's evaluation could not cite (1) statistics showing MTW demonstration activities could be considered models for reducing costs and achieving greater cost-effectiveness, promoting resident employment and self-sufficiency, and increasing choice for low income households, and (2) comparative analyses intended to show the impact of program activities and importance of individual policy changes. We recommend the Office of Public Housing Investments develop a means to collect performance information needed to evaluate Public Housing/Section 8 Moving to Work Demonstration housing authority accomplishments and determine whether any replicable models exist."

Several other HUD Inspector General reports have been extremely critical of MTW implementation by specific PHAs.

In a June 2004 report on the MTW demonstration prepared for HUD, the Urban Institute concluded that three key aspects of the design and implementation of MTW have limited its ability to inform public housing policy going forward:

1. The MTW framework put limitations on what could be deregulated and for how long. These restrictions could have discouraged PHAs from implementing reforms that might otherwise have been implemented if MTW had been permanently authorized, rather than being a time-limited demonstration.
2. MTW was not designed as a rigorous research demonstration.
3. Due to HUD's systems, critical data on the characteristics of public housing residents and Section 8 households have not been collected from the demonstration sites in a consistent and uniform fashion. This leaves much of what is known about MTW's impacts to anecdotes and piecemeal information gathering.

The Urban Institute report also found that there is no way to determine with certainty whether individual programs have achieved the goal of work and self-sufficiency. In addition, while some housing agencies have expanded housing options for low income people, others have restricted it. There has been no mechanism in MTW's history to move forward with what has worked within MTW to improve

Moving to Work Demonstration Program

affordable housing options for the lowest income households and improve the physical and financial health of the housing agency and, critically, leave behind what in MTW agreements has harmed residents and housing agencies.

An August 2010 report to Congress by HUD on the MTW demonstration called for an expansion of MTW. Heralded by many PHAs, the report was roundly criticized by other housing advocates for lacking any rigorous or complete data analysis and instead relying on accounts provided by MTW sites themselves.

NLIHC's concerns about MTW have been focused on the ability of the voucher and public housing programs to continue to address the housing needs of their targeted populations in ways that are affordable to each household and that continue to provide residents choice. NLIHC does not think that work requirements, self-sufficiency contracts, and time limits should be allowed in federal housing safety net programs. Rent policies that increase rents beyond a household's affordability level are tantamount to time limits.

FUNDING

There is no funding specifically for the MTW demonstration. Under MTW, PHAs receive funding equal to what they would have received had they not participated in MTW. However, one critique of MTW is that because it allows fungibility between voucher and public housing funding, voucher funding has been diverted from serving voucher households, while at the same time no new public housing residents are served.

The serious lack of sufficient funding for public housing is likely one of the reasons some PHAs promote the MTW demonstration. Advocates must be committed to identifying and advocating for new resources and new ideas to ensure that public housing and vouchers remain an affordable housing option for the lowest income households. Deregulating public housing and vouchers through the MTW demonstration will not preserve these units as affordable for the lowest income groups.

FORECAST FOR 2013

The House Subcommittee on Insurance, Housing and Community Development's April 13, 2012 draft of the Affordable Housing and Self-Sufficiency Improvement Act (AHSSIA) included MTW provisions that contained the compromises arrived at in the stakeholder agreement. NLIHC, the Center on Budget and Policy Priorities, the Council of Large Public Housing Agencies, and the National Association of Housing and Redevelopment Officials were key members of the stakeholder group. However, that AHSSIA draft was not formally introduced.

The draft AHSSIA bill would have created a new permanent MTW program for high capacity PHAs, those with 95% voucher utilization rates and 95% public housing occupancy rates. New MTW PHAs could combine voucher funds and public housing capital and operating funds. The existing deep income targeting requirements for the public housing and voucher programs could not be waived (40% of new public housing admissions and 75% of new voucher holders would still have to be extremely low income households).

The new MTW would have two components:

1. "Basic MTW" would permit PHAs to seek waivers from HUD and undertake rent simplification efforts. However, rents could not increase to unaffordable levels. Basic MTW PHAs could not have time limits or work requirements.
2. "Enhanced MTW" would allow PHAs to have substantial rent reform, work requirements, and time limits. However, they would be subject to additional reporting requirements and HUD would conduct rigorous, controlled evaluation.

Moving to Work Demonstration Program

Up to 500,000 combined public housing and voucher units could be admitted into the new MTW. No more than 25 PHAs could be a part of the Enhanced MTW program. As with the current MTW demonstration, the new program would require PHAs to serve substantially the same number of families, defining “substantially the same number” as 98% of a baseline.

A PHA seeking MTW status would be required to hold two public meetings to receive comments about the proposal, such as possible tenant impacts. Notice of the public meetings must be provided to residents and the community at large no later than 30 days before the first meeting. Funding would be provided for resident technical assistance and capacity building.

TIPS FOR LOCAL SUCCESS

Advocates should be alert to whether their PHA is seeking approval to become an MTW site. MTW agreements between HUD and PHAs must be tailored to preserve housing options while protecting the affordability of homes for extremely low income people.

WHAT TO SAY TO LEGISLATORS

Advocates should urge Members of Congress to support increased funding for public housing and vouchers in FY14 so that PHAs can thrive as they operate safe, decent, and affordable public housing and voucher programs.

Legislators should also be asked to oppose continuation or expansion of the Moving to Work demonstration unless the compromise features of the stakeholder agreement are included. Anecdotal evidence is supported by numerous HUD Inspector General reports suggesting that the program has caused harm to the lowest income residents and potential residents and to the physical and financial futures of PHAs.

FOR MORE INFORMATION

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

Center on Budget and Policy Priorities • 202-408-1080 • www.cbpp.org

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

HUD’s MTW website provides information on current and past MTW demonstration sites: www.hud.gov/offices/pih/programs/ph/mtw/index.cfm.

Access The Urban Institute’s 2004 MTW evaluation at: www.hud.gov/offices/pih/programs/ph/mtw/evalreport.pdf.

Native American, Alaska Native & Native Hawaiian Housing Programs

By David Sanborn, Executive Director, National American Indian Housing Council

The Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) is the main piece of federal legislation designed to address Native American housing issues, and comprises three major components: (1) the Indian Housing Block Grant (IHBG) program, (2) Title VIII Housing Assistance for Native Hawaiians, which includes the Native Hawaiian Housing Block Grant (NHHBG) program and the Section 184A Native Hawaiian Housing Loan Guarantee program, and (3) Title VI Tribal Housing Activities Loan Guarantee program.

Enacted in 1996, NAHASDA provides assistance to Indian tribes to allow affordable housing-related activities for low income families residing on reservations and other tribal areas. The act, which became effective in October 1997, resulted in the largest change in the history of federal housing programs available to tribal housing entities and it recognized tribal sovereignty and self-determination. NAHASDA recipients act as beneficiaries of this federal housing program, and are free to exercise their authority throughout the NAHASDA process, whereas before NAHASDA, a tribal housing program was often separate from the tribe.

NAHASDA is set for reauthorization in 2013. A unified position from Indian tribes on NAHASDA reauthorization was developed 2012 and presented to Members of Congress for consideration at the outset of the 113th Congress. To this end, the National American Indian Housing Council (NAIHC) has concluded a series of regional outreach sessions throughout the U.S. to gather policy recommendations and input from the individuals and tribes responsible for administering NAHASDA programs.

Other housing programs that address Native American housing issues include the Indian Community Development Block Grant (ICDBG) program and the Indian Home Loan Guarantee program (Section 184), both of which are part of the Housing and Community Development Act of 1992.

ADMINISTRATION

NAHASDA is administered by HUD's Office of Native American Programs (ONAP).

HISTORY AND PURPOSE

Stemming from treaties with Indian tribes, federal statutes, court decisions, executive agreements, and the course of dealings and other federal policy from the early 1800s, the United States has a trust responsibility to Native American tribes and people. This unique legal and political relationship with Indian tribes is fiduciary in nature, with the federal government serving as trustee with a duty of protection toward tribes as beneficiaries. The trust responsibility extends to areas of health care, education, natural resources, and housing. Under the U.S. Housing Act of 1937, Congress addressed the housing needs of low income Americans and in 1961 Indian tribes became eligible for assistance under programs operated by HUD.

HUD regional offices administered programs to tribes in their areas. By the mid-1970s, HUD had created Offices of Indian Programs in Denver and in San Francisco to exclusively administer Indian housing programs. Finally, in 1992, Section 902 of the Housing and Community Development Act created the current entity, the Office of Native American Programs.

Native American, Alaska Native & Native Hawaiian Housing Programs

NAHASDA was enacted in 1996 and consolidated multiple federal housing assistance programs into a single block grant for Indian tribes or tribally designated housing entities to provide affordable housing for low income families residing on reservations and tribal areas. On October 14, 2008, NAHASDA was amended and reauthorized through FY13.

The face of housing in Native American communities is as diverse as the communities it serves. The chronic problems associated with needs far outstripping resources beget creativity and unique leveraging of funding to address extraordinary housing needs. Overcrowding, poverty, unemployment, low household incomes, rapidly increasing population and lack of infrastructure are just some of the challenges that vex American Indians, Alaska Natives, and Native Hawaiians.

According to the U.S. Census Bureau's 2006-2010 American Community Survey, of the approximately 142,000 housing units in tribal communities, 8.6% lack plumbing facilities, 7.5% lack kitchen facilities, and 18.9% lack telephone service (compared to national rates of less than one percent).

PROGRAM SUMMARY

NAHASDA fundamentally reformed how the federal government meets its trust responsibility when it comes to the housing needs of Native Americans. NAHASDA addresses the need for affordable homes in safe and healthy environments on Indian reservations, Alaska Native villages, and on Native Hawaiian home lands.

NAHASDA enhances tribal capacity to address the substandard housing and infrastructure conditions in tribal communities by encouraging greater self-management of housing programs and private sector financing to complement limited IHBG dollars. The annual IHBGs are formula driven and awarded to eligible Indian tribes or their tribally designated housing entities (TDHEs) for a range of affordable housing activities that primarily benefit low income Indian families living on Indian reservations or in other Indian areas. The amount of each grant is based on a formula that considers need and the amount of existing housing stock.

Activities eligible to be funded with NAHASDA assistance include new construction, rehabilitation, acquisition, infrastructure, and various support services. Housing assisted with these funds may be either rental or homeowner units. NAHASDA funds can also be used for certain types of community facilities if the facilities serve eligible low income Indian families who reside in affordable housing. Generally, only low income families whose income does not exceed 80% of the area median income are eligible for assistance.

The NAHASDA Reauthorization Act of 2008 had broad bipartisan support in both chambers of Congress. Amendments to the program included removing competitive procurement rules for purchases under \$5,000; recognizing tribal preference laws for NAHASDA hiring and contracting; permitting tribes to carry over funds to a subsequent grant year; and establishing a reserve account for up to 20% of a tribe's annual NAHASDA grant amounts. Before these changes go into effect, tribes and HUD must complete a Negotiated Rulemaking Process. In 2010, a Negotiated Rulemaking Committee was formed and six sessions were held to discuss and negotiate a proposed rule. In 2011, the proposed rule was sent to tribes for comment and review before the regulations became effective early this year.

NATIVE HAWAIIANS

In 2000, NAHASDA was amended to create a separate title addressing the housing and related community development needs of native Hawaiians. This title, Title VIII Housing Assistance for Native Hawaiians, includes the Native Hawaiian Housing Block Grant (NHHBG) program and the Section 184A

Native American, Alaska Native & Native Hawaiian Housing Programs

Native Hawaiian Housing Loan Guarantee program. The NHHBG program provides eligible affordable housing assistance to low income native Hawaiians eligible to reside on Hawaiian home lands. Since 2005, Title VIII has not been reauthorized. NHHBG has, however, been funded each year.

The Department of Hawaiian Home Lands (DHHL), the sole recipient of NHHBG funding, uses the funds for new construction, rehabilitation, acquisition, infrastructure, and various support services. Housing can be either rental or homeownership. The NHHBG can also be used for certain types of community facilities if the facilities serve eligible residents of affordable housing. DHHL also uses the funds to provide housing services, including homeownership counseling and technical assistance, to prepare families for home purchase and ownership.

The Hawaiian Homelands Homeownership Act of 2000 adds a new Section 184A to the Housing and Community Development Act of 1992, which authorized the Native Hawaiian Housing Loan Guarantee program. The purpose of the Section 184A loan is to provide access to sources of private financing on native Hawaiian home lands. The program is designed to offer homeownership, property rehabilitation, and new construction opportunities for eligible native Hawaiian individuals and families wanting to own a home on Hawaiian home lands.

FUNDING

For FY10, the IHBG program was funded at \$700 million, \$648 million in FY11, and \$650 million in FY12. The NHHBG program was funded at \$13 million in FY10, FY11, and FY12. Federal programs may experience funding cuts over the coming years which will add to the existing difficult environment on Capitol Hill.

FORECAST FOR 2013 & WHAT TO SAY TO LEGISLATORS

First and foremost, NAHASDA is up for reauthorization in 2013. Advocates should be aware of tribal positions identified throughout 2012 in the reauthorization process and support enactment in the 113th Congress.

Protecting and increasing funding for NAHASDA is an ongoing issue for advocates to be aware of, but of nearly equal importance is the act's implementation, which has been plagued by delay and lack of consultation with tribes.

Tribes across the country are striving for sustainability without federal subsidy to complement the values of sovereignty and self-determination, but in the meantime the federal government must fulfill its trust responsibility in supporting tribal development. The advent of programs like NAHASDA and the Low income Housing Tax Credit Program are creating new and exciting opportunities for tribes to improve their communities. It is vital that the federal government work in partnership with tribal governments to improve housing and economic development conditions in tribal communities.

Native Hawaiian reauthorization. The Title VIII program was included in the House version of NAHASDA reauthorization in 2008, but not in the final bill. The Hawaiian Homeownership Opportunity Act of 2011 (H.R. 2648 and S. 65) was introduced in the 112th Congress and would have reauthorized Title VIII. Housing advocates should push for reauthorization of native Hawaiian programs in their efforts to ensure native Hawaiians have access to critical resources for housing and community development.

Resources for tribal housing programs. Funding for tribal housing is the lifeblood of community development in Indian Country. For many years, funding has leveled off, failing even to keep pace with inflation and ever-increasing costs of energy, materials, and construction. Advocates should ask

Native American, Alaska Native & Native Hawaiian Housing Programs

Congress and HUD to fully fund tribal housing and tribal housing-related programs, including the Indian Housing Block Grant program, the Indian Community Development Block Grant program, the Native Hawaiian Housing Block Grant program, and the Section 184, 184A, and Title VI Loan Guarantee programs.

FOR MORE INFORMATION

National American Indian Housing Council • 202.789.1754 • www.naihc.net

HUD Office of Native American Programs • www.hud.gov/offices/pih/ih/

Department of Hawaiian Home Lands • <http://hawaii.gov/dhhl>

Public Housing

By Linda Couch, Senior Vice President for Policy and Research, and Ed Gramlich, Director of Regulatory Affairs, National Low Income Housing Coalition

The nation's 1.1 million units of public housing are administered by a network of 3,100 local public housing agencies (PHAs), with funding from residents' rents and Congressional appropriations to HUD. Additional public housing has not been built in decades. Advocates are focused primarily on preserving the remaining public housing stock.

Public housing encounters many recurring challenges. For instance, generally well-run PHAs face significant federal funding shortfalls each year. In addition, policies such as demolition, disposition, and the HOPE VI program have resulted in the loss of public housing units. There are persistent calls for deregulation of public housing through the expansion of the Moving to Work demonstration and other efforts that can reduce affordability, deep income targeting, resident participation, and programmatic accountability, all aspects of public housing that make it an essential housing resource for many of the lowest income Americans.

HUD's two latest tools to address the aging public housing stock include the Choice Neighborhoods Initiative (CNI) renovation program that addresses both public housing and broader neighborhood improvements, and the Rental Assistance Demonstration (RAD) designed to leverage private dollars to improve public housing properties while converting them to project-based rental assistance.

ADMINISTRATION

HUD's Office of Public and Indian Housing (PIH) administers the public housing program.

HISTORY

The Housing Act of 1937 established the public housing program. President Nixon declared a moratorium on public housing in 1974, shifting the nation's housing assistance mechanism to the then-new Section 8 rental assistance voucher program in order to engage the private sector. Federal funds for adding to the public housing stock were last appropriated in 1994, but little public housing has been built since the early 1980s.

In 1996, Congress stopped requiring that demolished public housing units be replaced on a unit-by-unit, one-for-one basis. In 1998, the Quality Housing and Work Responsibility Act (QHWRA) changed various other aspects of public housing, including public housing's two main funding streams, the operating and capital subsidies. Federal law also capped the number of public housing units at the number each PHA operated on October 1, 1999.

Today, units are being lost through demolition and disposition (sale) of units, the HOPE VI program, mandatory and voluntary conversion of public housing to voucher assistance, and the cumulative impact of decades of underfunding and neglect on once-viable public housing units.

According to HUD testimony, since the mid-1990s, about 200,000 public housing units have been demolished; about 50,000 have been replaced with new public housing units and another 57,000 former public housing families were given vouchers instead of a public housing replacement unit. Another almost 50,000 units of non-public housing have also been incorporated into these new developments but serve groups with incomes higher than those of the displaced households.

PROGRAM SUMMARY

There are more than 1.1 million public housing units in the United States. According to HUD, of the families served by public housing, nearly 60% are elderly and disabled households on a fixed income. The average annual income of a public housing household is \$13,620. The demand for public housing far exceeds the supply. In many large cities, households can remain on waiting lists for 10 years or longer. Like all HUD rental assistance programs, public housing is not an entitlement program; rather, its size is determined by annual appropriations and is not based on the number of households who qualify for assistance.

Access to public housing is means-tested. All public housing households must be low income, having income less than 80% of the area median, and at least 40% of new admissions in any year must be extremely low income, having income less than 30% of the area median. PHAs can also establish local preferences for certain populations, such as elderly people, people with disabilities, veterans, full-time workers, domestic violence victims, or people who are homeless or who are at risk of becoming homeless.

As in other federal housing assistance programs, residents of public housing pay the highest of (1) 30% of their monthly adjusted income, (2) 10% of their monthly gross income, (3) their welfare shelter allowance, or (4) a PHA-established minimum rent of up to \$50. The average public housing household pays more than \$300 a month toward rent and utilities.

PHAs are responsible for maintaining the housing, collecting rents, managing waiting lists, and other activities related to the operation and management of the housing. Most PHAs also administer the Housing Choice Voucher program.

Most PHAs are required to complete five-year Public Housing Agency Plans, along with annual updates, which detail many aspects of their housing programs, including waiting list preferences, grievance procedures, plans for capital improvements, minimum rent requirements, and community service requirements. These PHA Plans represent a key way for public housing residents, voucher holders, and community stakeholders to participate in the PHA's planning process.

PHAs receive two annual, formula-based grants from Congressional appropriations to HUD: the operating fund and capital fund.

The public housing operating fund is designed to make up the balance between what residents pay in rent and what it actually costs to operate public housing. According to HUD budget requests, the federal operating fund pays for about 60% of actual operating expenses; the remainder comes from tenant rent payments. Major operating costs include: routine and preventative maintenance, a portion of utilities, management, PHA employee salaries and benefits, supportive services, resident participation support, insurance, and security. HUD's operating formula system, Asset Management, determines an agency's operating subsidy on a property-by-property basis, rather than the previous PHA-by-PHA basis.

The capital fund can be used for a variety of purposes, including modernization, demolition, replacement housing, and management improvements. In 2011, HUD released a capital needs assessment showing a \$26 billion backlog for capital fund repairs in public housing, and ongoing new capital needs of \$3.4 billion each year for 20 years.

Demolition and Disposition. Since 1983, HUD has authorized PHAs to apply for permission to demolish or dispose of public housing units. This policy was made infinitely more damaging in 1995 when

Public Housing

Congress suspended the requirement that housing agencies replace, on a one-for-one basis, any public housing lost through demolition or disposition. Since 2000, more than 100,000 public housing units were demolished or disposed of. Applications for the demolition or disposition of another 10,000 public housing units are submitted to HUD each year.

In 2012, HUD clarified and strengthened its guidance on demolition and disposition in an effort to curb the decades-long sale and needless destruction of the public housing stock. While additional reforms through regulation are expected in 2013, the early 2012 guidance clarifies the demolition and disposition process in a number of ways. For example, the guidance unequivocally states that a proposed demolition or disposition must be identified in the PHA Plan or in a significant amendment to the PHA Plan, and that PHAs must comply with the existing regulations' strict resident consultation requirements for the PHA Plan process, the demolition or disposition application, and the redevelopment plan. That guidance also reminds PHAs that HUD's Section 3 requirement to provide employment, training and economic opportunities to residents applies to properties in the demolition and disposition process. The review criteria for demolition applications must meet clear HUD standards, and no demolition or disposition is permissible prior to HUD's approval, including any phase of the resident relocation process.

Rental Assistance Demonstration. As part of its FY12 HUD appropriations bill, Congress authorized the Rental Assistance Demonstration (RAD). RAD allows HUD to approve the conversion of up to 60,000 public housing and moderate rehabilitation units into either project-based Section 8 rental assistance contracts or project-based vouchers by September 2015. HUD issued a final Notice of Fund Availability (NOFA) on July 26, 2012, detailing requirements for gaining HUD approval to convert units. On December 20, HUD announced initial preliminary awards to 112 PHAs, entailing 12,940 units.

The RAD statute requires residents of RAD-converted public housing properties to have the same rights after conversion that they had before, including rights regarding admissions, evictions, termination of assistance, and grievance hearings. The notice requires PHAs to continue to provide \$25 per occupied unit annually for resident participation after conversion to project-based rental assistance. The tenant organizing provisions currently only available to residents of private, HUD-assisted housing will be required for all RAD-converted public housing units. Residents cannot be involuntarily displaced or rescreened.

HUD must require 15-20 year renewable use and affordability restrictions for RAD-converted units. When initial contracts expire and at each renewal, HUD must offer and the owner must accept contract renewal.

HUD must require converted properties to be owned by a public or nonprofit entity, except if the property is threatened by foreclosure, bankruptcy, or termination of assistance for material violation. Then, ownership of the property must first be available to a public entity, and if one is not willing then to a private entity. According to the statute, ownership can be by a for-profit only if necessary for Low Income Housing Tax Credits, and in such cases, the PHA must maintain its interest in the property.

There are a number of concerns regarding RAD. For instance, after original residents move out of a converted property, no more than 50% of the units can be RAD-assisted unless occupied by an elderly or disabled household, which could lead to a net loss of affordable units over time. The PHA Plan's substantial amendment resident participation process does not start until 60 days after HUD has already given preliminary approval to convert. There is an indirect one-for-one replacement component in RAD; however, it is not explicitly stated and exceptions are allowed which could severely jeopardize one-for-one replacement.

Moving to Work. A key public housing issue is the Moving to Work (MTW) demonstration that provides a limited number of housing agencies flexibility from most statutory and regulatory requirements. Because this demonstration program has not been evaluated, and the potential for harm to residents and the long-term health of the PHAs are at stake, NLIHC has long held that the MTW demonstration is not ready for expansion or permanent authorization. Various legislative vehicles have sought to maintain and expand the current MTW program. Today, there are 39 PHAs in the MTW demonstration. In early 2012, NLIHC and several other groups developed a stakeholder agreement that would provide for MTW expansion but would also require major MTW program reforms as well as significant resident protections and rigorous evaluation. Stakeholder language was included in a 2012 House subcommittee draft bill, the Affordable Housing and Self-Sufficiency Improvement Act (AHSSIA), which was never formally introduced to the full House.

FUNDING

Public housing has been functioning under a continuing resolution with FY12 funding levels because Congress has not passed an FY13 HUD appropriation as of this writing.

President Barack Obama requested \$2.07 billion for the public housing capital fund for FY13, a 10% increase over FY12 that would merely restore funding to the FY11 level while remaining below FY10's \$2.5 billion. Even if the President's budget request is ultimately passed, PHAs will still not be able to address the new capital needs that emerge each year, estimated to be \$3.4 billion per year.

The President's FY13 public housing operating fund request represents a 14% increase over FY12, but remains below FY10's \$4.78 billion. If appropriated, \$4.52 billion would only meet 90% of the funding PHAs need.

FORECAST FOR 2013

The President's proposed FY13 budget and the House draft of the Affordable Housing and Self-Sufficiency Improvement Act would mandate that minimum monthly rents increase to \$75 and would remove the discretion a PHA currently has to set the minimum rent amount. According to HUD, 27% of PHAs either do not have a minimum rent at all or have one that is less than \$50. If a PHA has a minimum rent above \$0, it must also have a hardship exemption policy. Less than 1% of minimum rent payers participate in any minimum rent exemption process, leaving advocates very concerned that residents may be unaware of their right to be exempt from PHAs' minimum rent policies. NLIHC and other advocates vigorously opposed the minimum rent increase, and the Senate Appropriations Committee rejected the increase in 2012. To date, an FY13 Appropriations bill has not passed, so the minimum rent provision has not been imposed.

Other key programmatic issues in 2013 include the possible expansion of the Moving to Work demonstration and authorization of the Choice Neighborhoods Initiatives program. In addition, various public housing trade organizations continue to seek to greatly reduce the obligations of smaller PHAs to comply with various public housing regulations through the Small Housing Agency Opportunity Act. Small PHAs would be defined as those with up to 550 public housing units and housing choice vouchers combined. The bill would have authorized a broad rent reform demonstration that did not include sufficient protections for tenants or evaluation components; the ability for every small PHA to increase the percent of vouchers it may project-base from 20% to 50%; weakening of Section 3 requirements for small PHAs; authorization for small PHAs for comingle all of their public housing and voucher funding; decrease in reporting requirements for small PHAs to HUD; and conversion of small PHAs' public housing subsidy to project-based contracts or project-based vouchers without any of the myriad protections included in the 112th Congress's Rental Assistance Demonstration.

Public Housing

HUD's Regulatory Agenda for 2013 includes issuing a final rule changing the capital fund regulations, a proposed rule regarding demolition and disposition of public housing, and a proposed rule amending the PHA consortia regulations.

WHAT TO SAY TO LEGISLATORS

Advocates should ask Members of Congress to:

- Maintain funding for the public housing operating and capital funds.
- Oppose mandatory increases to minimum rents.
- Oppose the Small Housing Authority Opportunity Act.

FOR MORE INFORMATION

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

National Housing Law Project • 415 546 7000 • www.nhlp.org

Center for Budget and Policy Priorities • 202-408-1080 • www.cbpp.org

Resident Participation in Federally Subsidized Housing

By Ed Gramlich, Regulatory Affairs Director, National Low Income Housing Coalition

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

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

PUBLIC HOUSING

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

PHA Plan process. Opportunity for resident participation can be found in the annual and five-year planning process, collectively called the PHA Plan, required by the Quality Housing and Work Responsibility Act (QHWRA). Many PHAs only have minimal PHA Plan resident engagement requirements, but the process does open the door for residents and other community members to interact and influence PHA decisions.

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

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

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

Funding for resident participation. Most PHAs are required to include funding for resident participation activities in their annual operating budget. This funding, an amount equal to \$25 per occupied unit per year, is distributed to resident councils to fund activities such as training and organizing.

Resident commissioners. The law also mandates that every PHA, with a few exceptions, have at least one person on its governing board who receives assistance from the agency, either a public housing

Resident Participation in Federally Subsidized Housing

resident or voucher holder. HUD's rule regarding the appointment of resident commissioners states that residents on boards should be treated no differently than non-residents.

Resident Opportunities and Self-Sufficiency program. HUD's Resident Opportunities and Self-Sufficiency program (ROSS) is designed to link public housing residents with supportive services, resident empowerment activities, and other assistance in becoming self-sufficient. Competitive grants under the ROSS program can be awarded to PHAs, resident councils, resident organizations, and other entities. ROSS funds have been appropriated annually by Congress, followed by a Notice of Funding Availability (NOFA) from HUD inviting eligible applicants to compete for the funds. Twenty-five percent of ROSS grants are set aside for formally recognized resident councils, but few ever apply for it. In FY12 the ROSS program was funded at \$50 million with a 25% set-aside for resident councils; HUD anticipates a similar amount for FY13.

HOUSING CHOICE VOUCHERS (SECTION 8)

Approximately 2 million households receive tenant-based assistance through the Housing Choice Voucher Program. Housing Choice Voucher holders, often referred to as Section 8 voucher holders, are among the most difficult residents to organize because they can choose a private place to rent anywhere in the PHA's market, so are less likely to live close to or have contact with each other.

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

Participation on Resident Advisory Boards. Voucher holders can play an integral role in setting the agenda for local PHAs because the RAB regulations require reasonable representation of voucher holders on the RAB when there are a significant number of voucher holders assisted by the PHA. The PHA Plan process and the requirement that voucher holders be included on the RAB offer an excellent platform for organizing voucher holders in order to amplify their influence in the decision making affecting their homes.

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

Tenants' right to organize. Regulations, at 24 CFR Part 245, require owners of privately owned, HUD-assisted multifamily housing to recognize tenant organizations. A legitimate tenant organization is one established by tenants that is independent of owners and management, and that represents all tenants, operates democratically, and meets regularly. The regulations recognize the right of tenants to distribute leaflets, canvass, post notices, and convene meetings without management present and without prior notice to or permission from management. Residents can invite outside organizers to assist them. HUD-funded organizers have the right to go into a building without a tenant invitation to help residents organize.

On June 18, 2010, HUD sent a letter to all owners and management agents highlighting key features of Part 245, emphasizing the right of tenants to organize and repeating the list of protected tenant organizing activities. Policy Notice H 2011-29 of October 13, 2011 repeated and elaborated on the content of the June 2010 letter, adding civil money penalties that HUD could impose on an owner or

Resident Participation in Federally Subsidized Housing

manager failing to comply with Part 245. The civil money penalties regulation (24 CFR Part 30) allows HUD to assess fines on owners or management agents for major violations of tenants' right to organize.

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

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

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

Tenant Resource Network. For a few years, Congress provided funds to help tenants organize, primarily so that they could understand and influence the future of their homes when a development's Section 8 contract expires. The Outreach and Training Assistance Grant (OTAG) and Intermediary Technical Assistance Grant (ITAG) programs were established by Section 514(f) of the Multifamily Assisted Housing and Reform Affordability Act (MAHRAA), enacted in 1998. Section 514 requires HUD to establish procedures to provide opportunities for tenants to participate in rental assistance assessment plans and in the mortgage restructuring process during any proposed transfer of the property.

However, between FY01 and FY10 OTAG grants were not awarded, even though the statute requires up to \$10 million be set aside annually. Funding was withheld due to concerns HUD had raised about administrative and accounting problems in the program, which are not believed to have been widespread. These three-year grants went to locally based tenant organizing projects or nonprofit organizations to "organize the unorganized" tenants at the city or state level.

For FY11 HUD issued a notice of fund availability (NOFA) making \$10 million available for a renamed and revised program called the Tenant Resource Network (TRN). TRN is designed to inform and engage tenants about their rights and options if their HUD-assisted private apartments are at risk of leaving the affordable housing stock. TRN is intended to help identify potential preservation strategies, or if preservation is not feasible, ensure that tenants are fully informed about protections available to them, such as receiving enhanced vouchers that enable them to remain in their homes.

Eligible projects include those at risk, which means a property with an FHA insured or direct mortgage that will mature within 24 months, an owner who decides to opt out of or prepay a project-based Section 8 contract within 12 months, or a property that received REAC (physical inspection) scores below 60 for two consecutive months within the last year.

Nonprofit organizations with a minimum of five years of tenant outreach and organizing experience were eligible to apply for TRN funding to carry out tenant outreach at eligible projects. Only \$5 million was awarded to 15 organizations in June 2012. To date, no other awards have been made and an FY12 NOFA was not issued.

Resident Participation in Federally Subsidized Housing

WHAT TO SAY TO LEGISLATORS

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

- Fund the public housing Resident Opportunity and Self-Sufficiency (ROSS) program at \$50 million in FY13 and FY14.
- Reverse HUD's administrative weakening of the PHA Plan and Congress's streamlining of the Plan's requirements for 75% of the nation's PHAs.
- Support resources that allow qualified and independent organizations to provide outreach and training to HUD assisted housing tenants threatened with the loss of their housing.

FOR MORE INFORMATION

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

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

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

24 CFR Part 964, Tenant Participation and Tenant Organizing in Public Housing Regulations
<http://1.usa.gov/VQDzi4> (PDF)

HUD Resident Rights and Responsibilities brochure <http://1.usa.gov/VQDECr> (PDF)

24 CFR Part 245, Tenant Participation in Multifamily Housing Projects <http://1.usa.gov/VQDMle> (PDF)

Resource-Efficient (Affordable) Housing

By Todd Nedwick, Assistant Director of Public Policy, National Housing Trust

There are multiple benefits from improving the resource efficiency of affordable housing.

Energy costs consume a disproportionate amount of low income families' budget. On average, higher income households spend 3% of their budget on energy costs, while lower income families spend 20% of their budget on household energy costs. This energy burden on low income families is up from 15% in 1998.

Low income seniors and children can be particularly sensitive to the health impacts of substandard, energy inefficient housing. Resource efficient housing can reduce the incidence of the common cold, influenza, chronic bronchitis, asthma and other environmentally related ailments.

Reducing energy costs helps to preserve affordable housing through lower operating costs and saves federal housing resources. HUD spends approximately \$5 billion annually to pay for utilities in its assisted housing programs and for utility allowances to voucher holders. Cost savings through energy efficiency improvements would free up resources and allow HUD to better support other housing needs.

PROGRAM SUMMARIES

There are several federal programs available to improve the resource efficiency of affordable housing. Economic recovery efforts greatly boosted these activities. The American Recovery and Reinvestment Act of 2009 (ARRA) provided an additional \$16 billion to the Department of Energy (DOE) and HUD to improve the energy efficiency of existing homes. In general, the recent activity in these programs reflects a new level of cooperation between HUD, DOE, and the Environmental Protection Agency (EPA) on green housing issues.

Significant progress has been made towards improving the resource efficiency of multifamily affordable housing as a result of ARRA investments. Some notable achievements include the following:

- **Weatherization Assistance Program.** More than 125,000 multifamily affordable apartments have been weatherized through the Weatherization Assistance Program (WAP). This amounts to 20% of all homes weatherized using ARRA stimulus funding, twice the percentage of multifamily apartments weatherized in a given year prior to ARRA. While nearly half of all households that are income eligible for WAP reside in rental housing, WAP has traditionally served primarily single-family properties in the past. Advocates have pushed for, and achieved, several key policy changes that reduced obstacles to weatherizing multifamily affordable housing through the WAP program.
- **Green Retrofit Program.** ARRA provided \$250 million to HUD for the Green Retrofit Program to reduce energy costs, cut water consumption, and improve indoor air quality in privately-owned, federally assisted Section 8, Section 202, and Section 811 multifamily properties. Grants and loans were provided to property owners to implement a range of resource efficiency improvements including installing more efficient heating and cooling systems and replacing faucets and toilets. Nearly 20,000 apartments received funding for improvements through the program. Improvements will reduce utility consumption by more than 25% on average, saving these low-income properties \$12 million annually on utility bills. The program has not received any additional funding since ARRA.
- **Public Housing Capital Funds.** HUD also received \$4 billion through ARRA to renovate and upgrade public housing, with 'greening public housing' one of the program's stated objectives. These funds were used for a variety of purposes, including energy-efficient appliances, green space, surface water management techniques that retain runoff on site, water conservation, energy-efficient new

Resource-Efficient (Affordable) Housing

construction and renewable energy resources. Of the funding, \$3 billion was released to 3,100 public housing agencies according to the standard public housing capital fund formula. An additional \$1 billion was awarded by competitive grants, \$600 million of which was specifically reserved for greening public housing. The competitive funds were distributed to more than 150 public housing agencies in September 2009.

- Additional DOE programs. The remaining portions of the \$16 billion in ARRA are in two DOE programs. The first is the DOE Energy Efficiency and Conservation Block Grants (EECBG) program, which received \$3.2 billion and is modeled after the Community Development Block Grant program. The EECBG program provides funding to states, cities, counties, and tribal governments to undertake projects, including green building related activities such as (1) building energy audits and retrofits, including weatherization; (2) financial incentive programs for energy efficiency; (3) building code development, implementation, and inspections; (4) installation of distributed energy technologies, including combined heat and power; and (5) district heating and cooling systems. The second DOE recipient of the remaining ARRA funds was the State Energy Program (SEP), which is directed to state energy offices. SEP received a \$3.1 billion infusion. These funds are used to address state energy priorities and provide funding to adopt emerging renewable energy and energy efficiency technologies in the state.

In addition to these ARRA-funded investments, several other federal programs exist to help finance energy efficiency improvements in affordable housing.

Green Refinance Plus. On May 31, 2011 HUD announced the Green Refinance Plus program administered by the Federal Housing Administration (FHA) and Fannie Mae. The program helps owners of rent-restricted multifamily properties to refinance into new mortgages while allowing owners to borrow additional funding to make property improvements that will reduce energy and water use. FHA and Fannie Mae share the risk on the loans to refinance the mortgages. The program is expected to complete \$100 million in loan refinance volume and provide an average of \$150,000 to \$250,000 for improvements per property. In April, City Gardens Apartments in Santa Ana, CA, became the first property to refinance under the Green Refinance Plus program.

HUD Energy Innovation Fund Multifamily Pilot Program. In May 2012, HUD awarded nearly \$23 million through the HUD Energy Innovation Fund Multifamily Pilot to a dozen organizations on the cutting edge of bringing energy-saving solutions to the housing market. The purpose of the pilot is to test new and innovative ways to cut energy bills and to finance energy efficiency upgrades in existing multifamily residential properties. The stated goals of the program are to: (1) demonstrate solutions to the primary and longstanding challenges to implementing energy efficiency and renewable energy improvements in existing affordable multifamily properties; (2) leverage private capital and additional public funding to demonstrate “proof of concept” of specific models; and (3) conduct applied research to document and disseminate mainstream, scalable approaches to retrofitting affordable multifamily properties.

PowerSaver Pilot Program. FHA also launched a new mortgage insurance program aimed at helping homeowners to make energy efficiency improvements. FHA is partnering with eighteen national, regional and local lenders to offer qualified borrowers up to \$25,000 in low-cost loans to make energy-saving improvements to their homes. The program offers a range of eligible improvements including improved insulation, duct sealing, replacement of doors and windows, HVAC systems, water heaters, solar panels and geothermal systems.

Low Income Housing Tax Credit program. Federal regulations require state allocation agencies to consider the “the energy efficiency of the project” when choosing which projects will receive an LIHTC

Resource-Efficient (Affordable) Housing

allocation. Accordingly, every state agency incentivizes certain specific energy efficient products in their tax credit allocation criteria known as the Qualified Allocation Process (QAP). However, the level of energy efficiency incentivized by state agencies varies by state. In addition, a number of states do not incentivize other green building improvements such as water conservation measures and measures to reduce exposure to environmental toxins.

FORECAST FOR 2013

Improving the resource efficiency of affordable housing has been shown to have multiple benefits for low income families, local economies, and the environment. Funding through ARRA and innovative new financing pilots has resulted in progress towards addressing the energy efficiency needs of low income housing. However, there remains a significant stock of older affordable housing that is resource inefficient and in need of upgrades. Although 125,000 low income multifamily properties have been weatherized through the HUD-DOE WAP partnership, this amounts to less than 4% of HUD's public and assisted housing stock. As the ARRA program comes to an end, DOE and HUD energy efficiency programs face steep funding cuts or no funding at all. For FY12, the Weatherization Assistance Program received a 63% cut compared to the enacted FY11 allocation, putting WAP at its lowest level of funding since 1978. This decrease in resources will make it difficult to sustain the progress that has been made over the last few years.

TIPS FOR LOCAL SUCCESS

- Local advocates can encourage public housing agencies and private owners to pursue green housing in renovation, rehabilitation, and new development projects and make certain they are aware of available resources to implement these improvements.
- Local advocates can pursue non-federal funding sources for residential energy efficiency improvements. For example, private utilities spend nearly \$7 billion annually on energy efficiency improvements in buildings. Advocates should engage with utilities to create programs for multifamily affordable housing. Advocates should also urge their local HUD office to engage with utilities to the same end.
- Local advocates also have a role in making certain that residents are included in the planning and implementation of the green aspects of their developments. This will both assure that the proposals benefit residents, and will increase the likelihood that tenants will understand the changes and maximize the efficiency and other benefits, thus increasing the likelihood of success.
- Advocates should also reach out to environmental, energy, and transit advocates to find common ground to create a stronger progressive coalition for green communities and to assist in making certain green investments and benefits reach the lowest income households.

WHAT TO SAY TO LEGISLATORS

Advocates to speak with their Members of Congress with the message that:

- It is important to support increased green building and energy efficiency requirements in federally assisted housing that do not increase the housing cost burden of low income tenants, limit the usefulness of the properties to the lowest income households, or hinder the preservation of existing units.
- Energy efficiency and other green investments in low income housing will provide considerable public and environmental benefits, as it is likely to be older housing that is in need of maintenance, with tenants and often owners who lack sufficient resources to make their own investments in greening.

Resource-Efficient (Affordable) Housing

- Investments in energy efficiency in programs such as public housing and assisted housing provide an immediate return to the U.S. Treasury by reducing HUD-paid utility costs.

FOR MORE INFORMATION

National Housing Trust • 202-333-8931 • www.nhtinc.org

EPA's Green Building • www.epa.gov/greenhomes/index.htm

DOE's Green Building • www.eere.energy.gov/topics/homes.html

HUD's Green Building • <http://1.usa.gov/13aYjCT>

Enterprise Community Partners • www.greencommunitiesonline.org

Global Green USA • www.globalgreen.org

U.S. Green Building Council • www.usgbc.org

Section 202 Supportive Housing for the Elderly

By Nancy Libson, Associate Director, Housing Strategy, LeadingAge

The Section 202 Supportive Housing for the Elderly program provides capital and operating funds to nonprofit organizations that develop and operate housing for seniors with very low incomes. As the U.S. population ages, both the creation of new Section 202 units and the preservation of existing units will be increasingly important.

There are three current issues related to the Section 202 program: an anticipated proposal by the Administration to reform the capital advance program in FY14, a lack of funding for new development at the same time as there is a growing demand for units, and the preservation of senior housing.

ADMINISTRATION

The Section 202 program is administered by HUD's Office of Housing Assistance and Grant Administration under the Assistant Secretary for Housing/FHA Commissioner.

HISTORY AND PURPOSE

The Section 202 program was established under the Housing Act of 1959. Enacted to allow seniors to live with dignity by providing assistance with housing and supportive services, the program has gone through various programmatic iterations during its lifetime before taking the form it does today. Prior to 1974, Section 202 funds were 3% loans that may or may not have had either Section 8 or rent supplement assistance for all or some of the units. Between 1974 and 1990, Section 202 funds were provided as loans and subsidized by project-based Section 8 contracts. Until the creation of the Section 811 program in 1990, the Section 202 program funded housing for both seniors and people with disabilities.

According to HUD, senior households with very low incomes are the most likely to pay more than they can afford for their housing. The 2009 HUD study of worst case housing needs found that the number of senior renter households with worst case housing needs is 18.7%, or 1.33 million, of the estimated 7.10 million households with worst case housing needs.

PROGRAM SUMMARY

The Section 202 Supportive Housing for the Elderly program provides capital and operating funds to nonprofit organizations, known as sponsors, that develop and operate senior housing. Many Section 202 project sponsors are faith-based groups.

The Section 202 grant program has two main components: a capital advance that covers expenses related to housing construction, and operating assistance that supports the buildings' ongoing operating costs. Both the capital and operating funding streams are allocated to nonprofits on a competitive basis, through a HUD Notice of Funding Availability (NOFA).

Capital funding. The first component of the Section 202 program provides capital advance funds to nonprofits for the construction, rehabilitation, or acquisition of supportive housing for seniors. These funds can now be augmented by tax credit debt and equity to either build additional units or supplement the capital advance as gap financing in so-called mixed finance transactions. The Section 202 program is HUD's largest directly funded construction program; however, the capital advances rarely support 100% of the construction costs.

Operating funding. The second program component provides rental assistance in the form of Project Rental Assistance Contracts (PRACs) to subsidize the operating expenses of these developments.

Section 202 Supportive Housing for the Elderly

Residents pay rent equal to 30% of their adjusted income, and the PRAC makes up the difference between rental income and operating expenses.

In addition to the core components of the Section 202 program, HUD administers four relatively new companion programs that have been established by Congress to help meet the needs of seniors aging in place:

1. Predevelopment grants to help nonprofits use Section 202 funds effectively.
2. Assisted living conversion program to help meet the great need for affordable assisted living options for low income seniors or for service enriched housing.
3. Emergency capital repair grants for federally assisted senior properties.
4. Service coordinators.

About a third of Section 202 properties have a service coordinator funded as part of the Section 202 appropriation. These HUD grants provide funding for full-time service coordinators who assist Section 202 residents and low income elderly or disabled families living in the vicinity of Section 202 properties. Service coordinators assess residents' needs, identify and link residents to services, and monitor the delivery of services. The older Section 202 properties are eligible for grant funding, while the Section 202/PRAC properties may include the cost of service coordinators in their operating budgets if funds are available.

Section 202 tenants generally must be at least 62 years old and have incomes less than 50% of their area median income (AMI) qualifying them as very low income. Some facilities have a percentage of units designed to be accessible to non-elderly persons with mobility impairments or may serve other targeted disabilities. The average age of a Section 202 resident is 79, and nearly 39% of residents are over the age of 80. The average annual income of a resident is little more than \$10,000. There are more than 400,000 Section 202 units serving very low income seniors.

FUNDING

In FY12, Congress appropriated \$374.6 million for Section 202, providing no new funding for new construction and new project rental assistance and an estimated \$258.6 million for PRAC renewals. In addition, the FY12 appropriation included \$91 million for service coordinators and \$25 million for assisted living conversion, including funding for service enriched housing grants. Any balances that are available will fund emergency capital repair grants.

FORECAST FOR 2013

There are three main issues confronting the Section 202 program: the future of the program, growing demand, and the preservation of existing Section 202-funded units.

The future of the Section 202 program. For FY13, the House has provided funding for limited new development, PRAC renewals, and service coordinators while the Senate Committee has included no funds for new Section 202 development. Like all other HUD funding, funding for Section 202 is available under a continuing resolution based on FY12 funding.

The Administration proposed "reforming" the Section 202 program into a mirror image of the Section 811 program under the authority of the Frank Melville Supportive Housing Act of 2010. The HUD budget included \$100 million for new Section 202 in operating assistance grants only and the requirement that the funding target frail elders. Like the Section 811 program, the Section 202 funds would be available for only a portion of the units in a property financed under the low income housing tax credit or other funding. The future direction of the program if it is funded is yet to be determined as stakeholders have outlined concerns with the Section 811 approach for senior housing, including the allocation of funds to state housing and Medicaid agencies, the targeting to frail elders, and the lack of capital financing entirely.

Section 202 Supportive Housing for the Elderly

Growing demand for increases in the supply of affordable senior housing. A lack of adequate new Section 202 construction funds means that the growing demand for affordable senior housing will not be met. The senior population is expected to double to 70 million by 2030, with the most growth among those over 85. Over the last several years, the funding available for new construction of Section 202 units produced fewer than 4,000 units each year, many fewer than are needed to meet the growing demand. A recent HUD study has recommended that 10,000 Section 202 units be produced each year for the next 10 to 15 years to serve the growing senior population as an important and cost-effective alternative to premature placement in institutional settings, and necessary where states are engaged in transitioning seniors from costly nursing homes to the community. An AARP study released in January 2006 estimates that there are 10 residents for every one unit that becomes available. At the very least, \$100 million is needed for construction and PRACs alone. Although insufficient to meet the needs of the growing elderly population, this will allow construction of approximately 2,500 new units as the current program is structured. If required leverage is built into the program, the unit count will change.

In addition, \$25 million is needed for the Assisted Living Conversion Program to convert existing 202 housing into either licensed assisted living or service enriched housing and \$90 million is needed for service coordinator grants.

Preservation of existing units. Those currently residing in assisted senior housing are aging in place. Just as the residents age, the buildings themselves are aging and lack the amenities to provide supportive services. Further, the problems of low income seniors facing multi-year housing assistance waiting lists are only exacerbated by the shrinking supply of suitable, affordable housing as some owners sell their properties to new owners who will convert existing units to market-rate housing at the end of the original mortgage term. Finally, the oldest Section 202 mortgages are nearing the end of their mortgage terms and few properties have project-based rental assistance contracts. Some mortgages have been refinanced and some properties have already been sold out of the inventory. HUD is in the process of providing guidance to implement the legislation enacted in 2010 to make preservation of Section 202 properties easier to accomplish including providing authority for new project based assistance for oldest cohort of Section 202 properties that typically have no rental assistance. Additional tools are needed to help preserve all cohorts of Section 202 properties and to provide the supportive services that are so necessary for an aging population. Tools that should be enacted or implemented include exit tax relief to remove the disincentives for existing for-profit owners to sell properties to nonprofits and others who would preserve the housing as affordable housing, and new capital and rental assistance programs to encourage the preservation of housing with maturing mortgages as affordable housing in the future.

WHAT TO SAY TO LEGISLATORS

Advocates concerned with senior housing issues should encourage their Members of Congress to take the following actions:

- Support funding for Section 202 capital advances and new PRAC.
- Support the Section 202 program as a platform for the delivery of supportive services and increase funding for service coordinators.
- Provide sufficient renewal funding for all expiring PRACs and Section 8 contracts, and support an advance appropriation for PRAC amounts in FY13 to preserve affordable senior housing.
- Enact specific demonstrations to provide health and other supportive services within affordable senior multifamily housing.
- Enact preservation legislation to address the unique issues of senior housing with mortgages that will soon mature.

FOR MORE INFORMATION

LeadingAge 202 508-9447 • www.leadingage.org

Section 3: Job Training, Employment & Business Opportunities Related to HUD Funding

By Catherine M. Bishop, Staff Attorney, National Housing Law Project

Section 3 of the Housing and Urban Development Act of 1968, titled “Economic Opportunities for Low and Very Low Income Persons, requires recipients of HUD housing and community development funding to provide “to the greatest extent feasible” job training, employment, and contracting opportunities for low and very low income residents and eligible businesses.

The Section 3 obligation is too often ignored by the recipients of HUD funds and not enforced by HUD or the local recipients; therefore the potential of the program is unrecognized or underused by low and very low income workers and qualified businesses and their advocates. However, both lawmakers and current HUD officials have expressed interest in strengthening the program in recent years.

ADMINISTRATION

Oversight responsibility for Section 3 rests with HUD’s Office of Fair Housing and Equal Opportunity. HUD is charged with monitoring and determining if local recipients of HUD housing and community development funds are meeting their obligations. In addition, those local recipients have the responsibility to ensure that the obligations and goals of Section 3 are met by local contractors.

HISTORY

The Section 3 obligation was created as part of the Housing and Urban Development Act of 1968, which at the time was described as “the most farsighted, the most comprehensive, the most massive housing program in all American history.” Section 3 was a component of that act which strove to improve the quality of life of all Americans. The Section 3 statute has been amended four times; each time the amendments primarily sought to expand the reach of Section 3 and to benefit low income families. Nevertheless, the potential of this program has largely been ignored throughout its history.

PROGRAM SUMMARY

Section 3 is a federal obligation that is tied to HUD funding. It applies to all HUD funding for public housing and Indian housing, such as the public housing operating fund and capital fund, Resident Opportunity and Self-Sufficiency (ROSS) grants, Family Self-Sufficiency (FSS) grants, HOPE VI and the Rental Assistance Demonstration (RAD) program. Section 3 also applies to other housing and community development funding including Community Development Block Grant (CDBG), HOME, Housing Opportunities for Persons with AIDS (HOPWA), and Neighborhood Stabilization Program (NSP) funds. Section 3 states that recipients of HUD housing and community development funding must provide “to the greatest extent feasible” job training, employment, and contracting opportunities for low and very low income residents and Section 3 businesses.

HUD regulations set numerical goals for all entities subject to Section 3. Low and very low income individuals should be given a preference for at least 30% of all new hires that arise from the HUD funding. At least 10% of the total dollar amount of all Section 3 contracts for building trades work and 3% of all other contracts should be for Section 3 businesses. A Section 3 business is defined as a business owned by low income individuals, or which hires a substantial number of low income individuals, or which commits to contract at least 25% of the dollars awarded to Section 3 businesses.

Among eligible low income job applicants or Section 3 business contractors, preferences must be given to public housing residents or businesses owned by public housing residents, HUD Youthbuild participants,

Section 3: Job Training, Employment & Business Opportunities Related to HUD Funding

residents of the neighborhood or businesses that provide economic opportunities to individuals in the neighborhood, and homeless individuals. A preference should mean that if the Section 3 business or individual meets the job qualifications or the bid requirements, the individual should be hired or the business should get the contract.

For both public housing and the other housing and community development funding, the Section 3 obligation is applicable to the entire project regardless of the amount of funding subject to Section 3. For example, a project may receive funds from many sources, public and private, but if there are any public housing funds in the project, the Section 3 obligation applies to the entire project.

For public and Indian housing funding, Section 3 is applicable to any jobs and contracting opportunities that arise in administration, management, service, maintenance and construction. For the other housing and community development funding, Section 3 is applicable to jobs that arise in connection with construction or rehabilitation and only if the funding is more than the established threshold. Examples of eligible types of other housing and community development projects include housing construction or rehabilitation; public works projects, such as waterfront redevelopment; retail and restaurant development; landscaping; development of entertainment facilities and other related infrastructure.

One HUD administrative decision regarding the program is of special note. In April 2004, HUD issued a decision that the city of Long Beach, CA, violated Section 3 because Section 3 new hires worked significantly less than 30% of the hours worked by all new hires. This decision is important because the standard of 30% of new hires can be easily manipulated with a hiring surge at the end of the contract period and therefore frustrate the purpose of Section 3. Using the standard of 30% of the hours worked each year by the new hires is much better and is consistent with the Section 3 goal of creating employment opportunities for low income individuals to the “greatest extent feasible.”

Section 3 complaint procedure. There is a HUD-established complaint procedure (the form for which was revised in 2012) for individuals and businesses to use for violations of Section 3. Complaints are filed with the HUD Regional offices. HUD has responded favorably to some complaints that have been filed. There is no publicly available data on the number of complaints that have been filed or their resolution, as neither HUD nor Congress require HUD regional offices to collect this data.

FUNDING

The number of jobs created or contracts provided to Section 3 individuals or businesses depends upon the level of funding for the applicable public housing or housing or community development program. There is no independent funding for Section 3. Therefore, it is important to support full funding of housing programs each year because of the benefits of jobs and economic opportunities in addition to the housing benefits. The FY13 HUD NOFAs have increased the focus on Section 3 outcomes including long-term job creation for low income individuals.

FORECAST FOR 2013

Administrative Action by HUD. HUD’s Semi-Annual Regulatory Agenda states it will issue proposed Section 3 rules in August 2013 to “(1) Reflect certain changes in the design and implementation of HUD programs that are subject to the section 3 regulations; (2) clarify the obligations of covered recipient agencies; and (3) simplify the Department’s section 3 complaint processing procedures.” In the past, HUD has stated that it will revise the Section 3 rules and failed to follow through. Nevertheless, hope remains that HUD will publish the rules this year and that the affected parties will comment on them. Policies that should be supported include that recipients and their contractors, which are subject to Section 3 have a workforce that is 30% low and very low income at the time that such individuals begin the Section 3 work and that 10% of the total dollars contracted are with Section 3 businesses.

Section 3: Job Training, Employment & Business Opportunities Related to HUD Funding

HUD stated that pursuant to the Rental Assistance Demonstration (RAD), Section 3 applies to construction, rehabilitation, and repair work that arises from the conversions of public housing and Moderate Rehabilitation units to project-based vouchers and to project-based Section 8. In the coming year, jobs and contracting opportunities at these converting developments should benefit public housing residents and low and very low income workers.

For the past several years HUD has increased its efforts to get recipients of HUD funds who are subject to Section 3 to report on the form HUD 60002 their compliance with Section 3. HUD reports that nearly 80% of all recipients currently file these reporting forms. The issues for advocates include how HUD will use the collected information, what HUD will do if a local agency reports no or too few new Section 3 hires or no or too few dollars under contract with Section 3 businesses, and what HUD will do if local agencies continue to ignore the reporting requirements or fill out the form inadequately.

In accordance with the HUD Strategic Plan for 2010-2015, HUD has improved the HUD Notice of Funding Availability (NOFA) process by informing applicants that it was interested in proposals that focus on skills training and partnerships with community-based organizations to develop pathways to career ladders for low income populations. The FY13 NOFA continues that emphasis and states that HUD is interested in activities that are more comprehensive than Section 3 and outcomes “beyond just the number of jobs created.” In 2011 HUD selected five pilot locations to determine the feasibility of HUD monitoring a registry of self-certified Section 3 businesses. HUD continues to consider expanding the pilot and may do so in the coming year.

Legislation to Improve Section 3. Representative Nydia Velazquez (D-NY) has repeatedly sought to improve Section 3. In prior years, she has held hearings and proposed or introduced legislation. But these efforts have not been supported by many of her colleagues. It is not likely that things will change in the coming year.

TIPS FOR LOCAL SUCCESS

The successes of Section 3 are almost exclusively attributed to local staff of recipient agencies implementing the goals and to oversight, monitoring and advocacy by local advocates and community groups.

Advocates should contact local unions, resident organizations, minority and women-owned businesses, community development corporations and employment and training organizations to discuss how they and their members or clients can use the Section 3 goals and preferences to increase employment and contracting opportunities for the targeted low and very low income individuals and Section 3 businesses.

In addition, advocates should meet with local PHAs and other local recipients of housing and community development dollars (often cities and counties) to discuss whether they are meeting their Section 3 obligations with respect to public housing funds, CDBG, HOME, and the RAD program. Locally, advocates should seek information on the number of low and very low income individuals trained and hired in accordance with Section 3, the dollar amounts contracted with Section 3 businesses, and to create or improve upon a local plan to fully implement Section 3. Because of the continuing initiative to get recipients to submit the form HUD 60002, advocates should ask local recipients of HUD funds or HUD for copies of the submitted forms and take the necessary action. Compliance with Section 3 could be addressed in the annual PHA plan process or the Consolidated Plan (ConPlan) process.

If compliance is a problem locally, advocates should urge HUD to monitor and conduct a compliance review of the non-complying recipients of federal dollars for public housing or housing and community development, including public housing agencies and local community development agencies. Low income

Section 3: Job Training, Employment & Business Opportunities Related to HUD Funding

persons and businesses with a complaint about recipients of HUD funds or contractors' failure to comply with or meet Section 3 goals or preferences should consider filing an official complaint with HUD.

WHAT TO SAY TO LEGISLATORS

Advocates should speak to legislators about the connection between HUD funding and jobs. They should also encourage Ms. Velazquez to reintroduce a bill, such as the Earnings and Living Opportunities Act (ELOA), that reforms Section 3 and addresses some of its weaknesses. They should also encourage their member of Congress to inform Ms. Velazquez of their interest in Section 3 and to inform her of the member's willingness to cosponsor such a bill and to support it when introduced. In addition, advocates should urge Ms. Velazquez to reintroduce the Together We Care Act and request their member of Congress to support it.

FOR MORE INFORMATION

For more information and the complaint forms, go to <http://1.usa.gov/YJPOli>.

See the NHLP publication, *An Advocate's Guide to the HUD Section 3 Program: Creating Jobs and Economic Opportunity*, and other materials available at: <http://nhlp.org/resourcecenter?tid=115>

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

Section 811 Supportive Housing for Persons with Disabilities Program

By Gina Schaak, Associate, and Lisa Sloane, Senior Associate, Technical Assistance Collaborative

Section 811 Supportive Housing for Persons with Disabilities is a federal program that assists the lowest income people with the most significant and long-term disabilities to live independently in the community by providing affordable housing linked with voluntary services and supports. Congress passed major reforms to the Section 811 program in 2010 with strong bipartisan support. The reforms will create thousands of new, highly integrated Section 811 units more efficiently, beginning with an innovative and competitive Section 811 Demonstration program made available by HUD primarily through state housing agencies in FY12. The demonstration is intended to identify, stimulate and support innovative state-level partnerships and strategies to substantially increase integrated permanent supportive housing opportunities. Two thirds of the states submitted applications, a very high response rate for the first year of an innovative supportive housing funding approach.

ADMINISTRATION

The Section 811 program is administered by HUD's Office of Multifamily Housing Programs.

HISTORY

Over the past two decades, the Section 811 program created more than 30,000 new supportive housing units, primarily through the development of group homes and independent living projects, under regulations and guidelines developed in the early 1990s. Since that time, as judicial decisions have affirmed important community integration mandates in the Americans with Disabilities Act, disability housing and services policies have evolved significantly to emphasize consumer choice, Medicaid-financed community-based services and integrated housing opportunities. For many years, the Section 811 program did not keep pace with these improvements in disability policy. Demand for the program steadily declined while the cost per unit from Section 811's capital-intensive model increased. In 2007, with less than 1,000 new units of Section 811 housing being produced annually, national disability advocates began a successful three-year legislative campaign to reform, improve and reinvigorate this important permanent supportive housing program. The Section 811 legislation signed into law by President Barack Obama in early 2011, the Frank Melville Supportive Housing Investment Act, honors the memory of Frank Melville, who was the first chair of the Melville Charitable Trust and a national leader in the supportive housing movement.

PROGRAM SUMMARY

The Section 811 program ensures housing affordability for people with disabilities with the lowest incomes living in supportive housing units by (1) ensuring that tenants pay no more than 30% of their adjusted income for rent; and (2) providing a long term operating subsidy contract from HUD to cover housing operating costs (i.e. property insurance, maintenance and repairs, owner-paid utilities, replacement reserves, etc.) which cannot be covered by tenant rents. The revitalized Section 811 program is intended to stimulate a continuous, systematic and state-oriented approach to the creation of integrated supportive housing units. These Section 811 reforms are promoting a national expansion of integrated supportive housing by fostering partnerships among state housing and health and human service agencies to leverage mainstream affordable housing, Medicaid and related community-based support services resources, and to ensure people with disabilities most in need can access these new supportive housing opportunities. The reformed Section 811 program (1) provides a strong statutory foundation for community integration, tenancy rights, and voluntary services and supports in

Section 811 Supportive Housing for Persons with Disabilities Program

permanent supportive housing, including service programs that emphasize personal autonomy and choice; (2) authorizes new program options consistent with these goals; and (3) adopts new project selection criteria to leverage other sources of affordable housing development capital. This policy substantially lowers the cost of creating a Section 811 unit, and helps fund more units from Section 811 appropriations. Most importantly, Section 811's new program options provide people with disabilities who can benefit from permanent supportive housing the opportunity to live in affordable rental properties along side people who do not have disabilities. Although group homes and independent living complexes are still authorized within the reformed Section 811 program, the program includes two new approaches to create integrated permanent supportive housing: the Modernized Capital Advance/Project Rental Assistance Contract (PRAC) multi-family option, and the Project Rental Assistance (PRA) option. Both options require that properties receiving Section 811 assistance limit the total number of units with permanent supportive housing use restrictions to 25% or less. In FY12, which was the first year Congress provided appropriations for the reformed Section 811 program, Congress directed that all funding for new Section 811 units be provided solely through the innovative PRA option.

Section 811's new PRA option facilitates the creation of highly cost effective and integrated supportive housing units in multifamily affordable housing properties without using Section 811 Capital Advance funding. The PRA option commits Section 811 project rental assistance funding to a small percentage (up to 25%) of units in new or existing affordable housing developments created through other programs, such as the federal Low Income Housing Tax Credit program, the HOME program, or similar capital financing programs. Owners of PRA units must agree to a 30-year use restriction.

Section 811 PRA funds are awarded by HUD through a competitive process, primarily to state housing agencies. The Section 811 Statute provides that eligible applicants include state housing agencies and "other appropriate entities" to be further defined by HUD. To apply for Section 811 PRA funds, the state housing agency is required to enter into an agreement with the state health and human services agency and, if separate, the state's Medicaid agency. The agreement must identify the target population to be assisted, the outreach and referral process for Section 811 units, and commitments of appropriate supportive services for Section 811 PRA tenants. The state housing agency application must also describe the policies in place to select the units that will receive PRA funds, such as policies in a state's Qualified Allocation Plan for federal Low Income Housing Tax Credits or a state's Consolidated Plan. To ensure flexibility and encourage innovation, the state housing agency is not required to identify the specific properties that will include PRA units at the time the PRA application is submitted to HUD.

The Section 811 program is solely targeted to non-elderly people with disabilities (ages 18-61 at the time of admission) who can benefit from supportive housing who have very low incomes at or below 50% of area median income (AMI). The Section 811 PRA option is further restricted to non-elderly people with disabilities with extremely low incomes at or below 30% of AMI.

FUNDING

The Section 811 Program was one of only two HUD housing programs receiving funds for new units in the Federal FY12 budget. The FY12 appropriations language required any new Section 811 units to be created through the new PRA option and did not allow any funding for new Section 811 Capital Advances. On May 12, 2012, HUD published the first ever Project Rental Assistance Notice of Funding Availability (NOFA), announcing an \$85 million demonstration to create an estimated 2,800 new integrated supportive housing units. By the August 7, 2012 deadline, HUD had received applications from 35 states and District of Columbia. In February 2013, HUD announced PRA demonstration awards to the state housing finance agencies in California, Delaware, Georgia, Illinois, Louisiana, Massachusetts, Maryland, Minnesota, Montana, North Carolina, Pennsylvania, Texas, and Washington.

Section 811 Supportive Housing for Persons with Disabilities Program

FORECAST FOR 2013

The House and Senate have not completed the FY13 budget process and have agreed to a six month continuing resolution (CR), which keeps FY12 federal funding levels in place through March 2013. Under the CR, the Section 811 program is funded at \$165 million, including funding for an estimated 2,300 new Section 811 units.

TIPS FOR LOCAL SUCCESS

Advocates in states receiving Section 811 PRA funds from the FY12 competition should work with state officials to support the implementation of the demonstration. Advocates in states that did not apply for funds in FY12 should educate state and local agencies and organizations on the new PRA option to encourage a successful application for funds in FY13. Like any reformed federal housing program, it must be successfully marketed to potential stakeholders. At the state level, activities should focus on state housing agencies, state Medicaid and state health and human service agencies. Nonprofit and for-profit developers that frequently use federal LIHTC and HOME funds should also be made aware of this new opportunity to assist people with disabilities. The PRA option is modeled after successful, innovative integrated supportive housing initiatives underway in several states, including North Carolina, Louisiana, Illinois, Pennsylvania, and Massachusetts. Efforts in these states have resulted in thousands of new and integrated permanent supportive housing units being created by nonprofit and for-profit affordable housing developers.

WHAT TO SAY TO LEGISLATORS

Advocates are encouraged to contact Members of Congress with the message that people with disabilities continue to be the poorest people in the nation. More than four million non-elderly adults with significant and long-term disabilities have Supplemental Security Income (SSI) levels equal to only 18% of AMI and cannot afford housing in the community without federal housing assistance. Because of this housing crisis, the most vulnerable people with disabilities often live unnecessarily in costly nursing homes, in seriously substandard facilities which may violate the ADA, or they may become chronically homeless. Advocates should also ask lawmakers to provide funding to create at least 2,500 new PRA units in FY13 and FY14. These funds will provide states with the flexibility to create new and more cost-effective permanent supportive housing options to help highly vulnerable people with disabilities live successfully in the community with supports, while also reducing reliance on expensive and unnecessary restrictive settings.

FOR MORE INFORMATION

Technical Assistance Collaborative (TAC) • 617-266-5657 • <http://811resourcecenter.tacinc.org> • www.tacinc.org

Self-Help Homeownership Opportunity Program

By Leslie R. Strauss, Senior Housing Analyst, Housing Assistance Council

The Self-Help Homeownership Opportunity Program (SHOP) is a competitive grant program that provides funds to national and regional nonprofits that assist low income families in building their own homes using a 'sweat-equity' or self-help model. The homes are sold to the homebuyers at below-market rates.

ADMINISTRATION

The SHOP program is administered by HUD's Office of Community Planning and Development (CPD).

HISTORY AND PURPOSE

Congress first authorized the SHOP program in 1996. SHOP was created for the purpose of alleviating one of the largest obstacles faced by self-help housing developers in the production of affordable housing: the high cost of acquiring land and developing infrastructure before home construction begins.

PROGRAM SUMMARY

SHOP is a competitive grant program run by HUD that provides funds to national and regional nonprofits that assist low income families in building their own homes using a sweat equity or self-help model. Funds are restricted to paying for land and infrastructure costs associated with building the homes, including such items as sewer connections, streets, utilities and environmental remediation. These funds must result in one home for each \$15,000 awarded. Each low income family receiving assistance through SHOP is required to invest at least 100 hours of work in building its home and the homes of others, although many families work far more than the required hours. The homes are sold to the homebuyers at below-market rates.

National or regional nonprofit organizations or consortia can apply to HUD annually for SHOP funds. There are currently two SHOP recipients that operate nationwide: Habitat for Humanity and the Housing Assistance Council. HUD awards grants competitively based upon an organization's experience in managing a sweat-equity program, community needs, its capacity to generate other sources of funding and the soundness of its program design. The HUD-funded organizations may develop self-help housing themselves or act as intermediaries; that is, make SHOP loans to local organizations that work with self-help home buyers.

All families receiving SHOP funds must earn less than 80% of the area median income (AMI), although many of the organizations that facilitate the distribution of these funds work with families who have incomes well below that threshold. SHOP funds have been used to support the work of self-help housing organizations in every state, resulting in the development of thousands of affordable homes for ownership.

FUNDING

SHOP was appropriated \$27 million in FY11 and \$13.5 million in FY12. The \$13.5 million level continues for the first part of FY13 under the continuing resolution adopted by Congress. The Administration proposed no funding for the program in its budgets for FY12 and FY13, noting that the HOME program could cover SHOP's activities. Congress, on the other hand, chose to fund SHOP for both years, although it did cut the program's appropriation in half, assuming FY12 funding is carried through FY13 in a long-term continuing resolution.

Self-Help Homeownership Opportunity Program

FORECAST FOR 2013

SHOP, created in 1996, received steady support from Congress and the Clinton and George W. Bush Administrations. It is one of the few federal housing programs to receive an effective rating, the highest rating possible, on the Program Assessment Rating Tool developed by the Office of Management and Budget (OMB).

The Obama Administration's HUD, which is focusing on much-needed capital improvements to federally assisted rental housing, has put less emphasis on homeownership and new production.

TIPS FOR LOCAL SUCCESS

Local organizations can access SHOP funding by partnering with one of the national or regional funding recipients. The strongest applicants have self-help experience.

WHAT TO SAY TO LEGISLATORS

Members of the House and Senate should be asked to support continued SHOP funding at \$27 million per year. The program has many positive aspects:

- Self-help housing provides families a hand up. The families who ultimately use the program's funds will put at least 100 hours, and often more, into building their own homes. For example, through the Housing Assistance Council's first 10 years of SHOP funding, participating homebuyers averaged over 1,000 hours of labor.
- Because owners' sweat equity reduces mortgage amounts, the self-help process makes homeownership affordable to people with low and very low incomes.
- SHOP is authorized by Congressional legislation; there is no danger that it can be perceived as an earmark.

Adding self-help organizations to the competition for fewer HOME dollars would both decrease the success of current self-help efforts and also further reduce the amount available for HOME's other much-needed activities.

FOR MORE INFORMATION

Habitat for Humanity International • 202-628-9171 • www.habitat.org

Housing Assistance Council • 202-842-8600 • www.ruralhome.org

HUD • 202-708-2684 • www.hud.gov/offices/cpd/affordablehousing/programs/shop

Service Coordinators in Multifamily Housing

By Judith Chavis, Executive Vice President/Public Policy, American Association of Service Coordinators

In general, a service coordinator is a social service professional who acts as an information and referral resource for families, seniors, and persons with disabilities residing in publicly funded subsidized apartments or other affordable housing environments. Specifically, service coordinators help the residents in these settings to remain independent and self-sufficient by connecting them with community-based services and other income related benefits.

HUD's Service Coordinators in Multifamily Housing for the Elderly/Disabled program funds the work of service coordinators in Section 202 housing. This program is housed in HUD's Office of Housing. The Resident Opportunities and Self Sufficiency (ROSS) Service Coordinator and Family Self-Sufficiency (FSS) Coordinator programs fund the work of service coordinators in public housing or for Housing Choice Voucher holders. These programs are housed in the Office of Public and Indian Housing.

History

Congress created HUD's Service Coordinator program through Section 808 of the National Affordable Housing Act of 1990 (also known as the Cranston-Gonzalez Affordable Housing Act, Public Law 101-625). This law gave HUD the authority to use Section 8 funds to employ service coordinators in Section 202 housing.

The Service Coordinator program received additional authority through the 1992 Housing and Community Development Act (HCDA; Public Law 102-550). The HCDA expanded the program by broadening authority for funding of service coordinators in most HUD assisted and conventional public housing developments designated for the elderly and people with disabilities.

Program Summary

A service coordinator is defined as a social service staff person hired or contracted by a property owner or housing management company. The service coordinator's primary role is to coordinate the provision of supportive services to low income elderly and nonelderly people with disabilities to prevent premature and inappropriate institutionalization, thereby improving residents' quality of life. Service coordinators' work allows frail elderly to remain in their homes for as long as possible.

The service coordinator position is funded to carry out the following activities:

- Determining the service needs of residents both on an individual and collective basis.
- Identifying and networking with appropriate supports and services available in the community.
- Assisting residents with obtaining needed services or public benefits.
- Monitoring and evaluating the effectiveness of the supportive services provided.
- Performing other functions to enable frail and at-risk low income elderly, people with disabilities and families to live with dignity and independence.

Service coordinators are specifically prohibited from directly providing support services, serving as an activities director or coordinator or assisting with other administrative work of the property. However, based on the collective needs of the residents of the property or properties where they work, service coordinators will develop health, wellness, financial literacy and other beneficial group presentations or programs at the property. Additionally, service coordinators assist residents at a property with starting a residents' or tenants' association and will provide guidance, contacts and strategies for planning events and completing tasks.

Service Coordinators in Multifamily Housing

Service Coordinator funds are distributed by a national competitive grant process through a HUD Notice of Funding Availability (NOFA). Eligible applicants for these funds include owners of HUD assisted multifamily housing, namely developments built with or subsidized by the following programs: Section 202, project-based Section 8, Section 236 and Section 221(d)(3) Below-Market Interest Rate. All housing must be designed or designated for sole occupancy by elderly persons aged 62 and older, or younger people, aged 18 to 61, with disabilities.

While HUD allows service coordinators to be funded through a property's residual receipts funds or to be incorporated into the property's operations budget, most federally assisted properties do not have sufficient resources in their operating budgets to staff service coordinators.

The program is similar to the ROSS Service Coordinator and FSS Coordinator programs, which also provide funding for service coordinators in public housing communities and for Housing Choice Voucher holders participating in the FSS program, respectively.

Funding

For FY12, Congress increased to \$91 million the funding for the Multifamily Service Coordinator grant program in the "minibus" appropriations legislation passed in lieu of a specific HUD appropriations bill. Due to the current continuing resolution (CR), FY13 funding for the Service Coordinator grant program has not been determined and no Notice of Funding Availability (NOFA) has been developed or released.

Forecast for 2013

There continues to be a need for a multifaceted strategy for funding service coordinators that includes maintaining the service coordinator grant programs, increasing the ability for the routine staffing of service coordinators within a property's operating budget or through modest rent adjustments or the property's residual receipts. While statutory authority exists to allow HUD to fund service coordinators, many senior housing facilities have not been able to secure the necessary rent adjustments to accommodate them. Advocates should recommend that sufficient Section 8, Project Rental Assistance Contract (PRAC), or other operating funds be increased to allow routine staffing of service coordinators as well as to direct HUD and its field offices to provide necessary budget adjustments and regulatory relief to remove any barriers restricting the staffing of service coordinators through a property's operating budget.

There is also a need to expand the funding for housing-based service coordinators to assist frail seniors in the surrounding community where the property is located. While Section 851 of the American Homeownership and Economic Opportunity Act of 2000 (Public Law 106-569) granted authority to enable service coordinators to assist residents in the surrounding community, there are insufficient funds to enable service coordinators to reach out to assist these residents.

Additionally, Section 515 of the American Housing Act of 1949 (Public Law 81-171) provided preliminary language for the use of service coordinators at rural multifamily housing developments under the authority of the USDA. In the 515 program, the service coordinator can be funded through the property's operations budget. Again, lack of sufficient resources in the operations budgets at these properties has prevented many properties from staffing a service coordinator.

What to Say to Legislators

Advocates are encouraged to contact members of Congress with the message that Service Coordinators in Multifamily Housing for the Elderly/Disabled save taxpayer dollars by keeping frail, low income seniors living independently in cost-effective housing instead of being placed in costly institutional (nursing home) care. Despite the critical need and cost-effectiveness of service coordinators in assisting low income seniors and others with special needs to access supportive services, or the need to assist

Service Coordinators in Multifamily Housing

low income families to become more self sufficient and economically independent, funding for service coordinators remains very limited.

Additionally, members of Congress should be urged to:

- Maintain the \$91 million in FY14 for service coordinators in federally-assisted housing, particularly to ensure adequate funds for expiring grants for existing service coordinator positions and to expand the number of properties with a service coordinator.
- Fully fund Section 8, PRAC, other rent subsidies and project operating funds to permit the staffing of a service coordinator as a routine part of the housing property's operating budget.
- Appropriate a minimum of \$10 million in FY14 to fund a competitive grant for service coordinators in Section 514, 515 and 516 programs under USDA.
- Appropriate \$60 million in FY14 as a stand-alone appropriations line item for ROSS service coordinators in PHAs.

Program successes. National research over the past 30 years has chronicled the widely recognized preference by older adults to remain independent and in their own homes and communities for as long as possible. A research study on service coordination offers some exciting information on the benefits of service coordination across the country. Additionally, national data from the AASCO^{Online} documentation system has shown the benefits of service coordination in terms of providing access to services and supports; increased length of independent living; and, most recently, cost-savings for the residents from their access to needed services, benefits and supports.

In terms of cost savings, a comparison of the national average monthly cost of nursing home care versus keeping a low income, frail elderly person in their own apartment with access to benefits, supports and services at a property with a service coordinator reveals some startling data. According to a MetLife Mature Market Institute survey in November 2012, nationally, the average monthly cost of a semi-private room in a nursing home is \$6,753. Keeping a frail elderly person independent in her own subsidized apartment with supportive services and public benefits can reduce spending of taxpayer dollars by approximately 67% less than the monthly average cost of nursing home care. This figure is based on the average SNAP (food stamp) benefit for seniors of \$122/month, 70% of national average of FY13 HUD fair market rent for a one-bedroom apartment, and the average monthly cost of a service coordinator based on AASC 2012 Service Coordinator Salary Survey.

HUD's Office of Policy Development and Research evaluated the level of satisfaction among property managers in multifamily housing properties with the provision of service coordination. The report, *Multifamily Property Managers' Satisfaction with Service Coordination*, was based on a survey of property managers in multifamily developments who have or did not have a service coordinator program in place.

Overall, the report found a high level of satisfaction from property managers regarding the service coordinator program as well as a strong belief that service coordinators improve the quality of life for the residents in their housing properties. The report also goes on to find resident occupancy appears to be longer in properties with a service coordinator when compared to properties without the position. Specifically, the report stated that the length of occupancy at developments with a service coordinator was 10% longer than at developments without a service coordinator. This increased length of independent living serves to reduce the long-term care costs for this population.

For More Information

- American Association of Service Coordinators 614-848-5958 www.servicecoordinator.org
- The HUD report, *Multifamily Property Managers' Satisfaction with Service Coordination*, can be found at <http://bit.ly/XoZo5d>.

Sustainable Communities and Livability Initiatives

By Elina Brave, Research Analyst, National Low Income Housing Coalition

Since the creation of HUD's Office of Sustainable Housing and Communities (OSHC) in 2010, the Obama administration has undertaken unprecedented efforts to integrate transportation, environmental and economic development strategies with housing policy. However, since the 2011 shift in leadership within the House, federal funds for sustainability initiatives have faced serious threats during the appropriations process.

HISTORY

In the past, federal funding for housing, transportation and community development has not been coordinated, making it challenging for local leaders to implement comprehensive approaches to community revitalization that benefit all residents, including low income residents and communities of color.

This began to change in 2009 when the Obama administration and several Congressional leaders stepped forward with proposals to promote more livable, sustainable communities.

In 2009, the Administration established the Interagency Partnership on Sustainable Communities between the U.S. Environmental Protection Agency (EPA), the U.S. Department of Transportation (DOT) and HUD to "coordinate federal housing, transportation, and other infrastructure investments to protect the environment, promote equitable development, and help to address the challenges of climate change."

The Interagency Partnership issued the following set of six livability principles to guide its work:

1. Provide more transportation choices.
2. Promote equitable, affordable housing.
3. Enhance economic competitiveness.
4. Support existing communities.
5. Coordinate and leverage federal policies and investment.
6. Value communities and neighborhoods.

HUD has taken a lead role in providing new funding to regions seeking to better integrate housing, transportation and environmental plans and investments. On February 4, 2010, HUD Secretary Shaun Donovan announced the launch of HUD's new Office of Sustainable Housing and Communities (OSHC) to serve as the lead coordinating entity within HUD working with DOT and EPA on livability and sustainable communities. With the establishment of a new Rural Work Group in 2011, the partnership also began work with USDA to support rural communities engaged in sustainability and livability work.

ISSUE SUMMARY

Through the Office of Sustainable Housing and Communities, the Sustainable Communities Initiative funds two grant programs. Regional Planning grants encourage the development of region-wide plans to integrate housing, transportation and economic development activities, while Sustainable Community Challenge grants aim to reduce barriers to the development of affordable housing and sustainable communities. In FY10 and FY11, HUD awarded 152 grants through the Sustainable Communities Initiative across 48 states. Over two years, the grants totaled \$240 million dollars.

The Office of Sustainable Housing and Communities is undertaking a new initiative to study the combined cost of housing and transportation. OSHC is working with the Department of Transportation, the Center for Neighborhood Technology, the Manhattan Strategy Group to develop a Location Affordability Index to measure housing and transportation costs at the neighborhood level. In

Sustainable Communities and Livability Initiatives

addition, through this initiative, OSHC is analyzing the potential to incorporate data from the Location Affordability Index into the development HUD programs and policies.

FORECAST FOR 2013

The future of sustainable communities and livability initiatives is dependent on the appetite of Members of Congress for funding this kind of community planning. Hostility to urban planning and green initiatives could jeopardize the long-term success of these programs.

The House FY12 budget proposed to defund the Partnership for Sustainable Communities, while the Senate FY12 budget proposed to reduce the funds available for grants by 10%. Ultimately, the FY12 appropriations bill preserved funding for the operations of the Office of Sustainable Housing and Communities, but cut funds for future rounds of grants associated with the Sustainable Communities Initiative. The Office of Sustainable Housing and Communities was funded to continue to provide technical assistance and manage existing grants.

For FY13, the President requested \$100 million for the Sustainable Communities initiative at HUD, to be drawn from the Community Development Block Grant program. This would restore funding to FY11 levels, and the funds would restore funding for both Regional Planning and Community Challenge grants.

WHAT TO SAY TO LEGISLATORS

The Interagency Partnership for Sustainable Communities is a historic commitment by the federal government to work together to support local strategies to create livable communities that are healthy, safe and economically secure for households of all income levels. Ensuring that all three federal agencies involved in the initiative—HUD, DOT, and EPA—have funding and staff devoted to sustainable communities will help accelerate successful projects in communities across the country. It is also essential to update federal regulations and policies that have often worked against locating and preserving affordable housing in neighborhoods with access to jobs, transportation and community amenities.

FOR MORE INFORMATION

LISC • <http://lisc.org>

PolicyLink • www.policylink.org

Reconnecting America • www.reconnectingamerica.org

NLIHC • 202-662-1530 • www.nlihc.org

NLIHC community planning principles:
<http://nlihc.org/issues/other/just-communities>

HUD Office of Sustainable Communities and Housing • <http://1.usa.gov/YJSjtZ>

EPA's Smart Growth Programs • www.epa.gov/smartgrowth

FTA Livable and Sustainable Communities <http://1.usa.gov/YJSICe>

Smart Growth America • <http://bit.ly/YJSOf>

Title V: Providing Federal Surplus Property to Homeless Service Providers

By Jeremy Rosen, Policy Director, National Law Center on Homelessness and Poverty

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

If determined by HUD to be both suitable and available, surplus federal properties are published in the Federal Register. Homeless service providers apply for properties through the Department of Health and Human Services (HHS). If a property transfer is approved, that transfer is negotiated with the General Services Administration and the federal agency that is giving up the property.

History and Purpose

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

Program Summary

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

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

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

Funding

The Title V program does not receive an appropriation.

Forecast for 2013

The Title V program is under attack on Capitol Hill. In recent years, both Congress and the Administration have made proposals to amend or even eliminate the law. These proposals are expected

Title V: Providing Federal Surplus Property to Homeless Service Providers

to be revisited in 2013. Advocates do not support any of the existing proposals, but are hopeful that negotiations will lead to an outcome that continues to provide homeless service providers with needed property, at no charge, while efficiently disposing of properties that homeless service providers cannot use or do not want. Legislators should be urged to support the position of the advocacy community.

Administration. In 2011, the Office of Management and Budget (OMB) proposed replacing Title V with a process similar to BRAC, where a commission would review properties and determine how they should be disposed of. Advocates could not support this proposal because it would eliminate Title V's right of first refusal for homeless service providers, and potentially allow properties to be sold even if a homeless service organization wanted to use them.

House of Representatives. In 2012, the House passed two pieces of legislation impacting Title V. The Transportation and Infrastructure Committee passed legislation to create a commission to review property disposals, similar to the OMB proposal. The Oversight and Government Reform Committee passed narrower legislation that would have largely left the Title V process in place, while exempting a limited number of the highest value federal assets from the program, allowing them to be immediately sold. The full House narrowly passed the Transportation and Infrastructure bill, while the better Oversight and Government Reform bill passed 403-0.

Senate. The Senate Homeland Security and Governmental Affairs Committee passed legislation that would allow the OMB Director to bypass Title V and order federal agencies to sell most surplus properties. The legislation was not considered by the full Senate.

What to Say to Legislators

Advocates should meet with their Members of Congress with the message that Title V is a no-cost way to advance the national goal of ending homelessness. Advocates should ask Members to work to preserve the ability of homeless service providers to access and productively use appropriate surplus properties to provide housing and supportive services to homeless people.

Tips for Local Success

To successfully apply for Title V property, an applicant must be financially stable and have a firm and workable plan to use the property that is to be acquired. Organizations should recognize that at any given time property may not be available in a particular area, and consequently be prepared to wait for the right property to be available. When a property does become available, applicants will have to move quickly, before their right of first refusal expires. If a property is too large for one organization, several local groups may want to file an application in partnership.

For More Information

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

USDA Rural Rental Housing Programs

By Leslie R. Strauss, Senior Housing Analyst, Housing Assistance Council

Under the Section 515 program, the USDA's Rural Development arm (RD) makes direct loans to developers of affordable multifamily rental housing. Production of new units has almost ceased, however, and many existing units are deteriorating physically or are in danger of leaving the affordable housing stock.

Congress created new demonstration programs to address preservation issues, but the future of these programs is uncertain. Efforts have been made in Congress during the last several years to authorize these programs permanently, but the legislation did not pass and seems unlikely to be considered favorably in the 113th Congress.

The program is administered by the USDA RD Housing and Community Facilities Programs office.

History and Purpose

In operation since 1963, the Section 515 program provides essential, decent housing for the lowest income rural residents by helping to produce affordable rental units. While dramatic improvements have been made in rural housing quality over the last few decades, problems persist. Many of rural America's 65 million residents experience acute housing problems that are often overlooked while public attention is focused on big-city housing issues.

Nearly 30% of rural households experience at least one major housing problem, such as high cost, physical deficiencies, or overcrowding. These problems are found throughout rural America but are particularly pervasive among several geographic areas and populations, such as the Lower Mississippi Delta, the southern Black Belt, the colonias along the U.S.-Mexico border, in Central Appalachia, and among farm workers and Native Americans.

Forty-seven percent of rural renters are cost burdened, paying more than 30% of their income for their housing, and nearly half of them pay more than 50% of their income for housing. More than half of the rural households living with multiple problems, like affordability, physical inadequacies, or overcrowding, are renters.

Program Summary

Under the Section 515 program, USDA RD makes direct loans to finance affordable multifamily rental housing for very low income, low income, and moderate income families; elderly people; and persons with disabilities.

Section 515 provides direct loans to developers at an interest rate of 1%, amortized over 50 years, to finance modest rental or cooperatively-owned housing.

Section 515 funds can be used both for new construction as well as the rehabilitation of existing properties. However, very few new rental properties are built each year because the program's appropriations levels are low.

Congregate housing for the elderly and persons with disabilities and group homes for the developmentally disabled are authorized through special regulations and requirements, but nursing or special care homes are not eligible. Funds may also be used to buy and improve land and to provide necessary facilities such as water and waste disposal systems.

USDA Rural Rental Housing Programs

Very low, low, and moderate income households are eligible to live in Section 515-financed housing. When USDA Section 521 rental assistance is available to help tenants pay affordable rents, 95% of tenants in new Section 515 projects and 75% of new tenants in existing projects must have very low incomes. Priority is given to those living in substandard housing. The vast majority (93%) of 515 tenants has incomes less than 50% of area median income, and more than half of the tenants are elderly or disabled. Residents' incomes average about \$11,000 per year, and more than half of resident households are headed by elderly people or people with disabilities.

Section 515 loans are made available on a competitive basis each year, using a national Notice of Funding Availability (NOFA). In FY12, however, USDA did not issue a NOFA; instead, it used all of its Section 515 funds to pay incentives that had been promised to owners of Section 515 properties so they would remain in the program rather than paying off their Section 515 mortgages and converting their properties to market rate rents.

Funding

The Section 515 program was funded at \$69.5 million in FY10 and FY11, and \$64.5 million in FY12 and in the continuing resolution that funds the first part of FY13.

Forecast for 2013

Section 515's history creates serious, current challenges for the program. In the 1970s, owners of Section 515 properties were permitted to prepay their low-cost mortgages and, once their buildings were no longer receiving federal subsidies, displace tenants. Two separate statutes were adopted at different times to restrict prepayments. As a result, properties financed between 1979 and 1989 are subject to one set of restrictions, and post-1989 properties to another.

In the early 1990s, publicity about program abuses by a few developers resulted in drastic budget cuts for the program, from \$512 million in FY94 to \$183 million in 1995. A study conducted for USDA in 2004 found that, as a result of USDA policies and operating fund shortages that encouraged property owners to defer maintenance, none of the properties in the program had adequate reserves to cover the costs of needed repairs and renovations. At the same time, program funding has continued to fall, reaching \$70 million each year in FY08 through FY10 and \$64.5 million in FY13. Section 515, which financed the construction of over 38,000 units at its peak in 1979, produced just and 800 in 2008 and none in FY12.

Preservation of the existing units in the 515 portfolio— that is, the developments whose owners are still making payments on Section 515 mortgages— is a serious issue for two reasons.

First, increasing numbers of these owners are prepaying their mortgages, thus removing government affordability requirements. Owners seek to prepay for varying reasons, including the expiration of tax benefits, the burden of increased servicing requirements, the desire of some small project owners to retire and, in some rural areas, an increase in vacancies due to out-migration. As is the case for owners of HUD multifamily projects, Section 515 owners' ability to prepay is restricted by federal law. The details vary depending when a loan was approved, but in all cases USDA is either permitted or required to offer owners incentives not to prepay, and in exchange the property continues to be restricted to low income occupancy for 20 years. Incentives offered to owners include equity loans, increases in the rate of return on investment, reduced interest rates, and additional rental assistance. In some cases, an owner that rejects the offered incentives must offer the project for sale to a nonprofit or public agency.

Second, many Section 515 properties are aging and must be preserved against physical deterioration. A 2004 Comprehensive Property Assessment (CPA) prepared for USDA by a team of consultants found

USDA Rural Rental Housing Programs

that the physical conditions of Section 515 properties were an even greater problem than prepayments. The CPA reported that the average age of Section 515 properties was 23 years. Researchers determined the physical conditions of the properties did not pose any serious immediate health and safety problems, but warned that many properties would face significant physical needs in the immediate future. None of the properties had enough money in reserve to address its physical needs over time. Researchers calculated the total cost to prevent physical deterioration of Section 515 properties would be \$2.6 billion over 20 years.

For the last few years, USDA RD has funneled all its preservation efforts through its Multifamily Housing Preservation and Revitalization (MPR) demonstration program. MPR offers several possible types of assistance to owners or purchasers of Section 515 properties. The most commonly used is debt deferral, while other possibilities include grants, loans, and soft-second loans. Since FY08, MPR has been available to Section 514/516 farmworker housing properties as well.

Other preservation tools include Section 542 tenant vouchers, which can be provided to tenants who face higher rents when their buildings leave the Section 515 program.

In the last several congresses, bills have been introduced in the House of Representatives that would have accomplished two things for the Section 515 program. First, they would have authorized MPR, presumably increasing its chances for funding. Second, they would have improved USDA's preservation voucher program. Similar bills have not been introduced in the Senate, however. It is not clear whether the legislation will be presented again in the 113th Congress, or what its prospects for passage might be.

Tips for Local Success

Funding for new Section 515 projects has been scarce for several years, and most activity related to the program has involved preservation of existing units. Preservation means either renovating a property or keeping it affordable for low income tenants, or both. Local rural housing organizations can help with preservation in both senses by helping owners who want to leave the program find ways to do so without changing the nature of their properties. Often, this means purchasing the property and refinancing to obtain sufficient proceeds to update and rehabilitate it.

What to Say to Legislators

Advocates should speak with their Members of Congress and urge them to:

- Support \$64.5 million in funding for the Section 515 program in FY13 and FY14, as well as \$25 million for USDA's Multifamily Rental Preservation Demonstration (MPR), \$11 million for Section 542 preservation vouchers, and \$2 million for the Rental Preservation Revolving Loan Fund (PRLF).
- Support the Rural Housing Preservation Act if it is reintroduced, with the addition of further tenant protections and authorization for the PRLF.

For More Information

Housing Assistance Council • 202-842-8600 • www.ruralhome.org

National Housing Law Project • 510-251-9400 • <http://nhlp.org/resourcecenter?tid=61>

U.S. Department of Agriculture Rural Development • www.rurdev.usda.gov

Veterans Affairs Supportive Housing Vouchers

By Jordan Press, Director of Federal Policy, Corporation for Supportive Housing

The HUD-Veterans Affairs Supportive Housing Program (HUD-VASH) combines Housing Choice Voucher rental assistance for homeless veterans with case management and clinical services provided by the U.S. Department of Veterans Affairs (VA), and is a key program in the Administration's stated goal of ending veteran homelessness within 5 years (2014).

Since 2007, Congress has appropriated funds for approximately 47,000 VASH vouchers, approximately 10,000 per year. At the time of this writing, although both the House and Senate have proposed to provide \$75 million for a round of 10,000 new VASH vouchers in FY13, it is unclear whether Congress will agree to do so in final funding decisions expected in March. Advocates should call for Congress to provide \$75 million for a round of 10,000 new VASH vouchers for each of fiscal years 2013 and 2014, while full-funding all existing vouchers through the regular Section 8 account.

ADMINISTRATION

The HUD-VASH program is jointly administered by the Veterans Administration (VA) and HUD. Because the vouchers are allocated to local public housing agencies (PHAs) and the nearest VA medical center (VAMC), program administration is largely devolved to community.

HISTORY

Although the HUD-VASH program was originally created in the early 1990s, it did not receive strong federal support for many years. In 2007, as soldiers began returning home from Iraq and Afghanistan to a troubled U.S. economy, Congress demonstrated strong interest in preventing and reducing homelessness among this population. Congress began funding these special purpose vouchers in earnest in the FY08 HUD Appropriations Act with an allocation of \$75 million for approximately 10,000 vouchers. The Obama Administration announced in late 2009 that it was setting a goal of ending homelessness among veterans within five years, and VASH became an important tool in achieving this goal. Since FY08, Congress has allocated the same \$75 million to HUD for approximately 10,000 new vouchers each year with the only exception being the FY11 appropriations act; \$50 million was awarded in FY11 for approximately 7,500 vouchers in the continuing resolution that year.

Advocates originally identified approximately 60,000 chronically homeless veterans who could have their homelessness ended with a HUD-VASH voucher and encouraged Congress and the Administration to set this as a target for the number of vouchers on the street. Initial voucher allocation was not geared towards chronically homeless veterans, however, and only in the past two years have HUD and the VA become more successful in encouraging communities to target vouchers more deeply. At the same time, due to an overall shortage of affordable housing and scarce rental assistance for homeless veterans through other programs, many communities chose to award VASH vouchers to homeless veterans who were not chronically homeless. In the coming years, Congress and the Administration along with interested community partners and homeless advocates will need to reassess what resources are needed to end homelessness for both the chronically homeless as well as other homeless veterans. Improved planning and coordination at the local level will be key to success.

PROGRAM SUMMARY

In December 2012, HUD and the VA jointly announced that national report data showed that veteran homelessness declined by 7.2% between January 2011 and January 2012, and has declined by 17.2% since 2009 despite high unemployment and a challenging economy. According to the 2012 Point in Time

Veterans Affairs Supportive Housing Vouchers

count (Volume I of the Annual Homeless Assessment Report), 62,619 veterans were homeless in the United States on a single night in January 2012. In addition, a disproportionate number of homeless persons are veterans as compared to prevalence of veterans among the overall U.S. population.

Although several federal programs are available to help meet the housing and services needs of homeless persons, HUD-VASH is a particularly effective resource because it combines both housing and services into one resource.

Generally, the program is administered in accordance with regular Housing Choice Voucher program requirements. However, Congress allows HUD to waive or specify alternative requirements for any provision of any statute or regulation that HUD administers in connection with this program in order to effectively deliver and administer HUD-VASH voucher assistance. The HUD-VASH operating requirements, including the waivers and alternative requirements from voucher program rules, were published in the Federal Register on May 6, 2008.

Notable waivers in the Operating Requirements include:

- Section 8(o)(19) of the United States Housing Act of 1937, which requires homeless veterans to have chronic mental illnesses or chronic substance use disorders with required treatment of these disorders as a condition of receipt of HUD-VASH assistance, is waived.
- The VAMC will refer HUD-VASH eligible families to the PHA for the issuance of vouchers. Therefore, the PHA will not have the authority to maintain a waiting list or apply local preferences for HUD-VASH vouchers. Accordingly, section 8(o)(6)(A) of the USHA of 1937, 42 U.S.C. 1437f(o)(6)(A), in regard to preferences, has been waived to provide for the effective administration of the program.
- Federal regulations relating to applicant selection from the waiting list and local preferences, are also waived. Regulations regarding special admissions, cross-listing of the waiting list, and opening and closing the waiting list do not apply to the HUD-VASH program.
- The VAMC will screen all families in accordance with its screening criteria. By agreeing to administer the HUD-VASH program, the PHA relinquishes its authority to determine the eligibility of families in accordance with regular HCV program rules and PHA policies. Specifically, under the HUD-VASH program, PHAs will not have the authority to screen potentially eligible families or deny assistance for any grounds permitted under 24 CFR 982.552, broad denial for violations of voucher program requirements, and 982.553, specific denial for criminals and alcohol abusers, with one exception. PHAs will still be required to prohibit admission if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program.

Eligible Participants. In order to receive a housing voucher through this program, participants must meet the following criteria:

- Must be a VA health care-eligible veteran.
- Must meet the McKinney act definition of homelessness.
- In need of case management services, including services for serious mental illness, substance use disorder history, or a physical disability. Case management is a requirement for participation in the HUD-VASH voucher program.
- Income level and Lifetime Sexual Offender Registry status are also factors in eligibility.

Veterans Affairs Supportive Housing Vouchers

Allocation of Vouchers. The program distributes vouchers among VAMCs and corresponding PHAs that participate in the program. There is at least one site in each of the 50 states, the District of Columbia and Puerto Rico. In order to determine the allocation of vouchers, the VA and HUD take into account the following factors:

- The population of homeless veterans needing services in the area.
- The number of homeless veterans served by the homeless programs at each VA Medical Center (VAMC).
- The geographic distribution.
- VA case management resources.

Portability. An eligible family issued a HUD-VASH voucher must receive case management services provided by the VAMC. Therefore, special mobility and portability procedures have been established. HUD-VASH participant families may reside only in those jurisdictional areas that are accessible to case management services as determined by the partnering VAMC. More information regarding portability features of VASH vouchers can be found in the HUD-VASH Operating Guidelines.

Project-basing VASH vouchers. PHAs may designate a maximum of 50% of their total HUD-VASH allocation as project-based vouchers. Project-based proposals apply to all types of developments including existing units, newly constructed units and substantially rehabilitated units. Requests for project-basing will only be considered if the local VAMC supports the request. The initial lease term must be at least one year. If a household chooses to move from a project-based unit, the PHA must offer the household the opportunity for continued tenant-based rental assistance in the form of either assistance under the voucher program or other comparable tenant-based rental assistance. If there is no regular voucher to offer the household, the tenant keeps its HUD-VASH voucher when moving to another unit.

FUNDING

HUD-VASH vouchers are funded by both the VA and HUD. On the VA side, case management services are funded through the VA's Health Account and do not have a separate line item in the budget. Because this account funds all VA health care activities it is generally robustly funded by Congress and thus has not been an issue on which advocates have needed to spend. On the HUD side, \$75 million was provided for 10,000 new vouchers in FY08, FY09, FY10, and FY12. In FY11 \$50 million was provided for approximately 7,500 vouchers. VASH voucher renewals are lumped into the general Section 8 tenant-based rental assistance account and Congress has provided sufficient funding in recent years to renew all VASH vouchers.

FORECAST FOR 2013

HUD-VASH vouchers are an incredibly important resource in ending the national tragedy of veterans' homelessness. Congress should continue to fund HUD with \$75 million to provide 10,000 new VASH vouchers in FY13 and FY 14 and provide adequate funding in the tenant-based Section 8 account to renew all existing VASH vouchers.

TIPS FOR LOCAL SUCCESS

While any form of homelessness in America is shameful, politicians have been particularly responsive to wanting to end veterans' homelessness. For those policymakers whom advocates have found difficult to approach for support on more broad affordable housing and homelessness issues, advocates may find success in discussing the need for resources to end veterans' homelessness.

Data regarding the prevalence of homeless veterans is available either in HUD's Annual Homeless Assessment Report, Veterans Supplement, through the U.S. Interagency Council on Homelessness or from the National Alliance to End Homelessness.

Veterans Affairs Supportive Housing Vouchers

WHAT TO SAY TO LEGISLATORS

Advocates should speak to Senators and Representatives, particularly if they are on the Appropriations or Veterans Affairs Committees, and urge them to provide \$75 million for 10,000 new HUD-VASH vouchers to help end homelessness among veterans.

FOR MORE INFORMATION

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

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

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

National Coalition for Homeless Veterans • 202-546-1969 • www.nchv.org

HUD's HUD-VASH Webpage: <http://1.usa.gov/AgrU2z>

INCOME PROGRAMS

Earned Income Tax Credit

John Wancheck, EITC Campaign Coordinator, Center on Budget and Policy Priorities

The Earned Income Tax Credit (EITC) is a federal tax credit that benefits low and moderate income workers. EITC benefits are particularly valuable for workers raising children, but very low income workers not raising children may also qualify for a smaller credit.

Administration

Congress established the EITC in 1975 under Section 32 of the Internal Revenue Code. As a tax program, the EITC is administered by the Internal Revenue Service (IRS). The EITC has been expanded by Congress several times with the support of both Republican and Democratic presidents. In 2009, a substantial expansion of the EITC was enacted in the American Recovery and Reinvestment Act (ARRA). Important expansions of the Child Tax Credit and a higher education credit were also enacted. In January 2013, these expansions were extended through 2017 in the American Tax Reform Act, the legislation to avoid the “fiscal cliff” at the end of 2012.

History

The EITC was designed to offset the payroll and income tax burdens of low income workers raising children. Expansion of the EITC now also provides an income supplement to such workers earning very low wages. The EITC reflects congressional and public preferences to support increased work efforts and less dependency on welfare programs for low income families. The EITC provides strong incentives for full-time work and the EITC has historically enjoyed bipartisan support.

Program Summary

According to analyses of Census data by the Center on Budget and Policy Priorities (CBPP), in 2011 the EITC lifted an estimated 6.1 million people out of poverty, including 3.1 million children. The poverty rate among children would have been nearly one-fourth higher without the EITC. The EITC lifts more children out of poverty than any other single program or category of programs. It enables near-poor parents and children to maintain incomes above the poverty line.

The EITC is received as a refund from the IRS. Workers who claim children for the EITC must file tax form 1040 or 1040A and attach IRS “Schedule EIC.” The amount of the EITC varies according to workers’ earnings and the number of children. A new, larger benefit for workers with three or more children was enacted in 2009. For work in 2012, they can receive up to \$5,891 if they have income less than \$45,060. Workers with income less than \$41,952 raising two or more children in 2012 can receive up to \$5,236. Workers with income less than \$36,920 raising one child in 2012 can receive up to \$3,169. For a family with three children and very low wages, the EITC equals 45% of the first \$13,090 in earnings in 2012 (See graph at the end of this article).

In addition to sons and daughters, qualifying children for the EITC may include grandchildren, step-children, adopted children, brothers and sisters (or their descendants) and foster children officially placed with workers.

Workers who do not claim children for the EITC may be eligible for a modest EITC of up to \$475. Such workers must be between 25 and 64 years old at the end of 2012, with income less than \$13,980 (\$19,190 for married couples). They are not required to file Schedule EIC with their tax form.

EITC income limits above are now \$5,210 higher for married workers, providing a higher EITC for many married workers.

Earned Income Tax Credit

Families who work and also receive public benefits, such as cash assistance, food stamps, SSI, Medicaid or federal housing assistance do not need to worry that receiving the EITC will affect these benefits. EITC is not counted as income to determine eligibility for these programs and, beginning in 2010, does not count against resource limits for 12 months after receipt. For 2012, 24 states including the District of Columbia offer a state EITC in addition to the federal credit, and three localities, New York City, San Francisco and Montgomery County, MD, offer a local EITC.

Child Tax Credit. Many workers who claim the EITC may also qualify for the Child Tax Credit (CTC), worth up to \$1,000 for each qualifying child under age 17. As a result of the expansion of the CTC in ARRA, it now enables many more families who earn too little to owe federal income tax to still receive a refund. To be eligible for this “additional CTC” in 2012, workers must have taxable earned income above \$3,000.

For example, a single worker in 2012 who earns \$18,000 with three qualifying children under age 17 can claim a CTC refund worth \$2,250 and an EITC of \$5,699. As with the EITC, CTC refunds are not counted as income in determining eligibility for any federally funded program and do not count toward resource limits for 12 months after receipt.

Higher Education Tax Credit. The American Opportunity Tax Credit was enacted by ARRA as a revised version of the HOPE credit for higher education expenses. It is worth a total of \$2,500, compared to \$1,800 for the HOPE credit, but the key new feature is that up to \$1,000 of the credit can be claimed even if the individual does not earn enough to owe income tax. Such filers could not claim the HOPE credit. Lower-income parents of college students and adult students may now benefit.

Making Work Pay Credit. This credit, enacted by ARRA, was not extended beyond 2010, so it is not in effect during 2011 or 2012. The credit was worth \$400 for an individual and \$800 for married workers. Most workers received this credit in 2010 through an IRS-ordered reduction in income tax withheld by employers, but self-employed workers and workers whose spouse was not employed needed to file a tax return to claim their credit. If they did not claim it, they may file or amend their 2010 tax return to do so, up until April 15, 2013.

Funding

The EITC and other tax credits are components of the Internal Revenue Code. Consequently, the benefits of these credits do not require annual appropriations decisions. Funding for EITC administration is part of the IRS budget and is not separately appropriated. In 2011, over 27 million low and moderate income workers received more than \$60.6 billion from the EITC.

Forecast for 2013

Despite the five-year extension by ATRA of the recent expansions of the EITC and other credits, they are still at serious risk in deficit-cut discussions by Congress in 2013. In addition, action may reemerge on a provision, previously passed in House legislation, to disqualify immigrant workers from claiming the Child Tax Credit refund if they file returns using an Individual Taxpayer Identification Number (for tax filers unable to obtain a Social Security number), changing current law established in the mid 1990's. This would deny the credit to many families in which the children of immigrant workers are U.S. citizens.

Tips for local success

CBPP closely monitors congressional action on the EITC and the other tax credits, publishes analyses of proposals and issues legislative action alerts to advocates. Advocates can monitor developments at www.cbpp.org. The National Community Tax Coalition supports the EITC and other expanded credits. It

Earned Income Tax Credit

provides specific legislative action materials designed for state and local advocacy at www.tax-coalition.org.

Outreach Campaigns. While participation in the EITC is higher than in public benefit programs with more burdensome eligibility procedures, each year several million eligible workers do not claim their EITC. Nearly 70% of EITC recipients pay commercial tax preparers to do their tax returns, draining hundreds of dollars from their refunds and risking exposure to predatory refund loan practices.

- The IRS sponsors the Volunteer Income Tax Assistance (VITA) program to provide free tax filing assistance by trained community volunteers at local community sites.
- CBPP provides local organizations with training and technical assistance in building tax credit outreach campaigns and VITA programs. CBPP annually distributes a tax credit community outreach kit with posters, flyers, fact sheets and examples of effective outreach strategies. These materials, and flyers translated in 19 languages, are posted at www.eitcoutreach.org, as well as other materials for specific constituencies and analyses of the EITC.
- A state-by-state directory of local EITC outreach and free tax assistance coalitions is available at www.centeronbudget.org/eitc-partnership/directory.htm. Such programs also often are leading local advocates to defend tax credits for low income workers against cuts.
- The National Community Tax Coalition provides organizations more detailed information and technical assistance on the nuts and bolts of developing strong community VITA programs.
- Also see resources available from the IRS (www.irs.gov/eitc). The IRS and HUD partner nationally to promote these credits and the VITA program.
- Community organizations and local agencies may qualify to apply for annual Community VITA grants, a matching grant program administered by the IRS to expand VITA to underserved communities (search for “VITA Grants” at www.irs.gov).

What to Say to Legislators

The EITC is designed to encourage and reward work. Beginning with the first dollar, a worker’s EITC grows with each additional dollar of earnings until the credit reaches the maximum value. This creates an incentive for people to leave welfare for work and for low-wage workers to increase their work hours.

The EITC reduces poverty by supplementing the earnings of workers with low wages and low earnings. There has been broad bipartisan agreement that a two-parent family with two children with a full-time, minimum-wage worker should not have to raise its children in poverty. At the federal minimum wage’s current level, such a family can move above the poverty line for an average family of four only if it receives the EITC as well as SNAP (food stamp) benefits.

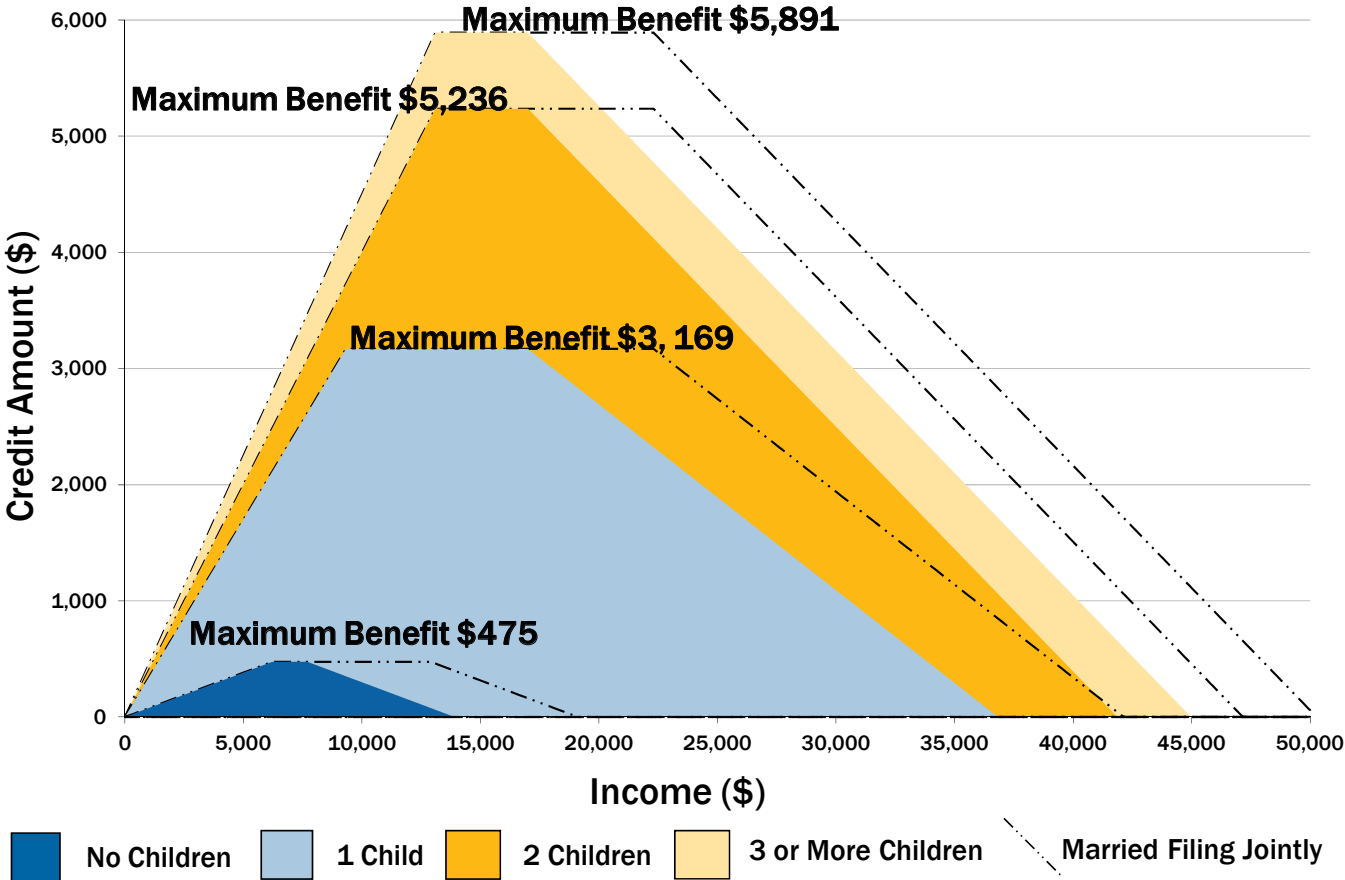
For young children, moving out of poverty is particularly important. Research has found that lifting income in early childhood not only tends to improve a child’s immediate educational outcomes, but also is associated with more schooling, more hours worked, and higher earnings in adulthood.

For more information

Center on Budget and Policy Priorities • 202-408-1080 • www.cbpp.org

National Community Tax Coalition • 312-252-0280 • www.tax-coalition.org

The Federal EIC in Tax Year 2012



The Minimum Wage

By Douglas Hall, Director of EARN, Economic Policy Institute

Federal Minimum Wage: \$7.25 (effective July 24, 2009)

State Minimum Wages for 2013 range from \$5.15 in Wyoming to \$9.19 in Washington State.

The federal minimum wage ensures a basic level of compensation for workers in the United States. But as costs have gone up over the last four decades, the buying power of the minimum wage has eroded, resulting in millions of workers who struggle to afford their most basic needs, such as housing. Increasing the minimum wage puts more money in the hands of low wage workers, thereby contributing to economic recovery. The 2008 and 2009 increases to the minimum wage boosted consumer spending by about \$8.6 billion.

Most recently raised in 2009, the federal minimum wage is currently set at \$7.25 per hour. Because of the ongoing impact of inflation, these historic increases to the minimum wage have already been somewhat eroded.

The U.S. Department of Labor enforces federal minimum wage laws, while state labor departments handle state laws.

HISTORY AND PURPOSE

The federal minimum wage was established in 1938 during the Great Depression as a measure to prevent the exploitation of workers and to limit income inequality.

Although the nominal level of the minimum wage has increased over time, prices have also increased, resulting in the wage's fluctuating buying power over the years. This buying power peaked in 1968 at \$9.25 in 2012 dollars (inflation adjusted using the CPI-U-RS). In 2007, after 10 years of inaction on this issue, Congress passed a three-step increase to the federal minimum wage, raising it from \$5.15 to \$5.85 in 2007, to \$6.55 in 2008, and to \$7.25 in 2009. This restored much of the buying power of the minimum wage to its historical levels, but it still remains well below the peak reached in 1968.

PROGRAM SUMMARY

Federal minimum wage legislation ensures that employers, both private and public, provide their employees with a minimum level of compensation for hours worked. Almost all workers are covered by this law, with exemptions for teenagers during their first 90 days of employment, some seasonal workers, and a few other groups.

A full-time minimum wage worker takes home just \$14,500 a year, well below the poverty line for a family of three. According to a study by the Economic Policy Institute (EPI), there are about 5 million workers who earn at or near the federal minimum wage, with more than 70% of this group 20 years old or older. In addition, almost 25% of these workers have children; over two million children depend on parents who are earning close to the minimum wage. More than half of minimum wage workers have a family income of less than \$35,000 a year. A 2011 U.S. Bureau of Labor Statistics report shows that nearly two-thirds (65.4%) of those earning the federal minimum wage or less have completed high school, with nearly a third (30.0%) having completed some college or an associate's degree.

As NLIHC's report, *Out of Reach*, shows, there is no jurisdiction in the United States in which a worker earning the federal minimum wage can afford even a one-bedroom apartment at the fair market rent (FMR). According to the 2013 edition of *Out of Reach*, a minimum wage worker would have to work 104

The Minimum Wage

hours a week, the equivalent to 2.6 full-time jobs, in order to afford a two-bedroom apartment at the national average fair market rent.

FORECAST FOR 2013

President Obama's support for increasing the federal minimum wage to \$9.00 provides an exciting opportunity for advocates. Representative George Miller (D-CA) and Senator Tom Harkin (D-IA) have indicated they will proceed with legislation to increase the minimum wage to \$10.10. The latter proposal also calls for increasing the federal tipped minimum wage to 70% of the regular minimum wage. The tipped minimum of \$2.12 has not been increased since 1991.

Indexing the minimum wage. The lack of a strong minimum wage contributes to growing wage inequality. Workers today are better educated and more productive than ever before, but real wages for minimum wage workers are now lower than they were 40 years ago. Although the purchasing power of the minimum wage has fallen, it can be restored to help working families support themselves.

Ten states have ensured that the real value of the minimum wage will not decline over time by indexing it to inflation, and Congress should follow their lead. This is an improvement over the current system whereby the minimum wage is raised only when it is politically expedient. In addition to maintaining a constant real value of the minimum wage, indexing also ensures that each increase is small and predictable. Indexing the minimum wage to a level equal to 50% of average, non-supervisory workers' wages (as suggested in a 2009 EPI paper, *Fix it and Forget it: Index the Minimum Wage to Growth in Average Wages*), would result in even more stable increases, and would do a better job of promoting wage equality.

Stimulating the economy. Because minimum wage workers typically come from low income families, any wage increases given to them will likely be spent quickly, providing a boost to the local economy. Preliminary analysis of federal proposals to increase the minimum wage to \$10.10/hour indicates that such an increase would add \$32.6 billion to the economy over the phase-in period.

TIPS FOR LOCAL SUCCESS

As the federal minimum wage stagnated from 1984 to 2007, several states decided to take up this issue themselves and set their own minimum wages higher than the federal minimum. In 1984, only one state (Alaska) had a minimum wage higher than the federal minimum. By the end of 2007, 31 states and the District of Columbia had set their minimum wages above the federal level. In addition, many of these states have indexed their minimum wage to inflation so that the purchasing power of the minimum wage does not decline over time. This strategy has proven successful at the state level, and should be adopted at the federal level as well.

Advocates interested in fair wages in their states or localities can contact the groups listed below to connect with campaigns to enact a higher state or local minimum wage. In 2013, a number of states are pursuing increases to their minimum wages. Campaigns are underway in several states including Connecticut, New York, Maryland and New Mexico.

WHAT TO SAY TO LEGISLATORS

Advocates should urge their Members of Congress, as well as state elected officials, to increase the minimum wage. Working Americans should be duly compensated for their labor with a wage that allows them to provide for their families. Even after the latest increase in the minimum wage, its inflation-adjusted value is still lower than historic levels, and it is still at a level that makes it nearly impossible for these workers to pay for basic necessities, including housing.

The Minimum Wage

Advocates should tell their federal and state legislators that the way forward has two steps: first, increase the minimum wage to a livable level, and second, index it to protect against inflation.

Increasing the minimum wage, at either the federal or state level, contributes to economic growth at a time when the economy is in dire need of further expansion. Increasing the minimum wage improves the well-being of low income workers, while improving the economy for all. Increasing the minimum wage is smart public policy.

FOR MORE INFORMATION

Economic Policy Institute • 202-775-8810 • www.epi.org

National Employment Law Project • 212-285-3025 • www.nelp.org

Supplemental Security Income

By Kathy Ruffing, Senior Fellow, Center on Budget and Policy Priorities

Supplemental Security Income (SSI) is a means-tested program that provides cash benefits for low income people who are disabled, blind, or elderly.

The Social Security Administration (SSA) runs the program.

History

Congress created SSI in 1972 to replace the former program of grants to states for aid to the aged, blind, or disabled.

Program Summary

SSI provides monthly cash assistance to persons who are unable to work due to age or medical conditions and have little income and few assets. In 2013, the basic monthly SSI benefit is \$710 for an individual and \$1,066 for a couple. Beneficiaries who live in another person's household and receive in-kind maintenance and support receive one-third less than this amount, while beneficiaries who receive long-term care in a Medicaid-funded institution receive \$30 per month. Many states supplement the federal SSI benefit, though state budget cuts are severely constraining those additional payments.

SSI benefits are reduced when recipients have other income. Each dollar of so-called unearned income over \$20 per month, such as Social Security benefits, pensions, or interest income, reduces SSI benefits by a dollar. Each dollar of earned income over \$65 a month (or \$85 for someone with no unearned income) reduces SSI benefits by 50 cents, a provision that is meant to encourage work. SSI benefits are unavailable to people whose assets exceed \$2,000 for an individual or \$3,000 for a couple (with certain exceptions).

Although run by the same agency, SSI is distinct from the Old-Age, Survivors, and Disability Insurance (OASDI) programs commonly known as Social Security. To collect Social Security, recipients must have worked a certain number of quarters and paid the requisite payroll taxes, besides meeting certain age or disability requirements. Many SSI recipients have worked long enough to collect Social Security but their Social Security benefit is low enough that they also qualify for SSI. Nearly one-third of adult SSI recipients under age 65, and almost three-fifths of recipients over 65, also get Social Security.

In most states, anyone who receives SSI benefits is automatically eligible for Medicaid. About half of SSI recipients also get food stamps, except in California, which pays an extra cash supplement in lieu of food stamps.

Over 90% of SSI recipients are U.S. citizens. The 1996 welfare reform law eliminated most noncitizens' eligibility for SSI unless they fall into one of three main groups: lawful residents who entered the United States by August 1996; refugees who entered after that date, who can receive SSI only on a temporary basis, currently for seven years; or immigrants who entered after August 1996 and have earned 40 quarters of coverage under Social Security.

Individuals may apply for SSI online, by phone, or in person at one of SSA's field offices. SSA will verify the applicant's identity, age, work history, and financial qualifications. In the case of disability applications, state agencies called Disability Determination Services (DDSs) weigh the medical and related evidence to judge whether the applicant meets the criteria set out in law; basically, whether he or she suffers from a severe impairment that will last at least 12 months or result in death and that makes

Supplemental Security Income

it impossible to engage in substantial work. A slightly different definition applies to disabled children under age 18. If the DDS initially denies the application, claimants have several levels of appeal, and may choose to be represented by an attorney.

Although SSI benefit levels are low, they are critical to obtaining and maintaining housing for many recipients. SSI benefits enable some homeless recipients to qualify for supportive housing programs, subsidized housing vouchers or units prioritized for people with disabilities. Supportive housing providers may also receive Medicaid reimbursement for certain services provided to clients who qualify for Medicaid via SSI.

In December 2012, nearly 8.3 million people received SSI benefits: 1.3 million children under age 18, 4.9 million disabled adults aged 18-64, and 2.1 million people 65 or older.

Funding

As an entitlement program, SSI is available to anyone who meets its eligibility requirements. Total SSI outlays were \$50.7 billion in 2012, including about \$3.7 billion for administrative costs (which are subject to annual appropriation). Outlays in FY12 were lowered by the fact that the program made 11 monthly payments in that year, following 13 payments in FY11, the result of calendar quirks.

Forecast for 2013

While SSI payments may allow recipients to obtain subsidized housing, they are insufficient to enable residents to afford market-rate housing. Congress should consider a number of enhancements to SSI, such as increasing the basic benefit, liberalizing the treatment of other income, both earned and unearned, and raising and indexing the resource limits, which have not changed since 1989. Those proposals, however, may cost significant amounts of money at a fiscally challenging time.

Although SSI benefits provide critically needed resources to people with disabilities, they can be difficult to obtain. Nationwide, about one-fourth of adult disability claims are approved at the initial level, a rate that rises to about 40% after all appeals. Allowance rates for disabled children are slightly higher. The process is especially challenging for people who are homeless. Barriers include difficulty obtaining medical documentation and in making and keeping appointments. SSA requires evidence of a disability to come from an “acceptable medical source” such as a physician or psychologist. The list of acceptable medical sources excludes such providers as physicians’ assistants, nurse practitioners, and licensed clinical social workers, although such professionals often provide supporting documentation.

Disability claimants often face an extended wait for a decision. Initial review of a disability application typically takes three to four months, although there is a fast-track program for certain severe conditions; appeals to the Administrative Law Judge (ALJ) level may take a year or more to be processed. SSA is working hard to eliminate the hearings backlog, but record numbers of applications and tight resources have hampered progress. Some states and localities offer interim assistance while an applicant awaits a decision on SSI, eventually recouping the money from any retroactive benefits.

Some initiatives have demonstrated success in increasing SSI access for homeless people with disabilities. The Social Security Outreach and Access to Recovery (SOAR) program has used a train-the-trainer model combined with technical assistance to teach caseworkers how to conduct outreach and assist homeless applicants. SOAR is an interagency initiative involving SSA, HUD, and the Department of Health and Human Services’ Substance Abuse and Mental Health Services Administration (SAMHSA). Through 2011, clients at SOAR-trained sites in 44 states had an average initial approval rate of 71%.

Supplemental Security Income

What to Say to Legislators

Advocates should urge Congress to continue funding for the SOAR program within SAMHSA's Programs of Regional and National Significance. Advocates should also ask legislators to extend SSI for refugees who lose their benefits when their temporary eligibility ends. Congressional appropriators should ensure that SSA offices, including ALJ services, are adequately staffed; these are among the vital government activities that are being squeezed by the discretionary caps and sequestration procedures in the Budget Control Act of 2011 that some in Congress actually threaten to tighten further. Finally, advocates should urge Congress to improve benefits in the SSI program, while recognizing fiscal realities.

For More Information

Center on Budget and Policy Priorities • www.cbpp.org

National Law Center on Homelessness & Poverty • www.nlchp.org

National Health Care for the Homeless Council • www.nhchc.org

National Senior Citizens Law Center • www.nsclc.org

SOAR • www.prainc.com/soar

Social Security Administration • www.socialsecurity.gov

Temporary Assistance for Needy Families

By Sharon McDonald, Director for Families and Youth, National Alliance to End Homelessness

Temporary Assistance for Needy Families (TANF) is a federal block grant program that provides funds to states to assist low income families. The program was scheduled to be reauthorized in 2010 and Congress extended authorization for the program under existing statute through periodic continuing resolutions since that time. The FY13 budget is not widely expected to include a proposal to fully reauthorize TANF and further extensions of the program through continuing resolutions is anticipated.

HISTORY AND PURPOSE

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) replaced Aid to Families with Dependent Children (AFDC), an entitlement program established by the Social Security Act of 1935, with the TANF block grant. TANF is used by states to provide cash assistance and work supports, such as child care, transportation, and job training, to help low income families with children.

Unlike AFDC, receipt of TANF assistance is time-limited. States cannot use federal TANF resources to provide cash assistance to families for more than five years, although 20% of a state's caseload can be exempted from the five-year time limit. Many states have adopted shorter time limits. Families receiving cash assistance are expected to participate in 20-35 hours in approved work activities each week (20 hours for single parents with children under age six; 35 hours for single parents with children six and older). States are also required to achieve a 50% work participation rate for families receiving cash assistance, essentially demonstrating that 50% of parents on the TANF caseload are meeting the required number of hours for their household composition in approved work activities. Families who do not meet the required number of hours in work activities may be sanctioned, which reduces or suspends the families' cash assistance. States that do not meet the work participation rate may incur financial penalties.

TANF was reauthorized under the Deficit Reduction Act of 2005 (DRA). DRA made it more challenging for states to meet the work participation rate. DRA narrowed the definitions of approved work activities and modified the caseload reduction credit, which provided credit that states applied to the work participation rate when caseloads declined. This reduced the overall number of families who had to meet the required number of hours in approved work hours on the caseload. The DRA modification made it more challenging for states to engage parents in activities that states could not count toward the state work participation rate, for example, providing rehabilitative services to parents beyond the six weeks allowed in a 12-month period.

The American Recovery and Reinvestment Act of 2009 (ARRA) provided states additional TANF resources to assist families impacted by the recent recession. The TANF Emergency Contingency Fund (ECF) reimbursed states for 80% of the state's increased expenditures in certain eligible categories. This included providing cash assistance to more eligible families, subsidized employment, and provision of short-term benefits (up to four months) which could be used to help families to help address needs that were not expected to be ongoing or to recur if they received help. States used TANF ECF funds to adopt innovative new approaches, including providing short-term benefits to help rapidly re-house homeless families, and large expansions in subsidized employment. TANF ECF funding was expected to be time-limited and the availability of the additional funds expired in September 2010. Attempts to extend the program through FY11 were defeated in Congress.

PROGRAM SUMMARY

The purpose of the TANF program includes providing assistance to families "so that children may be cared for in their own homes or in the homes of relatives." The program purpose also includes

Temporary Assistance for Needy Families

reducing dependence on cash assistance by promoting work and marriage, preventing out-of-wedlock pregnancies, and promoting the formation and maintenance of two-parent families.

TANF dollars are distributed to states on a formula basis that reflects the states' historical spending on assistance for low income families. States are required to provide their own funding toward meeting the purposes of the block grant, known as the Maintenance of Effort (MOE). To meet the MOE requirement, states must maintain 75 to 80% of their historical spending on assistance to low income families. The program may be administered by the state or county level TANF agency.

Programs can vary widely because states have a lot of flexibility in how the funds are used. Cash assistance comprises approximately 30% of how states use federal and state TANF funds. States typically commit substantial portions of their TANF dollars toward meeting childcare needs. States also use the funds for work preparation activities including job training, education, rehabilitative services, and subsidized employment. With the availability of TANF ECF funds, states significantly increased their use of subsidized employment to assist families, which is credited with helping thousands of families from falling into deeper poverty.

Some states use TANF resources to help meet the housing needs of families, including through the use of short- or medium-term rental assistance, eviction prevention assistance, and security deposit and first month's rent to help families exit shelter. In some states, TANF resources are also used to support shelters and transitional housing programs serving families. With TANF ECF funds, states also crafted new partnerships with homeless service programs to help support families facing homelessness with prevention and rapid re-housing services.

Eligibility criteria for TANF cash assistance and TANF-funded services are largely determined by the state. Typically, households with children and very limited incomes are eligible for TANF cash assistance. Immigrant families cannot receive federally funded TANF assistance unless they have resided in the United States for more than five years, and federal TANF resources cannot be used to provide assistance to families beyond five years. States can choose to use MOE funds to support families who cannot be supported with federal TANF assistance.

Nationally, 1.7 million families receive cash assistance. The number of families receiving assistance has declined by over 60% since TANF was enacted in 1996. The U.S. Department of Health and Human Services estimates that only 40% of eligible families receive TANF cash assistance while 79% received assistance in 1996. Research indicates a similar percentage of homeless families enter shelter with TANF assistance. Poor families who are not receiving cash assistance include those who have been sanctioned off because they have not complied with program requirements or who have reached their state's time limit. Studies have found that families who have lost TANF cash assistance through sanctions are more likely than other families to include a person with a disability.

TANF cash assistance is an important source of financial support for families without other sources of income. Benefit levels are set by each state, and are well below what families need to pay for housing. The average cash assistance benefit for a family of three leaves them with incomes below one-half of the poverty level. A family of three with no other income received less than \$500 a month in 36 states. Families served by TANF programs have high rates of housing instability and homelessness, likely due to their very low incomes. The loss of TANF cash assistance due to sanctions or time limits can further increase the risk of housing instability and homelessness.

Temporary Assistance for Needy Families

FUNDING

The TANF block grant provides \$16.5 billion annually to states. States are required to provide their own funding for the purposes of the block grant, known as the Maintenance of Effort.

FORECAST FOR 2013

The declining value of the TANF block grant and shortfalls in state budgets puts TANF funded initiatives for low income families at significant risk even though the need for support among low income families remains acute. State level advocates focused on TANF will be attentive to preserving support to families under TANF and fight efforts to reduce cash assistance, restrict access to assistance, or to suspend critical services. Housing advocates should support state and local efforts on TANF. A strong performing income and employment support program is critical to help low income families access and maintain housing in their community.

Many states consider the initiatives funded by TANF ECF, such as new collaborations with homeless service providers and expansion of subsidized employment, to be successful ones. Though state resources may be constrained, there may be state level interest in building on or replicating successful initiatives. Local advocates should promote promising models of addressing the housing needs of at-risk and homeless families with TANF resources.

TIPS FOR LOCAL SUCCESS

Local homelessness and housing advocates should develop partnerships with state and local organizations advocating for improved TANF income and employment supports for low income families. Through collaboration, housing and welfare advocacy organizations can propose solutions that meet the holistic needs of low income families.

WHAT TO SAY TO LEGISLATORS

Local advocates should educate their Congressional delegation about how TANF resources are being used to meet the needs of families in their state and the need for more funding for the TANF block grant.

FOR MORE INFORMATION

Center on Budget and Policy Priorities • 202-408-1080 • www.cbpp.org

Center on Law and Social Policy • 202-906-8000 • www.clasp.org

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

LOCAL TOOLS

Affirmatively Furthering Fair Housing & the Analysis of Impediments to Fair Housing Choice

By Ed Gramlich, Director of Regulatory Affairs, National Low Income Housing Coalition

States and local governments must certify that they are affirmatively furthering fair housing (AFFH) in their Consolidated Plans (ConPlans) and Public Housing Agency Plans (PHA Plans). In order to comply, these jurisdictions must have an Analysis of Impediments to Fair Housing Choice, also known as an AI.

While these requirements have historically been overlooked, affirmatively furthering fair housing takes on new importance in the wake of a court decision on an AFFH case in Westchester County, NY and renewed attention from HUD under the Obama administration. Significant new regulations are expected in 2013.

HISTORY

Title VIII of the Civil Rights Act of 1968 (the Fair Housing Act) requires HUD to administer its programs in a way that affirmatively furthers fair housing. The laws that establish the Community Development Block Grant (CDBG) program, the Comprehensive Housing Affordability Strategy (CHAS), and the PHA Plan each require jurisdictions to certify in writing that they are affirmatively furthering fair housing. States must assure that units of local government receiving CDBG or HOME funds comply.

Further, HUD's Fair Housing Planning Guide states that the obligation to affirmatively further fair housing applies to all housing and housing-related activities in a jurisdiction, whether publicly or privately funded.

SUMMARY

Affirmatively furthering fair housing is defined in CDBG and ConPlan regulations as:

- Having an Analysis of Impediments to Fair Housing Choice (AI).
- Taking appropriate actions to overcome the effects of impediments.
- Keeping records reflecting the analysis and showing actions taken.

The regulations for public housing and vouchers are similar.

In the context of an AI, an impediment to fair housing can be an action or an inaction that restricts housing choice or that has the effect of restricting housing choice. Some policies or practices might seem neutral but in fact can deny or limit the availability of housing. Obvious impediments include outright discrimination based on race or ethnicity, refusing to rent to families with children, or insurance practices that reinforce segregated housing patterns. Less obvious impediments include lack of large rental units, inadequate multilingual marketing, zoning that limits group homes, and insufficient public transportation to areas with affordable housing.

AIs are their own separate documents, the contents of which are not prescribed by HUD. There is no specific term for a PHA's analysis of impediments. They are available to the public. HUD's Fair Housing Planning Guide defines an AI as:

1. A comprehensive review of a jurisdiction's laws, regulations, and administrative policies, procedures, and practices.
2. An assessment of how those laws, regulations, and practices affect the location, availability, and accessibility of housing.
3. An assessment of conditions, both public and private, affecting fair housing choice for all protected classes. The protected classes are race, color, religion, sex, national origin, disability and familial status (in other words, households with children).

Affirmatively Furthering Fair Housing

4. An assessment of the availability of affordable, accessible housing in a range of unit sizes.

The Fair Housing Planning Guide explains that analyzing fair housing impediments and taking appropriate actions means:

- Eliminating housing discrimination in the jurisdiction.
- Promoting fair housing choice for all.
- Providing housing opportunities for people of all races, colors, religions, genders, national origins, disabilities and family types.
- Promoting housing that is structurally usable by all people, particularly those with disabilities.
- Fostering compliance with the nondiscrimination features of the Fair Housing Act.

The name of the agency or department that will have an AI varies from locality to locality. Generally, the office that manages the CDBG program should be able to provide a copy, and the public housing agency (PHA) should have a copy of its own analysis. In addition, advocates can contact the Fair Housing and Equal Opportunity (FHEO) staff at their HUD Regional Office.

AIs are not submitted to HUD and they are not a formal piece of any CDBG document, such as the ConPlan's Annual Action Plan or Five-Year Strategy. However, a September 2, 2004 HUD policy memorandum says that a jurisdiction may include in its Annual Action Plan the actions it plans to take in the upcoming year to overcome the effects of impediments to fair housing. Note that this is only a may, not a must; in addition, many jurisdictions do not know this policy memorandum exists. Also, some jurisdictions point to a part of their ConPlan or Action Plan called "barriers to affordable housing" and claim that to be the AI. The law creating the CHAS (the statutory root of the ConPlan) requires such a discussion, but this is not an AI. Examples of barriers to affordable housing in that law include tax policies and building fees.

Timeframe. According to the Fair Housing Planning Guide, AIs must be updated on the same timeframe as the ConPlan updates. So, theoretically, if a jurisdiction has to come up with a new ConPlan every five years, then it should also revise its AI on a five-year cycle in time to inform revisions to the ConPlan. However, the September 2, 2004 HUD policy memorandum states that a jurisdiction "should update, where appropriate, its AI... to reflect the current fair housing situation in their community," and that "each jurisdiction should maintain its AI and update the AI annually where necessary." That policy memorandum also implies that jurisdictions that do not make appropriate revisions to update their AIs could face problems. Because much can change before a five-year ConPlan update, advocates might want to be sure that their jurisdiction's AI is up-to-date and reflects all impediments.

Public participation. Unfortunately, the regulations do not directly tie public participation in CDBG, the ConPlan, or the PHA Plan with the AI. However, the Fair Housing Planning Guide offers a few words that advocates might be able to use: "Since the FHP [Fair Housing Plan] is a component of the Consolidated Plan, the citizen participation requirements for the Consolidated Plan apply." The introduction to the Fair Housing Planning Guide stresses that "all affected people in the community must be at the table and participate in making those decisions. The community participation requirement will never be more important to the integrity, and ultimately, the success of the process."

The Fair Housing Planning Guide also suggests that, before developing actions to eliminate the effects of impediments, a jurisdiction "should ensure that diverse groups in the community are provided a real opportunity" to take part in the process of developing actions to be taken. HUD "encourages jurisdictions to schedule meetings [for public comment and input] to coincide with those for the Consolidated Plan."

Affirmatively Furthering Fair Housing

Monitoring compliance. In order to get CDBG, HOME, or public housing money, jurisdictions must certify that they are affirmatively furthering fair housing before the start of the CDBG, HOME, or public housing program year. All annual plans have this written certification, signed by the authorized official. There must be evidence that supports this pledge, and such evidence must be available to the public.

HUD can disapprove a PHA Plan or a ConPlan (and therefore block receipt of CDBG and HOME dollars) if a certification is inaccurate. The September 2, 2004 policy memorandum gives examples of inaccurate:

1. There is no AI.
2. The AI is substantially incomplete.
3. No actions were taken to overcome the impediments.
4. The actions taken were “plainly inappropriate” to address impediments.
5. There are no records.

Another situation that could cause HUD to look more carefully at an AI is the failure to make “appropriate revisions to update the AI.” This can be an important advocacy tool in years between new five-year ConPlans and PHA Plans. If there are major changes in conditions for people who are members of protected classes, advocates should make sure the AI is revised to show those changed conditions.

In general, if advocates think that a jurisdiction’s AI is inadequate or that the jurisdiction has not taken reasonable actions to overcome impediments to fair housing, they should write a complaint to the FHEO Regional Office.

CDBG regulations also allow a certification to be challenged if there is evidence that a policy, practice, standard, or method of administration that seems neutral really has the effect of significantly denying or adversely affecting fair housing for persons of a particular race, color, religion, sex or national origin. PHA Plan regulations also claim that a certification can be challenged.

In the Annual Performance Report related to the ConPlan, called the CAPER, a jurisdiction must include a summary of the impediments to fair housing, and it must have a description of the actions taken in the past year to overcome the effects of impediments once the CDBG or HOME program year is done.

If advocates think that the actions taken to overcome impediments to fair housing were inadequate, it is important to write a complaint to the jurisdiction and to send a copy to the FHEO Regional Office.

Records to be kept. CDBG regulations require jurisdictions to keep three types of records:

1. Documents showing the impediments and the actions carried out by the jurisdiction with CDBG and other money to remedy or lessen impediments.
2. Data showing the extent to which people have applied for, participated in or benefited from any program funded in whole or in part with CDBG.
3. Data indicating the race, ethnicity and gender of those displaced as a result of CDBG use, plus the address and census tract of the housing to which they were relocated.

A February 9, 2007 joint memorandum from the Assistant Secretaries for HUD’s Office of Fair Housing and Equal Opportunities (FHEO) and Office of Community Planning and Development (CPD), which administers CDBG and HOME, suggests that a jurisdiction keep for the record: (1) copies of local fair housing laws and ordinances, (2) the full history of the development of its AI, (3) options available for overcoming impediments, (4) a list of those consulted, (5) planned actions and actions taken, and (6) issues that came up when actions were carried out.

Affirmatively Furthering Fair Housing

The Fair Housing Planning Guide also suggests that jurisdictions keep transcripts of public meetings or forums and public comments or input, a list of groups participating in the process, and a description of the financial support for fair housing, including funds or services provided by the jurisdiction.

RECENT DEVELOPMENTS

Since 2009, the Administration has significantly increased its AFFH enforcement activity, much of it quietly behind the scenes and some of it openly. In November 2011, HUD rejected Houston, Texas's AI as "incomplete and unacceptable" because, among many other things, it failed to identify and take actions to address patterns of segregation based on race and national origin. The AI also failed to address access to housing and services for persons with disabilities and persons with limited English proficiency.

In a January 29, 2010 letter, HUD disapproved Joliet, IL's FY10 ConPlan in part because its AI was 12 years old and did not discuss impediments. HUD also cited the impact on protected classes of the city's history of public and assisted housing demolition without adequate replacement opportunities. The city signed a letter of agreement that included an obligation to complete a new AI. On May 25, 2011 HUD once again disapproved a draft AI. To date, HUD has not accepted Joliet's FY11 or FY12 action plans, holding up receipt of CDBG and HOME dollars for those years until there is compliance.

After a routine HUD review of the county's CDBG program, Marin County, CA signed a voluntary compliance agreement (VCA) on December 21, 2010. AFFH was one noncompliance problem. The county agreed to many VCA provisions, including assessing whether there is under-representation of racial and ethnic groups or people with disabilities in Marin's existing affordable housing. It also agreed to assess whether a pattern exists from the past 10 years or more of CDBG and HOME housing development that perpetuates segregation, and if so, to take actions such as giving priority to future use of CDBG and HOME for affordable housing outside areas of minority concentration.

As the result of an October 2009 complaint filed by the Texas Low Income Housing Information Service, HUD rejected the state of Texas's disaster CDBG plan, putting \$1.7 billion on hold. Among the problems HUD cited was the fact that the state had not updated its AI since 2003, even though hurricanes had clearly changed the housing market. A May 25, 2010 conciliation agreement required Texas to update its AI.

Ruling on an April 2006 suit brought by the Anti-Discrimination Center, a U.S. District Court ruled on February 24, 2009 that Westchester County, NY's AI had "utterly failed." On August 10, 2009, HUD and the county entered into a court settlement. The county agreed to, among other obligations, use \$51.6 million of its own resources to develop at least 750 new units of affordable housing over the next seven years, with at least 630 of these units in municipalities and neighborhoods with low ratios of people of color. Westchester also agreed to submit a revised AI.

On December 21, 2010, HUD rejected the county's revised AI as "substantially incomplete." In order to approve a Westchester AI, HUD stated that the county must identify specific actions it would take to further fair housing choice and submit an AI by April 1, 2011 that addressed a number of deficiencies, including setting forth:

- Specific steps the county would take to overcome the exclusionary zoning practices of its municipalities.
- Strategies it would use to ensure that, as the county develops affordable housing, it is reducing patterns of racial and ethnic segregation.
- Actions it would take to promote legislation prohibiting source of income discrimination, such as refusing to rent to households with vouchers.

Affirmatively Furthering Fair Housing

On July 13, 2011, HUD notified Westchester it rejected the county's certification that it was affirmatively furthering fair housing. Therefore, HUD also disapproved the county's FY11 Annual Action Plan, resulting in a halt to the receipt of more than \$7 million in CDBG, HOME, and Emergency Shelter Grant (ESG) funds.

On May 3, the U.S. District Court of the Southern District of New York ruled that the County Executive of Westchester County breached a settlement with the United States when he vetoed source of income legislation approved by the County Board of Legislators. On July 20, 2012, the U.S. Attorney for the Southern District of New York filed a motion with that district court seeking to compel Westchester County to comply the settlement stating, "The Court should exercise its authority here because the County's consistent refusal to respond to [the Court-appointed] Monitor's requests in a timely and complete manner frustrates the purpose of the Settlement." The U.S. Attorney characterized the county's tardy zoning analysis as "wholly inadequate" because "[t]he Zoning Submission failed to identify any strategy for overcoming exclusionary zoning practices, and lacked facts and analysis that would adequately support its conclusion that exclusionary zoning did not exist anywhere in Westchester County."

FORECAST FOR 2013

Since the summer of 2009, HUD has stated its intention to create a proposed rule concerning jurisdictions' obligation to affirmatively further fair housing choice. That summer, the public was invited to offer ideas via email and at a HUD listening session. In November 2011, HUD invited fair housing advocates to a meeting to present an overall picture of how the proposed AFFH rule was shaping up. On January 17, 2012, HUD submitted its draft proposed AFFH regulations to the Office of Management and Budget (OMB) for review.

Then on December 21, 2012 HUD posted its Regulatory Agenda for FY13 indicating that the proposed AFFH regulations would be issued around April 2013. In addition, the AFFH rule was the sole priority HUD discussed in its Statement of Regulatory Priorities for FY13, which generally reflects the sketch HUD provided advocates in November 2011 that indicated:

- HUD intends to provide extensive data to jurisdictions and PHAs that will also be publicly available in a way that the public can independently analyze through simple software. The data HUD provides will be a starting point that jurisdictions and PHAs can supplement with locally generated data.
- The AI will be revamped and called the Assessment of Fair Housing (AFH). It is likely to look at disproportionate poverty by protected class, segregation, concentrations of race and poverty, and disparate access to areas of opportunity. The AFH will probably also ask for a discussion of the fair housing 'infrastructure,' that is, the organizations and processes that exist that attempt to address fair housing. HUD will provide new guidance that might include a template for jurisdictions and PHAs to follow. The AFH might look something like the Fair Housing and Equity Assessment (FHEA) required of jurisdictions carrying out planning assisted by HUD's Office of Sustainable Housing and Communities.

The November 2011 sketch also suggested that the last section of the AFH will probably require clear statements of priorities and goals. These priorities and goals are to be substantial, with subsequent ConPlans, Annual Plans and PHA Plans referring to them. The goals could include desegregation, ending race and poverty concentrations, addressing disparate impacts and access to opportunities. Simply listing goals is not going to be sufficient; HUD intends follow-through. HUD stated that the public participation process regarding the AFH is expected to be "robust." Fair housing groups should be heavily involved.

Affirmatively Furthering Fair Housing

The formal public participation process might call for:

1. Consultation in the development of the AFH, especially with organizations that have expertise, including those receiving Fair Housing Initiatives Program (FHIP) and state and local governments receiving Fair Housing Assistance Program (FHAP) funds.
2. A formal public hearing.
3. Documentation in the AFH of community comments about it.

The AFH will remain separate from the ConPlan and PHA Plan, but each will have explicit links to the AFH. The AFH will be required to have the same frequency as the ConPlan and will have to be updated as needed. The rule will require a revised AFH if there are major changes, such as natural disasters.

FOR MORE INFORMATION

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

HUD Office of Fair Housing and Equal Opportunity (FHEO) <http://1.usa.gov/VFQ4Nk>

HUD Affirmatively Furthering Fair Housing webpage <http://1.usa.gov/VFQbbE>

HUD's Fair Housing Planning Guide, Vol. 1 (#HUD-1582B-FHEO) www.hud.gov/offices/fheo/images/fhpg.pdf.

HUD's Office of Affordable Housing has a good chapter summarizing the Fair Housing Planning Guide, "Affirmatively Furthering Fair Housing" (page 18) in Fair Housing for HOME Participants: http://portal.hud.gov/hudportal/documents/huddoc?id=19790_200510.pdf.

September 2, 2004 Memorandum from HUD's Community Planning and Development Office (CPD): www.hud.gov/offices/fheo/library/finaljointletter.pdf.

February 9, 2007 Joint Memorandum from Assistant Secretaries for CPD and FHEO: <http://portal.hud.gov/hudportal/documents/huddoc?id=fairhousing-cdbg.pdf>.

HUD's Office of Sustainable Housing and Communities' Fair Housing and Equity Assessment page: <http://1.usa.gov/VFQqDC>

Fair Housing and Equity guidance <http://1.usa.gov/VFQFyF> (PDF)

Information about the Westchester County case: <http://www.antibiaslaw.com/westchester-false-claims-case>.

Consolidated Plan

By Ed Gramlich, Director of Regulatory Affairs, National Low Income Housing Coalition

The Consolidated Plan, popularly called the ConPlan, is a tool advocates can use to influence how federal housing and community development dollars are spent in their communities. The ConPlan merges into one process and one document all the planning and application requirements of four HUD block grants: Community Development Block Grants (CDBG), HOME Investment Partnership, Emergency Solutions Grants (ESG), and Housing Opportunities for Persons With AIDS (HOPWA) grants. When final regulations are published for the National Housing Trust Fund, it too would be integrated into the ConPlan. States, large cities, and urban counties that receive any of these grants must have a ConPlan. In addition, Public Housing Authority Plans (PHA Plans) must be consistent with the ConPlan.

ADMINISTRATION

The ConPlan process is guided by HUD's Office of Community Planning and Development (CPD). The regulations are at 24 CFR Part 91.

HISTORY

The statutory basis for the ConPlan is the Comprehensive Housing Affordability Strategy (CHAS), a provision of the Cranston-Gonzalez National Affordable Housing Act of 1990. The CHAS established a state and local planning process that determined housing needs and assigned priorities to those needs. In order to receive CDBG, HOME, ESG or HOPWA dollars, jurisdictions had to have a CHAS. In 1995, HUD amended the CHAS regulations to create the ConPlan; there is no ConPlan statute.

The ConPlan regulations interwove the planning, application and performance reporting processes of the four block grants and the CHAS, resulting in one long-term plan (the Strategic Plan), one application document (the Annual Action Plan) and one set of performance reports (the Consolidated Annual Performance and Evaluation Report (CAPER), which includes CDBG's Grantee Performance Report (GPR).

SUMMARY

Jurisdictions develop ConPlans at least once every five years in the form of the long-term Strategic Plan, and must update them annually in the Annual Action Plan.

There are seven key elements of the ConPlan.

Housing and community development needs. The ConPlan must estimate housing needs for the upcoming five years. It must also describe "priority non-housing community development needs." HUD's regulations say the needs in the ConPlan should reflect the public participation process and the ideas of social service agencies, and must be based on US Census data and "shall be based on any other reliable source." NLIHC's *Out of Reach* and *Congressional District Housing Profiles* are excellent sources of data. The ConPlan must estimate housing needs by:

- Income categories, including households with incomes below 30% of the area median income (AMI), called extremely low income; between 30% and 50% of AMI (low income), between 50% and 80% of AMI (moderate income), and between 80% and 95% of AMI (middle income).
- Tenure type (whether the household rents or owns).
- Family type, including large families (5 or more people), individuals, and elderly households.
- A summary of the number of people who have a housing cost burden (pay more than 30% of their income) or severe cost burden (pay more than 50% of their income), live in very poor quality housing, or live in overcrowded housing. Each of these characteristics must be presented by income category and tenure type.

The ConPlan must estimate the need for public housing and Housing Choice Vouchers (Section 8), referring to waiting lists for those programs. It must also include estimates of the housing needs of victims of domestic violence, persons with disabilities, persons with HIV/AIDS and their families, persons who were formerly homeless and receiving rapid re-housing assistance about to expire, and the supportive housing needs of people who are elderly, have physical or mental disabilities, have addiction problems, or are living with HIV/AIDS.

The number of housing units containing lead-based paint hazards occupied by low income households.

The ConPlan must assess the needs of any racial or ethnic group if their needs are 10% greater than all people in the same income category.

The ConPlan must summarize the nature and extent of homelessness, addressing:

- The number of homeless any given night, who have experienced homelessness each year, and the number of days people are homeless.
- The need for homeless facilities and services for individuals, discussed separately from those for families, noting also the needs of those who have some form of shelter and those who do not.
- The need for facilities and services for homeless sub-populations (for example, those with drug addiction).
- The characteristics and needs of people, especially extremely low income people, who are housed, but who are threatened with homelessness.
- The nature and extent of homelessness by racial and ethnic group.

Housing market analysis. The housing market analysis requires a description of key features of the housing market, such as the supply of housing, demand for housing, and the condition and cost of housing. It must also have an inventory of facilities and services for homeless people, with categories for permanent housing, permanent supportive housing, transitional housing, and emergency shelters. A description of facilities and services for people who are not homeless but require supportive housing must be included, along with a description of programs ensuring that people returning from mental and physical health institutions receive supportive housing.

Localities (not states) have additional requirements:

- A description of the housing stock available to people with disabilities, HIV/AIDS, or special needs.
- An estimate of the number of vacant or abandoned buildings, with an indication of the extent they can be rehabilitated.
- A narrative or map describing areas where low income people and different races and ethnic groups are concentrated.
- Public housing developments and the number of units in them must be identified, along with their condition and revitalization needs. The number of units assisted with other federal (e.g., Project-Based Section 8), state, or local funds must be described, including the income levels and types of family they serve. The housing market analysis must have an assessment of whether any units are expected to be lost, such as through Section 8 contract expiration.

Strategic Plan. This long-term plan must be done at least every five years. It must indicate general priorities for allocating CPD money (encompassing each of the four block grant programs subject to the ConPlan) geographically and among different activities and needs. The Strategic Plan must describe the rationale for the fund allocation priorities given each category of priority needs among the different income categories. Needs may refer to types of activities, such as rental rehabilitation, as well as demographic groups, such as extremely low income. Although the regulations do not specifically require

Consolidated Plan

it, past HUD guidance has require jurisdictions to assign to each priority need relative priority of high, medium, or low. Guidance issued in August 2012 only requires high or low. The ConPlan must identify proposed accomplishments in measurable terms and estimate a timetable for achieving them.

For housing, the regulations add that the Strategic Plan must explain the reasoning behind priority assignments and the proposed use of funds, and how the reasoning relates to the analysis of the housing market, the severity of housing problems, the needs of the various income categories, and the needs of renters versus those of owners. The number of families who will get affordable housing must be shown by the income categories of extremely low, low, and moderate. The Strategic Plan must also describe how the need for public housing will be met.

Priority homeless needs must be shown. The Strategic Plan must also describe strategies for reducing and ending homelessness by: helping people to avoid becoming homeless; reaching out to homeless people to determine their needs; addressing needs for emergency shelter and transitional housing; and, by helping homeless people make the transition to permanent housing.

For people with special needs who are not homeless, the Strategic Plan must summarize the priority housing and supportive service needs of people who are elderly or have disabilities (mental, physical, or developmental), alcohol or drug addiction, or HIV/AIDS.

For jurisdictions receiving CDBG funds, the Strategic Plan must summarize non-housing community development needs.

Anti-poverty strategy. The law calls for a description of goals, programs, and policies for reducing the number of people with incomes below the poverty level. It also requires a statement of how affordable housing programs will be coordinated with other programs, and the degree to which they will reduce the number of people in poverty.

Lead-based paint. The Strategic Plan must outline actions to find and reduce lead paint hazards.

Fair housing. Each year the jurisdiction must certify that it is affirmatively furthering fair housing. This means that it has an Analysis of Impediments (AI) to fair housing choice, is taking appropriate action to overcome the effects of impediments and keeps records. The AI is not required to be a part of the Strategic Plan or Annual Action Plan. Although HUD's official Fair Housing Planning Guide says an AI "must be completed/updated in accordance with timeframes for the Consolidated Plan," a more recent memorandum (September 2004) says that each jurisdiction "should maintain its AI and update the AI annually where necessary."

Annual Action Plan. The Annual Action Plan must describe all the federal resources reasonably expected to be available, including those in addition to CDBG, HOME, ESG, and HOPWA, such as Low Income Housing Tax Credits, Continuum of Care funds, and Section 8. The Action Plan must also indicate other private and local and state resources expected to be available. The geographic areas that will get assistance in the upcoming year must be indicated, and the Annual Action Plan must give the reasons these areas have priority.

The Action Plan must describe the activities the jurisdiction will carry out in the upcoming year; states must describe their method for distributing funds to local governments and nonprofits, or the activities the state will undertake itself. The Action Plan must also describe the reasons for making these allocation priorities. Descriptions of uses of CDBG must include enough detail about each activity,

including location, that people can determine the degree to which they are affected. States must describe the criteria used to select CDBG applications from localities. States must also describe how all CDBG money will be allocated among all funding categories (e.g., housing, economic development, public works, etc.).

There must be an estimate of the number and type of households expected to benefit from the use of CPD funds (this does not apply to states). In addition, based on any funds available to the jurisdiction, the Action Plan must specify one-year goals for the number of non-homeless, homeless, and special needs households to be provided affordable housing through new construction, rehabilitation, acquisition, and rental assistance.

The Annual Action Plan must indicate the activities that will be carried out in the upcoming year to reduce homelessness by preventing homelessness, especially for those with incomes below 30% of AMI; meeting emergency shelter and transitional housing needs; helping people make the transition to permanent housing and independent living; and meeting the special needs of people who are not homeless but have supportive housing needs.

TIMELINE

The ConPlan calendar includes five discrete steps.

(1) Identify Needs. The CDBG and CHAS laws require a public hearing to gather the public's ideas on housing and community development needs. HUD's regulations require this hearing to take place before a proposed ConPlan is published for comment.

(2) Proposed ConPlan. There must be a notice in the newspaper that a proposed ConPlan is available. Complete copies of the proposed ConPlan must be obtainable in public places such as libraries. A reasonable number of copies of a proposed ConPlan must be provided at no cost. There must be at least one public hearing during the development of the ConPlan (this does not apply to states). The public must have at least 30 days to review and comment on the proposed ConPlan.

(3) Final ConPlan. The jurisdiction must consider the public's comments about the proposed ConPlan, attach a summary of the comments to the final ConPlan, and explain in the final ConPlan why any suggestions were not used. A copy of the final ConPlan must be available to the public.

HUD can disapprove the final ConPlan for several reasons, including a jurisdiction's failure to follow public participation requirements, failure to satisfy all of the required elements, or inaccurate certification (for example, a HUD finding that a jurisdiction's certification is not accurate that it took appropriate actions to overcome impediments to fair housing).

(4) The Annual Performance Report. In this report the jurisdiction shows what it did to meet housing and community development needs. The report must include a description of the money available and how it was spent, the location of projects, and the number of families and individuals assisted broken down by income category, including those with incomes below 30% of AMI.

There are several public participation features related to the Annual Performance Report. There must be reasonable notice that a report is completed, and the report must be available to the public. The public has only 15 days to review and comment on it; nevertheless, the jurisdiction must consider public comments and attach a summary of the comments.

Consolidated Plan

The Annual Performance Report contains a number of computer-based sets of records. Four of these are explicitly available to the public. One is the Grantee Performance Report (C04PR03). It applies only to CDBG, yet it provides detailed information about each activity funded by CDBG. Annual performance reporting requirements of the four block grant programs are also merged into a set of documents called the Consolidated Annual Performance and Evaluation Report (CAPER). The CAPER (C04PR06) is a general, aggregate picture of what the jurisdiction accomplished.

(5) Amendments to the ConPlan. The ConPlan must be amended if there are any changes in priorities, or in the purpose, location, scope, or beneficiaries of an activity, or if money is used for an activity not mentioned in the Action Plan. If there is a substantial amendment, then public participation similar to that for Annual Performance Reports is required, but with a 30-day comment period. HUD allows the jurisdiction to define substantial amendment. At a minimum, the regulations say that a substantial amendment must include a change in the use of CDBG funds, and a change in the way a state allocates CDBG money to small towns and rural areas.

Public participation. In addition to the public participation requirements mentioned in the previous paragraphs, each jurisdiction must have a written citizen participation plan available to the public. The plan must provide for and encourage public involvement in the creation of the ConPlan, review of the Annual Performance Report, and any substantial amendment. It must encourage involvement by people with low incomes, especially in low income neighborhoods and areas where CDBG money might be spent. Jurisdictions are expected to take whatever actions are appropriate to encourage involvement by minorities, people who do not speak English, and people with disabilities. Jurisdictions must also encourage involvement by residents of public and assisted housing.

There must be reasonable and timely access to information and records relating to the ConPlan. The public must be able to review records from the previous five years that are related to the ConPlan and any use of federal money covered by the ConPlan. For local jurisdictions (not states) the public must have reasonable and timely access to local meetings, such as community advisory committee meetings and council meetings.

Public hearings must be held after adequate notice to the public. “Publishing small print notices in the newspaper a few days before the hearing is not adequate notice,” the regulations say, but “two weeks’ notice is adequate.” Public hearings must be held at times and places convenient for people with low incomes. Where there are a significant number of people who do not speak English, the citizen participation plan must show how they can be involved. The jurisdiction must give written, meaningful and timely responses to written public complaints. Fifteen days is considered timely if the jurisdiction gets CDBG funding.

FORECAST FOR 2013

The ConPlan rule was slightly modified on December 5, 2011 to conform with new definitions pertaining to homelessness and new requirements related to the Emergency Solutions Grant program.

On May 7, 2012, CPD issued CPD-12-009 describing a new electronic template that must be used for any new ConPlan Strategic Plan submitted after November 15, 2012. For those ConPlans, their subsequent Annual Action Plans and CAPERs must also be submitted electronically using the template. The new electronic template is tied into CPD’s management information system, known as IDIS. If a jurisdiction’s Strategic Plan is not due until a date well past November 15, 2012, it is not obligated to use the templates for Annual Action Plans until their new Strategic Plan is due. However, jurisdictions may voluntarily use the template at any time.

The template is a combination of data tables and narratives that set, for the first time, a baseline of HUD's expectations for the type and amount of information required. Jurisdictions will be able to customize their templates by adding additional text, data, or images from other sources. The data tables required by the regulation pertaining to housing and homelessness needs and the housing market are automatically pre-populated with the required data; however, jurisdictions may substitute better data if they have it. Some of the data includes the five-year American Community Survey (ACS) from the Census, special 2010 Census CHAS tabulations, public housing resident characteristics from the *Picture of Subsidized Housing*, and business and employment data from Census.

HUD will eventually post each jurisdiction's ConPlan on the HUD website. Advocates will benefit from reviewing the ConPlan Desk Guide containing the components of the template because it outlines the regulatory requirements that jurisdictions must follow, and because it helps advocates know what the various template tables should look like. Unfortunately, advocates will not be able to use the template to electronically create their own alternative ConPlan because only jurisdictions have access to IDIS. Nevertheless, the Desk Guide provides advocates an outline of what jurisdictions must submit that advocates can use to manually fashion their ideal ConPlan to promote prior to the public participation process.

CPD also launched a mapping tool that allows both grantees and members of the public to access a large amount of data in a user-friendly, web-based format. Jurisdictions are not required to use the maps. Users can search, query, and display information on the map that will help them identify trends and needs in their communities. Some of the features available on the mapping program include the capacity to show where CDBG and HOME activities have been provided, and where public housing and private, HUD-assisted housing and LIHTC housing is located. It is also possible to see housing, economic and demographic characteristics of an area down to the census-tract level. The web-based software enables advocates to draw custom geographies, such as neighborhood boundaries, which might not fit neatly into census tracts.

TIPS FOR LOCAL SUCCESS

The ConPlan is a potentially useful advocacy tool for directing funds toward activities more beneficial to people with low incomes because jurisdictions must provide for and encourage public participation, particularly by people with low incomes. Advocates and residents should monitor the needs assessment and priority setting processes, making sure that all needs are identified and assigned the level of priority they deserve. With the new mapping tool, advocates can add information and data that the jurisdiction might not include, such as studies conducted by local universities. Advocates can also devise an alternative plan using the mapping tool to draw neighborhood boundaries that more realistically reflect community dynamics. Through the Annual Action Plan's public participation process, advocates and residents can strive to ensure that federal dollars are allocated to activities that will truly meet those high priority needs.

FOR MORE INFORMATION

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

HUD Consolidated Plan <http://1.usa.gov/Y72rOM>

ConPlan template Desk Guide <http://1.usa.gov/Y72wC9>

ConPlan mapping tool <http://1.usa.gov/Y72IkA>

Continuum of Care Planning Process

By Norm Suchar, Director of Capacity Building, National Alliance to End Homelessness

The Continuum of Care (CoC) planning process is the process used by communities to apply for funding from HUD's Continuum of Care program. Through the CoC planning process, government agencies, service providers, advocates and other stakeholders evaluate the needs of homeless people in the community, assess performance of existing activities and prioritize activities going forward. The CoC process was introduced by HUD in the mid-1990s. It was codified into law by congress through the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act of 2009.

ADMINISTRATION

The program is administered by HUD's Office of Special Needs Assistance Programs, which is overseen by HUD's Assistant Secretary for Community Planning and Development (CPD).

HISTORY AND PURPOSE

The CoC process was developed by HUD in 1994 to coordinate the distribution of several competitive homeless assistance programs. Prior to the CoC process, organizations applied individually for funding from several programs. As a result, there was little coordination between these programs or between different organizations receiving funding in the same community. The CoC process was established to promote coordination within communities and between programs. It was also designed to bring together a broader collection of stakeholders. Guidelines for the CoC planning process were included in annual Notices of Funding Availability (NOFAs), and HUD regularly modified the process. On May 20, 2009, President Obama signed the HEARTH Act (Public Law 111-22), providing Congressional authorization of the CoC process. Regulations governing the CoC program were published in the summer of 2012. The recently completed CoC application process for FY12 funds was the first competition held under new HEARTH Act rules.

SUMMARY

The Continuum of Care planning process is typically organized by either a local government agency or a large community-based nonprofit. The geography covered by a CoC can vary, covering an entire city, state or a collection of counties. The goal of the CoC process is to create an annual plan to address homelessness. The CoC process involves compiling information about homelessness in the community, including information about homeless populations and inventories of homeless assistance resources. These are used to develop a list of priorities for funding, which help determine how much funding a community will receive and for what projects. HUD's annual homeless assistance NOFA is typically issued late in the calendar year, with an application deadline later in winter. Though the application process happens only once per year, CoC planning is usually a year-round process. HUD's CoC funding awards are typically made in two stages, with decisions about renewal projects made shortly after applications are due, and decisions about new projects made the following spring.

In most years, there has been adequate funding so that existing projects almost always received renewal funding. However, because of low funding levels for the FY12 funding round, applicants had to prioritize projects, including renewal projects, into two tiers, making it possible that some renewal projects will not receive funding.

The term Continuum of Care is used many different ways and can refer to the planning process, the collection of stakeholders involved in the planning process, the geographic area covered by the CoC, or the actual grant received from HUD.

Continuum of Care Planning Process

In recent years, HUD has required coordination between CoCs and local planning bodies that are preparing ten-year plans to end homelessness. Ten-year plans are intended to provide community-wide strategies for ending homelessness, including use of McKinney-Vento funding but also including use of other HUD funding such as Section 8, the Community Development Block Grant (CDBG) program, or the HOME Investment Partnerships Program, as well as other federal, state, and local funding.

In 2009, the HEARTH Act reauthorized the housing title of the McKinney-Vento Act. HUD began issuing regulations in 2011, with the release of interim regulations on the Emergency Solutions Grant (ESG) and Homeless Management Information Systems (HMIS) and a final regulation on the definition of homelessness. Regulations on the Continuum of Care program were published in the summer of 2012. Key changes made by the HEARTH Act include changes to outcome measures, funding incentives, eligibility for assistance, matching requirements, rural assistance and administrative funding.

FORECAST FOR 2013

There are several important local and national policy issues related to the CoC planning process. At the local level, ensuring broad participation among stakeholders and promoting access to mainstream resources are the most critical issues. The CoC planning process is intended to focus on the needs of homeless people in the community and should focus on the most effective strategies for reducing homelessness. Yet the process often ends up serving the needs of incumbent providers, even when they are ineffective, and people who are perceived to be more deserving of assistance, rather than those who are in greatest need. Similarly, accessing mainstream resources, which are supposed to be generally available for low income people, is often difficult for homeless people. For example, there are often numerous barriers for homeless people to access employment services, housing assistance, cash assistance, and treatment services. Advocates play a crucial role in ensuring that the CoC process serves people who most need assistance and expands access to mainstream resources.

For national advocates, access to mainstream programs is also an important topic, as is the lack of funding provided by the federal government for CoC activities. The HEARTH act placed more of the responsibility for measuring outcomes and overseeing performance on the leaders of local CoCs. The HEARTH act also authorized funding for these entities. However, Congress has not provided enough funding to enable HUD to fully implement the local administration, planning and oversight envisioned by the HEARTH Act.

TIPS FOR LOCAL SUCCESS

For CoCs to be most effective, it is important that all key stakeholders have a seat at the table. In many communities, the needs of children, veterans, people with disabilities, youth and domestic violence survivors are not always adequately represented. Advocates should work to ensure that they are part of the CoC process. By joining their local CoC, advocates can shape a community's priorities in addressing homelessness for current and emerging populations.

The CoC process is becoming more focused on data and outcomes. All stakeholders should participate in data collection efforts whenever appropriate, and ensure that programs are achieving good outcomes. Information about the CoC process and the local CoC coordinator can be found at the Homelessness Resource Exchange website.

FOR MORE INFORMATION

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

National Coalition for the Homeless • 202-462-4822 • www.nationalhomeless.org

National Law Center on Homelessness & Poverty • 202-638-2535 • www.nlchp.org

HUD Homelessness Resource Exchange • www.hudhre.info.

Inclusionary Housing Programs

By Patrick Maier, Executive Director, Innovative Housing Institute

Inclusionary housing requires or provides incentives for the development of affordable housing along with the development of market-rate housing. In most cases, this takes the form of a local ordinance or policy that requires all developments of a certain size (for example, 10 or more homes) to include some percentage of affordable housing. Because it is dependent on market-rate production of homes there has been little activity across the country since the national housing crisis, and that downturn has led to program suspensions and retrenchment in some areas. Now that the housing market is emerging from the crisis there is an increase in interest and inclusionary activity in stronger housing markets.

Inclusionary housing policy adoption is a matter of local and state self-determination. The authority to implement it stems from the “police power,” the capacity of the states to regulate behavior and enforce order for the betterment of the general welfare. It is typically administered on a local level through coordination between local housing departments and planning authorities.

HISTORY AND PURPOSE

Since the 1970s, more than 400 local governments and a number of states have implemented inclusionary housing programs resulting in the production and preservation of hundreds of thousands of affordable homes. Because of the relationship of these affordable homes to market-rate development, many of these homes have been built in very desirable locations near jobs and opportunity and in affluent communities where federal and state housing subsidies have not typically been used. Because inclusionary programs typically rely on zoning incentives and development waivers, the creation of these homes has not required a new public funding source for the affordable housing. These incentives can take the form of up-zoning, where a given piece of land is rezoned to allow for more development, thereby increasing its value; density bonuses which allow the developer to build more homes if affordable homes are also provided; and development waivers, such as parking reductions, which make it easier or less expensive to build homes. A number of communities also offer specific financial contributions to help make the affordable homes possible, or to serve lower income households in the affordable homes.

PROGRAM SUMMARY

Most people are familiar with exclusive communities and neighborhoods. These are areas where the homes are very expensive, where there may be gates or guards to keep unwanted people out, and where there may be unspoken preferences as to who is able to live there. Inclusionary housing policy turns exclusivity on its head. It seeks to include all those who work in a community or who aspire to live there. What is important to know is that inclusionary housing policy adoption is a matter of local and state self-determination. The ability to plan a community and decide what kind of community people want is usually a matter of local political decision-making when master plans are adopted, new development is planned, or when rezoning occurs. This is where advocacy for inclusionary housing can make a difference.

Inclusionary housing programs contribute to the creation of mixed income, diverse, and integrated communities by requiring developers to incorporate affordable homes within the context of a larger development. Sometimes, rather than build affordable homes as part of a market-rate development, developers are able to build or rehabilitate homes nearby, or to make financial contributions to an affordable housing development fund to be used within that same jurisdiction. Because active participation of the private sector developer is a key ingredient in the inclusionary program, program requirements often permit alternative methods of providing affordable homes.

Inclusionary Housing Programs

Although some jurisdictions have voluntary inclusionary programs, the vast majority of jurisdictions require compliance. Most programs mandate that 10-20% of the homes developed be affordable. The homes provided may be either for sale or rental. Income eligibility varies widely, but most programs serve households with incomes that range from low to moderate income levels (50-120% of median income). Prices and rents are usually established by the program manager at a level affordable to households within this range.

In most jurisdictions, households interested in an inclusionary home apply and are qualified through the local program manager. Typically this is the local housing and community development agency, but sometimes this function is performed by a community land trust or other nonprofit. A few jurisdictions are able to serve extremely low income households by enabling purchase by housing agencies or nonprofits, which in turn can apply additional subsidies.

Maintaining the affordability of an inclusionary home over a substantial period of time is an important element of program management. Having the ability to resell or re-rent an affordable home to another qualified household maintains a stock of affordable housing in a community. Most jurisdictions require the homes to remain affordable for the long term; 30 to 50 years is not uncommon, and some jurisdictions mandate affordability in perpetuity. This requires a robust administrative function and continuous education and support to the households who are beneficiaries of the program.

FUNDING

One of the great advantages of inclusionary programs is that there is not a significant dollar cost for the creation of the affordable home. This is because inclusionary programs trade on the power of the market and provide incentives and regulatory waivers to builders and developers who produce market-oriented homes. The corollary is that inclusionary housing works best where the housing market is strong; that is, where private builder developers want to build because they believe there is strong market potential and that people will buy or rent the homes they build.

It is important to note, however, that program administration requires a set of skills that are often not present in local government. In implementing and running a program, communities must be willing to invest resources in good staff that can handle the wide range of duties associated with a successful program. Funding for ongoing program administration is also important.

FORECAST FOR 2013

In 2013 we are still suffering from the most drawn-out and devastating housing slumps since the Great Depression. It presents opportunities to learn from the lessons of this man-made catastrophe and to advocate for positive changes. One lesson is that low and moderate income households were not well-served by being encouraged to take on more mortgage debt than they could handle. Too many families have lost homes, had their credit destroyed, and experienced the stress of financial disaster to repeat the mistakes of the last decade. To avoid repeating these mistakes, regulatory and administrative changes have been made to mortgage loan qualification that make it more difficult for low and moderate income families to purchase a home. Therefore, the ability to buy or rent a home in a good, safe community continues to be denied to many lower income households because of the effective income segregation and lack of affordable housing that continues in many parts of the country, and the tightened mortgage eligibility requirements compound this problem. This is where an inclusionary policy offers a positive alternative: a modest home at a reasonable price in a good community.

It is important for housing advocates to support and work to strengthen existing inclusionary policies around the country. Opponents of inclusionary policy are actively working to undermine and eliminate existing laws, claiming that housing affordability is a problem of the past.

Inclusionary Housing Programs

Advocates should also know that inclusionary housing can serve very low and extremely low income households. This is possible by taking the affordable home created by the market-oriented developer and further subsidizing it using project-based Section 8, HOME funds, or state and local housing trust funds. This results in a new home that is very affordable at significantly less cost than creating it through just the expenditure of public subsidies. And it is more likely to be in an opportunity-rich location. Most existing inclusionary housing programs do not take this next step to serve very low and extremely low income households, but they should be encouraged to do so, and low income housing advocates' knowledge of this possibility will expand the usefulness of the program.

Changing land use law and planning an inclusionary housing ordinance that will work in a community takes time and political strength. Coalitions should include all parts of the community: employers, religious organizations, students, those who provide essential services and unions. In some states, the power to change local land use laws is restricted at the state level and successful coalitions would have to operate at the state level to gain authority for local adoption of inclusionary policies.

WHAT TO SAY TO LEGISLATORS

The federal Sustainable Communities Regional Planning Grant Program supports metropolitan and multi-jurisdictional planning efforts that integrate housing, land use, economic and workforce development, transportation and infrastructure investments. This program promotes social equity, inclusion, and access to opportunity. One of the housing strategies suggested by the program is the use of inclusionary zoning. While this program was funded at \$150 million for FY10 and \$100 million for FY11, funding for it was cut in FY12. The President has included funding of \$100 million for this purpose in the proposed FY13 budget and affordable housing advocates should support this budget allocation for FY13 and FY14.

Advocates should contact Members of Congress and to express support for this element of HUD's budget. The metropolitan planning efforts that result from this funding may help change the dynamic of regions separated by race and class and promote fair housing choice for all income levels.

FOR MORE INFORMATION

Innovative Housing Institute • 410-332-9912 • www.inclusionary.org

Business and Professional People for the Public Interest • 312-641-5570 • www.bpichicago.org

National Housing Conference and Center for Housing Policy • 202-466-2121 • www.nhc.org

PolicyLink • 510-663-2333 • www.policylink.org

NIMBYism: Overcoming Community Opposition to Affordable Housing

By Jaimie Ross, Affordable Housing Director, 1000 Friends of Florida

The Not in My Backyard syndrome (NIMBYism) connotes objections made to the location of affordable housing for reasons such as fear and prejudice. This is in contrast to objections over the real threat of an incompatible neighboring use, such as locating a hazardous waste facility near a residential area. NIMBYism presents a particularly pernicious obstacle to producing affordable housing. Local elected officials are regularly barraged by the outcry of constituents with concerns over the siting and permitting of affordable housing. Consequences of NIMBYism include lengthy, hostile, and unpleasant public proceedings; frustrated consolidated plan implementation; increased costs of development; property rights disputes; and an inability to meet local housing needs. There are tools advocates can use to avoid or overcome these objections, usually to the eventual satisfaction of all parties.

ISSUE SUMMARY

Zoning and land use decisions are in general the domain of local government. Examples of such local-level decision making include whether land is zoned for residential use exclusively for single family homes or for multifamily homes, and whether transitional housing facilities or group homes are considered commercial or residential uses. A perennial problem is local ordinances designed to prohibit group homes for persons with disabilities in residential neighborhoods.

Analysis of local zoning and land use decisions demonstrate a historical trend toward racially and economically segregated communities. Decisions of this nature, fueled by NIMBYism and NIMTOOism (“Not In My Term of Office”), continue to be made in an ever more political environment. NIMBYs are typically local residents determined to maintain homogeneous neighborhoods and increase property values who vehemently oppose the development of affordable housing. NIMTOOs are local elected officials who may or may not agree with the NIMBYs, but will not vote in favor of an affordable housing development if it will jeopardize their reelection prospects. In the last several years we have seen a growing number of NIMBY and NIMTOO arguments from anti-government ideologues who want no government assistance for housing.

TOOLS FOR LOCAL SUCCESS

Know the law. When discrimination against an affordable housing development is in fact discrimination on the basis of race, color, national origin, gender, religion, handicap, or familial status, it violates the federal Fair Housing Act (42 U.S.C. Sec. 3601-Sec. 3631). Litigation is usually not a meaningful remedy because housing funding cycles are short and court cases can take years to resolve. Sometimes, all advocates need to benefit from the protections of civil rights statutes is a working knowledge of the law and a willingness to make the law known to local elected officials and government attorneys. For example, in the common case of discrimination against group homes for recovering addicts, or “sober houses,” the Oxford House line of cases establishes that recovering addicts are protected pursuant to the protection for handicapped persons under the federal Fair Housing Act. In those cases where discrimination is clear and local elected officials act in disregard of that discrimination, advocates should consider requesting that the U.S. Department of Justice take the case. When the plaintiff is the United States of America, the case is likely to be resolved in the favor of the plaintiff and it tends to make future dealings with local opposition much easier. Nonprofit developers may be reluctant to challenge a local government over land use issues because the local government is also a funder for the nonprofit. A local legal services office or other advocate for the public interest can argue on behalf of the future tenants or residents who would be directly impacted by the land use

NIMBYism

decision. Developing relationships with such organizations before problems arise can be an effective way to fight NIMBYism.

Educate elected officials. Once a NIMBY battle ensues, it is often too late to educate. Advocates should anticipate the value of and the need to build relationships with elected officials and their staff members before a NIMBY issue arises. Education should include the importance of affordable housing, and its importance to the health of the entire community in particular. Advocates should include allies in the education process. Learning about elected officials' interests will help to inform the advocate about which of its allies are best to bring to the meeting. For example, a particular elected official may be impressed by hearing from a local business about the need for employee housing, while another may be moved by hearing from local clergy about the needs of homeless veterans or elderly and disabled persons. Whenever possible, advocates should invite elected officials to visit completed developments and should share credit with them at ribbon cuttings and when speaking with the media. In regard to a pending development, whether advocates can meet with elected officials depends upon the ex parte rules in each jurisdiction. If advocates discover that community opposition is meeting with elected officials about a development, advocates should try to do the same.

Garner allies from a broad range of interests. Too often, the only proponents of the affordable housing development are the developers themselves. Whenever possible, advocates should ask members of the business community, clergy, and social service agencies to stand up for an affordable development. Potential beneficiaries of the development, like future residents, can also be effective advocates. The media can be an important ally throughout the process of development approval. Whenever advocates foresee a potential NIMBY problem, it is best for them to contact the media first so the media has accurate information about the development plans, the public purpose, and the population to be served.

Address all legitimate neighborhood and community opposition. Key to overcoming community opposition is addressing the opposition's legitimate concerns. Legitimate, non-discriminatory concern around issues like traffic or project design may lead advocates to make some adjustments to a proposed development. Elected officials will be more likely to side with affordable housing development if they know that the developer has tried to accommodate the concerns of the neighbors. Concern over property values are often the root of neighborhood opposition. For that reason, included at the end of this article is a bibliography of studies that address the assertion that affordable housing decreases the property value of neighboring properties. The key point is this: once all legitimate concerns are addressed, if opposition persists, it can be stated with certainty that the opposition is illegitimate and is therefore opposition that would be inappropriate, arbitrary, capricious, or unlawful for the local government to consider in making its land use decision.

Expand legal protections for affordable housing. Advocates should work for state or local laws that make it harder for NIMBYism to prevail. For example, in 2000, the Florida Fair Housing Act, the state's substantial equivalent to the federal Fair Housing Act, was amended to include affordable housing as a protected class (Section 760.26, Florida Statutes). In 2009, North Carolina adopted a similar statute to add affordable housing as a protected class in its fair housing law. Decision makers and their staffs must be aware of the law if it is to be helpful to the cause. The expansion of the state fair housing act to include affordable housing in Florida has been successful because housing advocates have been conscientious about ensuring that local government lawyers know about the statutory change. It is now commonplace in Florida for a city or county attorney to inform the elected body during a heated public hearing that they would run afoul of the state's fair housing law if they deny the affordable housing developer's application.

FORECAST FOR 2013

The nationwide downturn in the real estate market provides fodder for opponents of affordable housing. Opposition from neighborhoods or elected officials can now be cloaked in terms of concern over low-cost housing market saturation. While the foreclosure crisis and tight credit markets may cause some market saturation of lower-cost homeownership housing, it is unlikely that any areas in the country have an oversupply of rental housing for extremely low income, disabled, and frail elderly populations.

A growing opportunity for overcoming community opposition to affordable housing is the adoption of inclusionary land use regulations. The advent of the Sustainable Communities Initiatives and an increasing interest in transit-oriented development presents the challenge of ensuring that sustainable communities are not only for the wealthy and that the increased property values around transit do not price out affordable housing. An inclusionary housing ordinance can be used to ensure that affordable housing is part of sustainable or transit oriented development because it directs that affordable housing be built in a certain location. Inclusionary housing policy affirmatively furthers fair housing. It assists in overcoming neighborhood opposition because inclusionary housing law requires that a certain percentage of the housing within a particular geography is affordable. In other words, the “not in my backyard” argument fails because the law requires affordable housing in that backyard. For those jurisdictions without housing element comprehensive planning requirements, an inclusionary housing ordinance provides local elected officials and affordable housing advocates a clear public interest directive to weigh against neighborhood opposition. In that balance, the proponents of preservation or development of affordable housing should be able to overcome the opposition.

FOR MORE INFORMATION

The following is a bibliography of property value studies based on statistical and empirical analysis and covering hundreds of case studies from throughout the nation. Virtually without exception, affordable housing developments have been found to have no negative effect on neighboring market rate property values, and in some instances have increased the value of neighboring property. Local government elected officials and their staffs can use these studies as evidence to counteract homeowner fears about loss of property value.

Bratt, R.G., A. Degenova, B. Goodman, S. Moriarty, J. Robitaille. (Summer 2012). Fear of Affordable Housing: Perception vs. Reality. Shelterforce. www.shelterforce.org/article/2891/fear_of_affordable_housing_perception_vs._reality/

Cassutt, Melissa. Got NIMBY?: It’s for Everyone Else’s Neighborhood. Naples News. Naples, Florida (April 2006). www.naplesnews.com/news/2006/apr/30/got_nimby/

Center for Housing Policy and Housing Policy Research. Don’t Put It Here! Do Subsidized Housing Developments Cause Nearby Property Values to Decline?. Center for Housing Policy. Washington, D.C. (February 2009). www.nhc.org/pdf/Dontputitherefinalreorder.pdf

Ellen, Ingrid Gould. Spillovers and Subsidized Housing: The Impact of Subsidized Rental Housing on Neighborhoods. Harvard Joint Center for Housing Studies. Cambridge, Massachusetts (March 2007). www.jchs.harvard.edu/publications/rental/revisiting_rental_symposium/papers/rr07-3_ellen.pdf

Ellen, Ingrid Gould; Michael C. Lens; and Katherine O’Regan. American Murder Mystery Revisited: Do Housing Voucher Households Cause Crime?. NYU Wagner School and Furman Center for Real Estate and Urban Policy. New York, New York (October 2011). http://furmancenter.org/files/publications/American_Murder_Mystery_Revisited.pdf

NIMBYism

Ellen, Ingrid Gould; Michael H. Schill; Amy Ellen Schwartz; and Loan Voicu. Does Federally Subsidized Rental Housing Depress Neighborhood Property Values?. NYU Law and Economics Research Paper No. 05-04. New York City, New York (2005). http://papers.ssrn.com/sol3/papers.cfm?abstract_id=721632

Harkinson, Joshua. NIMBY Notebook: Habitat for Hypocrisy. Mother Jones. San Francisco, California (July 2007). <http://motherjones.com/politics/2007/07/nimby-notebook-habitat-hypocrisy#>

HousingPolicy.org Online Guide to State and Local Housing Policy. Getting Started: Learn About Affordable Housing-Whether You are New or Just Need a Refresher. Center for Housing Policy. Washington, D.C. (December 2008). www.housingpolicy.org/getting_started/why_not.html#Will+affordable+housing+decrease+nearby+property+values%3F

HUDUser. Regulatory Bearings Clearinghouse: Solutions that Support Affordable Housing Court Rulings on Local Regulatory Power. Department of Housing and Urban Development. Washington, D.C. (September 2006). www.huduser.org/rbc/newsletter/vol5iss5more.html

HUDUser. Why Not in Our Community?: Removing Barriers to Affordable Housing. Department of Housing and Urban Development. Washington, D.C. (February 2005). www.huduser.org/Publications/pdf/wnioc.pdf

Lazarre, Ed and Robert Pohlman. Affordable Housing in the District Depends on a Stable Housing Production Trust Fund. D.C. Fiscal Policy Institute and Coalition for Non Profit Housing. Washington D.C. (October 2008). www.cnhed.org/download/123321_U127242__741113/Stable%20HPTF%20Report.pdf

Mellen, Sue. Making Fair Housing Laws Work for Your Neighborhood: By ensuring that your neighborhood adheres to fair housing standards, you can build a stronger, more vibrant community and protect property values. House Logic National Association of Realtors. Chicago, Illinois (April 2010). www.houselogic.com/articles/making-fair-housing-laws-work-your-neighborhood/

Mintz-Roth, Jesse. Long-Term Affordable Housing Strategies in Hot Housing Markets. Harvard Joint Center for Housing Studies and NeighborWorks® America. Cambridge, Massachusetts (May 2008). www.jchs.harvard.edu/publications/homeownership/w08-3_mintz-roth.pdf

National Association of Realtors. (March 2011). Field Guide to Effects of Low-Income Housing on Property Values. www.realtor.org/field-guides/field-guide-to-effects-of-low-income-housing-on-property-values

National Multi Housing Council and National Apartment Association. From NIMBY to Good Neighbors: Recent Studies Reinforce that Apartments are Good for a Community. National Multi Housing Council. Washington, D.C. (May 2006). www.nmhc.org/Content/ServeFile.cfm?FileID=5408

Non Profit Housing Association of Northern California. Affordable by Choice: Trends in California's Inclusionary Housing Programs. Non Profit Housing Association of Northern California. San Francisco, California (2006). www.nonprophousing.org/pdf_pubs/SampleIHReport.pdf

Obrinsky, Mark and Debra Stein. Overcoming Opposition to Multifamily Rental Housing. National Multi Housing Council. Washington, D.C. (January 2007). www.nmhc.org/Content/ServeFile.cfm?FileID=5717
Oxford House. Oxford House and the Rule of Law. n.d. www.oxfordhouse.org/userfiles/file/ohrol.php

The Planning Report Insider's Guide to Managed Growth. L.A.'s New Generation Fund: \$100 Million for Affordable Housing. The Planning Report. Los Angeles, California (July 2008). www.planningreport.com/tpr/?story_id=1347&format=html&module=displaystory

Pollakowski, Henry O.; David Ritchay; and Zoe Weinrobe. Effects of Mixed-Income, Multi-Family Rental Housing Developments on Single-family Housing Values. MIT Center for Real Estate. (April 2005).

Progressive States Network Stateside Dispatch. Promoting Affordable Housing through State Policy. Progressive States Network. New York City, New York (August 2007). www.progressivestates.org/content/654/promoting-affordable-housing-through-state-policy#1

The U.S. Supreme Court's *Olmstead* Decision

By Ann O'Hara, Associate Director, Technical Assistance Collaborative

On June 22, 1999, the U.S. Supreme Court issued its decision in *Olmstead v. LC*, a lawsuit against the State of Georgia which questioned the state's continued confinement of two individuals with disabilities in a state institution after it had been determined that they were ready to return to the community. The Court described Georgia's actions as "unjustified isolation" and determined that Georgia had violated these individuals' rights under the Americans with Disabilities Act (ADA). Because of the *Olmstead* decision, many states are now in the process of either: (1) implementing *Olmstead*-related Settlement Agreements that require thousands of new integrated permanent supportive housing opportunities to be created in conjunction with the expansion of community-based services and supports; or (2) expanding new integrated permanent supportive housing opportunities to avoid *Olmstead*-related litigation and ensure compliance with the ADA.

ADMINISTRATION

The U.S. Department of Justice (DOJ) and HUD oversee *Olmstead* compliance.

HISTORY

In its 1999 decision in *Olmstead v L.C.*, the Supreme Court found that the institutionalization of persons with disabilities who were ready to return to the community was a violation of Title II of the Americans with Disabilities Act (ADA).

In its decision, the court found that discriminate institutional placement of persons who can handle and benefit from community settings perpetuates unwarranted assumptions that persons so isolated are incapable or unworthy of participating in community life. The court also found that confinement in an institution severely diminishes everyday life activities, including "family relations, social contacts, work options, economic independence, educational advancement, and cultural enrichment."

The court was careful to say that the responsibility of states to provide health care in the community was "not boundless." States were not required to close institutions, nor were they to use homeless shelters as community placements. The court said that compliance with the ADA could be achieved if a state could demonstrate that it had a "comprehensive and effectively working plan" for assisting people living in "restrictive settings," including a waiting list that moved at a "reasonable pace not controlled by the state's endeavors to keep its institutions fully populated."

Since 1999, successful *Olmstead*-related litigation has further defined the term "institution" to include large privately operated state-funded facilities (often called Board and Care Homes or Adult Care Homes) and state-financed nursing homes. One state's groundbreaking *Olmstead* Settlement Agreement covers people with mental illness who are homeless as well as people living in state institutions (or at-risk), an important recognition that homelessness and institutionalization are both manifestations of a troubled public mental health system.

On its *Olmstead* website, DOJ has defined the most integrated setting under the ADA and *Olmstead* as follows:

"settings that enable individuals with disabilities to interact with non-disabled persons to the fullest extent possible. Integrated settings are those that provide individuals with disabilities opportunities to live, work, and receive services in the greater community, like individuals without disabilities. Integrated settings are located in mainstream society; offer access to community activities and opportunities at times, frequencies, and with persons of an individual's choosing; afford individuals choice in their daily life activities, and provide individuals

The U.S. Supreme Court's *Olmstead* Decision

with disabilities the opportunity to interact with non-disabled persons to the fullest extent possible. Evidence-based practices that provide scattered-site housing with supportive services are examples of integrated settings.”

SUMMARY

States with *Olmstead* litigation or Settlement Agreements, as well as states trying to avoid *Olmstead* litigation through proactive strategies, are intently focused on expanding access to permanent supportive housing opportunities for people with the significant and long-term disabilities in the most integrated setting. Permanent supportive housing (which is sometimes referred to as supported housing) is a housing approach for people with disabilities that combines decent and safe affordable housing with access to comprehensive, community-based, and voluntary services and supports responsive to individual needs. *Olmstead*-related Settlement Agreements in Illinois, Georgia, North Carolina, Virginia, New Jersey, and Delaware call for the creation of 30,000-40,000 new permanent supportive housing opportunities over the next 3-7 years. Several other states have *Olmstead*-related DOJ investigations or negotiations underway which could trigger requirements for thousands of additional permanent supportive housing opportunities to be created during this decade.

Housing affordability is a critical issue for states working to comply with ADA requirements because most people with disabilities living in restrictive settings qualify for federal Supplemental Security Income (SSI) payments. Nationally, SSI is equal to only 18% of median income, providing less than \$800 per month for all basic needs, including community-based housing. Because federal housing assistance is so difficult to obtain, several states (including Illinois, North Carolina, and Georgia) have either created or expanded state-financed rental subsidies to help people with disabilities covered by *Olmstead* Settlement Agreements. These state rental subsidies are typically designed as “bridge” subsidies to help people until a permanent HUD subsidy can be obtained.

Until recently, HUD played virtually no direct role in the implementation of *Olmstead*-related activities in the states. However, HUD’s policies on *Olmstead* are changing as a result of:

- HUD’s partnership with the U.S. Department of Health and Human Services (HHS) which includes cross-agency collaborations on several vulnerable high-cost populations.
- HUD’s implementation of the new Section 811 Supportive Housing for Persons with Disabilities Project Rental Assistance Demonstration (PRA Demo).
- HUD’s collaboration with DOJ on *Olmstead* cases (post-litigation), which includes HUD’s recent approval of *Olmstead*-related “remedial” tenant selection preferences in response to requests from state housing agencies in Georgia and Illinois.

In addition to ADA compliance, the cost-effectiveness of community-based housing and services compared to institutional care is also prompting states to increase the amount of permanent supportive housing opportunities available for people with the most significant and long-term disabilities. Examples of data used by experts to illustrate the cost-effectiveness of the permanent supportive housing approach include:

- In 2007, the average Medicare payment for a day of home healthcare was \$137, while a day in a skilled nursing facility was \$325.
- In New York City, one of the most expensive housing markets in the United States, it costs \$22,500 per year to provide independent housing with a full range of supportive services for a person with mental illness, compared to facility-based care estimated to cost \$60,000 or more.

The U.S. Supreme Court's *Olmstead* Decision

- In Louisiana, Department of Health and Hospitals Medicaid data from that state's 3,000 unit permanent supportive housing initiative indicates a 27% reduction in Medicaid costs for recipients living in permanent supportive housing units created after Hurricanes Katrina and Rita.

FORECAST FOR 2013

The pressure on states to comply with the community integration mandates in the ADA will continue in 2013, including requests from state health and human service or Medicaid officials to state and local housing agencies to help provide affordable housing resources for this purpose. States are also working to expand community-based services and supports in response to *Olmstead*, which will continue during 2013. In 2012, HUD launched the new and innovative Section 811 PRA Demo, and 35 state housing agencies plus the District of Columbia submitted application. This is a powerful indicator of the enormous demand within the states for permanent supportive housing for people leaving institutions and other restrictive settings, and for people with disabilities who are homeless and at risk of institutionalization. HUD expects to fund up to 16 states that have proposed effective cross-system collaborations, including a formal partnership agreement signed by the state's housing agency and state health and human service or Medicaid officials. HUD is also expected to publish *Olmstead* guidance in early 2013 which will explain how the community integration mandate within the ADA is applied in programs receiving HUD funds and to clarify how recipients of HUD funds can assist state and local *Olmstead*-related efforts.

WHAT TO SAY TO LEGISLATORS

Advocates should approach Members of Congress with the message that the extremely low income of people with the most significant and long-term disabilities who rely on SSI, combined with the scarcity of permanent supportive housing opportunities, is one reason why states have difficulty transitioning from facility-based to community-based care in the most integrated setting. In addition to needing housing assistance, people living in restrictive settings covered by *Olmstead* have a need for comprehensive long-term health care services, including people with mental illness, people with intellectual or developmental disabilities, and people with physical or sensory disabilities. Increased federal support is needed to expand integrated permanent supportive housing options, to reduce reliance on expensive institutional care, and prevent and end homelessness among people with disabilities. Resources to produce and preserve affordable housing for the lowest income people, like those provided by the Section 811 Housing for Persons with Disabilities Program and the National Housing Trust Fund, will make it possible for states to respond to the *Olmstead* decision.

FOR MORE INFORMATION

Technical Assistance Collaborative (TAC) • 617-266-5657 • www.tacinc.org

Public Housing Agency Plan

By Ed Gramlich, Director of Regulatory Affairs, National Low Income Housing Coalition

The Public Housing Agency Plan (PHA Plan) is the collection of a public housing agency's key policies (such as admissions policies) and program intentions (such as demolition). There is a five-year plan with Annual Plan updates. The PHA Plan was meant to ensure local accountability through resident and community participation. Prior to the Obama administration, however, various administrative and legislative efforts weakened PHA Plans.

ADMINISTRATION

PHA Plans are administered by some local public housing agencies, with oversight by HUD's Office of Public and Indian Housing. PHA Plan regulations are at 24 CFR Part 903, Subpart B.

HISTORY

The Quality Housing and Work Responsibility Act of 1998 (QHWRA) established the PHA Plan because of the significant devolution of authority provided to public housing agencies (PHAs) in that bill. The PHA Plan was meant to ensure local accountability through resident and community participation opportunities. Resident Advisory Boards (RABs) were also created in QHWRA to ensure participation in the PHA Plan process by public housing residents and voucher-assisted households.

In June 2004, HUD issued regulations streamlining the Annual Plan requirements for PHAs with fewer than 250 public housing units and any number of voucher units, known as small PHAs. These PHAs were only required to submit certifications regarding capital improvement needs and civil rights compliance. This regulatory streamlining was broadened in 2008, when Congress enacted several reforms that greatly diminish the Annual Plan requirements for PHAs administering fewer than 550 combined units of public housing and vouchers, known as qualified PHAs. Also in 2008, HUD took administrative action to dilute the information provided to residents and the general public through the PHA Plan template.

PLAN SUMMARY

All PHAs must develop five-year PHA Plans that describe the overall mission and goals of the PHA regarding the housing needs of low income families in its jurisdiction. Larger PHAs, called non-qualified PHAs, must also develop an Annual Plan, which is a gathering together of a PHA's key policies, such as those relating to admissions, income targeting, rents, and pets, and program intentions, such as demolition or disposition. However, these larger PHAs only have to submit a short PHA Plan template to HUD each year.

See page xxx for all of the components of the Annual PHA Plan.

Resident Advisory Boards (RABs). As part of this planning process, PHAs are required to have at least one Resident Advisory Board to assist in the development of the PHA Plan and any significant amendments to the plan. RAB membership must adequately reflect and represent residents served by the PHA, including voucher holders if they make up at least 20% of all those assisted.

In order to ensure that RABs can be as effective as possible, the PHA must allocate reasonable resources to provide reasonable means for the RAB to become informed about programs covered by the PHA Plan, communicate with residents in writing and by telephone, hold meetings with residents, and get information through the internet.

Public Housing Agency Plan

The PHA must consider RAB recommendations when preparing a final PHA Plan or any significant amendment to it. A copy of the RAB's recommendations and a description of whether those recommendations were addressed must be included with the final PHA Plan.

Resident and community participation. The law and regulations provide for a modest public participation process. The PHA must conduct reasonable outreach to encourage broad public participation. The PHA's board of commissioners must invite public comment regarding a proposed PHA Plan and conduct a public hearing to discuss it. The hearing must be held at a location convenient to PHA residents. At least 45 days before the public hearing, the PHA must make the proposed PHA Plan, required attachments, and other relevant information available for public inspection at the PHA's main office during normal business hours, and publish a notice indicating the date, time, and location of the public hearing, as well as the availability of the proposed PHA Plan.

The final, HUD-approved PHA Plan, along with required attachments and other related documents, must be available for review at the PHA's main office during normal business hours. Small PHAs submitting so-called streamlined Annual PHA Plans must certify that any revised policies and programs are available for review at the PHA's main office during normal business hours.

There are four places in the regulations indicating that writing and calling HUD to complain about the PHA Plan might secure attention and relief from HUD.

1. If a RAB claims in writing that the PHA failed to provide adequate notice and opportunity for comment, HUD may make a finding and hold up approval of a PHA Plan until this failure is remedied.
2. Before approving a PHA Plan, HUD will review "any... element of the PHA's Annual Plan that is challenged" by residents or the public.
3. HUD can decide not to approve a PHA Plan if the plan or one of its components:
 - Does not provide all of the required information.
 - Is not consistent with information and data available to HUD.
 - Is not consistent with the jurisdiction's Consolidated Plan.
4. To ensure that a PHA complies with all of the policies adopted in its HUD-approved PHA Plan, "HUD shall, as it deems appropriate, respond to any complaint concerning PHA noncompliance with the plan.... HUD will take whatever action it deems necessary and appropriate."

Significant amendments can only take place after formal adoption by the PHA board of commissioners at a meeting open to the public, and after subsequent approval by HUD. Significant amendments are subject to all of the RAB and public participation requirements discussed above.

The PHA Plan must identify the PHA's basic criteria for determining what makes an amendment significant. Advocates and residents should be alert to changes to the PHA Plan at any time of the year because any policy or program in it can be modified. Advocates and residents should review the PHA Plan's criteria defining significant amendments, and work to change them if they are written so that few modifications would be judged significant and therefore escape the RAB and public participation requirements.

FORECAST FOR 2013

Congress weakened the usefulness of the PHA Plan with changes made in the Housing and Economic Recovery Act of 2008 (HERA). This law included a provision greatly diminishing PHA Annual Plan requirements for PHAs that administer fewer than 550 combined units of public housing and vouchers. As of October 2012, HUD reports that there are 2,849 so-called qualified PHAs. According to 2009 data,

Public Housing Agency Plan

the latest available, 75% of the nation's PHAs, which administer 21% of public housing units and 10% of all vouchers, were exempt from developing an Annual Plan. Qualified PHAs only need to certify that they are complying with civil rights law, and that their five-year PHA Plan is consistent with the local or state government's Consolidated Plan. Qualified PHAs must still hold a public hearing annually regarding any proposed changes to the PHA's goals, objectives, or policies. They must also have RABs and respond to RAB recommendations at the public hearing.

HUD also took action in 2008 that weakened the usefulness of the PHA Plan for larger PHAs. Previously, HUD required public housing agencies to use a computer-based PHA Plan template. This was a helpful outline of all of the PHA Plan components required by the law. But HUD drastically diminished the template in 2008, reducing it from a helpful 41-page, easy-to-access electronic guide, to a mere page and a half-long form, making it much more difficult for residents and the public to know what the law requires and what has changed at the PHA over the previous year.

The 2008 PHA Plan template makes it more difficult for residents and others to understand the PHA Plan process, engage in it, and have access to information associated with the 19 statutorily required PHA Plan components. The template merely asks PHAs to indicate which of the components was revised, not how the components were revised. Residents and other advocates receive significantly less information about revisions included in the Annual Plan. Finally, there is no longer a list of plan components prompting residents and others to proactively recommend their own revisions to the Annual Plan.

On February 7, 2011, HUD published a proposed rule that would put the changes made for Qualified PHAs into the regulations. To date, that rule has not been finalized. On April 13, 2011, February 3, 2012, and April 11, 2012 HUD published for comment revisions to the PHA Plan template. Instead of one single template, HUD proposed a 5-Year PHA Plan for all PHAs, and six separate annual update templates for:

1. Standard PHAs that own or manage 250 or more public housing units and any number of housing choice vouchers, for a combined total of more than 550.
2. Small PHAs that own or manage 250 or fewer public housing units and any number of vouchers, for a combined total of more than 550.
3. Qualified PHAs that have fewer than 550 public housing units and vouchers combined.
4. Troubled PHAs that have an overall Public Housing Assessment System (PHAS) or Section 8 Management Assessment Program (SEMAP) score of less than 60%.
5. High-Performer PHAs that were designated high performer in their most recent assessments for PHAS and SEMAP and that own or manage 250 or more public housing units and any number of vouchers, for a combined total of more than 550.
6. Housing Choice Voucher-only PHAs that do not own or operate any public housing units, but administer more than 550 vouchers.

Several of the proposed modifications would be improvements. Each template would clearly state that information hinted at in the templates must be provided to residents, as well as where they can access the information. At a minimum, PHAs would be required to post PHA Plans at each Asset Management Project (AMP) and at the PHA's main office. This language implies posting templates rather than making all PHA Plan elements available. PHAs are also strongly encouraged to provide copies to resident councils and to post complete PHA Plans on their websites.

Another improvement is an explicit instruction in the Standard/Troubled PHA Annual Plan template requiring those PHAs to describe revisions made to any of 17 listed PHA Plan elements (e.g., waiting list procedures, grievance procedures, rent determination policies, etc.). The template currently in use does not even list any of the PHA Plan elements.

Public Housing Agency Plan

The Standard/Troubled PHA Annual Plan template would also be improved by creating a “New Activities” section, which is a better presentation of 11 important potential PHA actions that were previously lumped together in a tiny template box. For instance, a Standard/Troubled PHA would have to indicate whether or not it intends to project base vouchers or to undertake a mixed finance project or to demolish a development. If so, the PHA must describe the planned action.

Not all of the proposed modifications are improvements. Although required in the law and regulations, and included in the template currently in use, the proposed Standard/Troubled Annual Plan template would no longer require PHAs to submit for HUD review, challenges raised by residents or the general public to any of the statutorily required PHA Plan elements.

To date, revised templates have not been published because they have been held up by backlogs at the Office of Management and Budget (OMB). If these proposed templates eventually become official, they will be modest improvements from the 2008 version currently in use, but still far less helpful for residents and advocates than the pre-2008 versions.

NLIHC is concerned that resident involvement in the PHA Plan will diminish due to the loss of guidance in the PHA Plan template. The template includes far fewer reminders about the role of the RAB in developing the PHA Plan. The template no longer includes the description of the process for electing residents to the PHA board or the list of RAB members or residents on the PHA Board.

PHA Annual Plans should be enhanced to provide additional data on:

- The number of Annual Contributions Contract (ACC) units the PHA has, by development, the occupancy level at each development, and a plan to reduce any development’s vacancy rate that is above 3%.
- The number of ACC units planned for redevelopment that will no longer be available or affordable to extremely low income households.
- The number of authorized housing vouchers the agency has under lease.
- The PHA’s SEMAP ratings, any audits of the agency performed by the HUD Secretary, and any corrective action the agency took regarding SEMAP or audit findings.

In addition, NLIHC believes that more PHAs must be required to comply with the PHA Plan so that residents and community members can have an opportunity to learn about and participate in the decisions affecting the nation’s investments in public housing and vouchers.

TIPS FOR LOCAL SUCCESS

Advocates should participate in the development of their local agency’s PHA Plan. They should work with their local PHA to find out the dates PHA Plans are due to HUD are based on PHAs’ fiscal year start dates. Advocates should ask the PHA to provide notice well in advance of the required public hearing, and ask specifically about proposed changes from the previous year. Advocates should review all PHA Plan components thought important, and should prepare written comments as well as comment at the public hearing. Advocates should work with others, especially residents of public housing, voucher holders, and other low income people, to increase participation in the PHA Plan process. All year long advocates should be on the lookout for significant amendments, and submit written comments as well as verbal comments at the public hearing required for significant amendments.

WHAT TO SAY TO LEGISLATORS

Advocates should let their Members of Congress know that:

- The PHA Annual and five-year Plans are important, local tools that should be expanded to more PHAs, protected from further dilution, and enhanced to require more components of concern to residents and other community members.

Public Housing Agency Plan

- HUD's diminished template for Annual PHA Plan submission should be returned to its original state.
- Any new form of rental assistance should include mechanisms approximating robust PHA Plans to ensure resident and other community participation in the operation and future of the federal housing investment.

FOR MORE INFORMATION

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

National Housing Law Project • 510-251-9400 • www.nhlp.org

HUD directory of approved PHA Plans by state <http://1.usa.gov/VG9VMh>

HUD list of Qualified PHAs <http://1.usa.gov/zI2oCH>.

What is in the Annual PHA Plan?

- a) Housing Needs of extremely low, very low, and low income families, elderly families, disabled families, and those on public housing and Section 8 waiting lists.
- b) Tenant Eligibility, Selection, and Admissions Policies as well as waiting list procedures, admissions preferences, unit assignment policies, and race and income decentralization.
- c) Financial Resources and planned uses of these resources for the upcoming year listed in categories such as operating funds, capital funds, other federal funds and non-federal funds.
- d) Rent Determination including rent policies for tenants and landlords receiving vouchers.
- e) Operations and Management of facilities, including PHA programs, their organization, and policies governing maintenance (including those policies regarding pest infestation).
- f) Grievance Procedures for residents and applicants.
- g) Capital Improvement Needs and planned actions for the long-term physical and social health of public housing developments. Should include plans and costs for the upcoming year and a 5-year plan.
- h) Demolition and Disposition Plans that the PHA has applied for, or will apply for, including timetables.
- i) Designation of Public Housing for Elderly or Disabled identified.
- j) Conversion of Public Housing to tenant-based vouchers as specified in Section 33 or Section 22.
- k) Homeownership Programs described, such as Section 8(y) or Section 5(h).
- l) Community and Self-Sufficiency Programs that aim to improve families' economic or social self-sufficiency, including Section 3 jobs efforts, and that will fulfill community service requirements.
- m) Safety and Crime Prevention including coordination with police.
- n) Pets policy.
- o) Civil Rights as reflected in a formal pledge that the PHA will comply the Civil Rights Act of 1964, the Fair Housing Act, Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act.
- p) Financial Audit from the most recent fiscal year.
- q) Asset Management for long-term operating, capital investment, rehabilitation, modernization, or sale of the PHA's inventory.
- r) Domestic Violence activities, services, or programs that prevent or serve victims of domestic violence, dating violence, sexual assault, or stalking as added by the Violence Against Women Act of 2005 (VAWA).
- s) Additional Information including progress in meeting or deviating from the PHA's mission and goals as listed in the five-year Plan.

Qualified Allocation Plan

By Ed Gramlich, Director of Regulatory Affairs, National Low Income Housing Coalition

The federal Low Income Housing Tax Credit program requires each state agency that allocates tax credits, generally called a housing finance agency, to have a Qualified Allocation Plan (QAP). The QAP sets out the state's eligibility priorities and criteria for awarding federal tax credits to housing properties. In some states, the QAP also sets out threshold criteria for noncompetitive 4% tax credits and any state low income housing tax credits.

The QAP is a tool advocates can use to influence how their state's share of annual low income housing tax credits is allocated to affordable housing properties. Advocates can use the public hearing and comment requirements to convince their housing finance agency to better target tax credits to properties that house people with extremely low incomes, locate projects in priority areas, and preserve the existing stock of affordable housing.

SUMMARY

The QAP is a document that state and a few local agencies must develop in order to distribute federal Low Income Housing Tax Credits (LIHTCs), which can be awarded only to a building that fits the QAP's priorities and criteria. Each QAP must spell out a housing finance agency's (HFA's) priorities and specify the criteria it will use to select projects competing for tax credits. The priorities must be appropriate to local conditions.

The QAP must also give preference to projects:

- Serving residents with the lowest income.
- Serving income-eligible residents for the longest period of time.
- Located in qualified census tracts (QCTs) or difficult development areas (DDAs), as long as the project contributes to a concerted community revitalization plan. QCTs are census tracts with a poverty rate of 25% or in which 50% of the households have incomes below 60% of the area median income (AMI). DDAs are areas in which construction, land, and utility costs are high relative to incomes.

The selection criteria must address 10 items: (1) location, (2) housing needs, (3) public housing waiting lists, (4) individuals with children, (5) special needs populations, (6) whether a project includes the use of existing housing as part of a community revitalization plan, (7) project sponsor characteristics, (8) projects intended for eventual tenant ownership, (9) energy efficiency and (10) historic nature. These requirements are minimums; states can adopt more rigorous criteria that target advocates' priority populations and locations. Most states establish detailed QAP selection criteria and set asides based on the characteristics of their state's needs.

HFAs can target tax credits several ways:

- The QAP selection process can give preferences, in the form of extra points, to encourage developers to submit projects more likely to serve particular populations or locations; for example, by awarding
- The QAP can establish a set-aside, reserving a specific percentage or dollar amount of any given year's tax credit allocation for projects more likely to serve particular populations or locations; for example, a \$2 million set-aside for rural projects.
- The QAP can establish thresholds, minimum requirements that projects must meet simply to get in the game, thus improving targeting to particular populations or locations; for example, requiring a 50-year income-eligible compliance period.

Qualified Allocation Plan

TIPS FOR LOCAL SUCCESS

Because each state receives a new allocation of LIHTCs each year, QAPs are usually drafted annually. This gives advocates regularly scheduled opportunities to influence QAP priorities. LIHTCs are often in high demand among developers; therefore, developers propose projects that address the priorities set forth in the QAP to give themselves an advantage in the selection process.

Advocates should assess the QAP. If it only has a general statement of goals, advocates can work to get very specific set-asides or preference points for their priorities. If the QAP has too many priorities, this will render individual priorities less meaningful. Advocates should work to narrow the number of priorities or work to establish relative priorities so their priorities can compete more effectively.

If there are types of assisted housing that should be at the top of the priority list, advocates should work to ensure that they are positioned to better compete. For example, if there is a great need for units with more than two bedrooms, advocates might promote a QAP policy offering bonus points for projects providing units with two or more bedrooms for at least 10% of all low income units. To facilitate rural projects, advocates might try to secure QAP policies that give points to projects with fewer than 50 units.

Advocates can also argue for features that protect tenants. For instance, bonus points for projects that do not permanently displace residents, or a QAP policy precluding tax credit assistance for projects that do not provide one-for-one replacement of units lost through redevelopment. Advocates should review the QAP to find out how long targeted units must serve people with lower incomes. If the QAP only requires the basic 15 years, plus and extended use period of another 15 years, advocates should try to get the compliance period lengthened as a threshold issue, or try to get point preferences or set-asides for projects that voluntarily agree to a longer compliance period.

All states are required to have a public hearing about their proposed QAP before it is approved by the unit of government overseeing the HFA, but there are no specific requirements for the public hearing. Although not required, most states also provide for a public review and comment period for a proposed QAP.

Advocates should contact the HFA early to learn about its annual QAP process and build this into their work plan for the year. In addition, advocates should be sure to get on any notification list the HFA might have about the QAP and public hearing. Advocates should also develop relationships with the HFA's governing board and communicate the advocate's priorities throughout the year. Not all communication must take place in the context of the formal QAP process. Informal contacts can be used effectively to advance an advocate's priorities. In fact, the most effective means of advocating for any particular priority is to be in contact with the HFA, long before a draft QAP is publicly released.

Once an HFA decides to award tax credits to a building, it must notify the chief executive officer of the local jurisdiction where the building is located, such as the mayor or county executive. That official must have a reasonable opportunity to comment on the project. Advocates should ask the executive's office and any relevant housing department at the locality to notify them as soon as the HFA contacts the executive about a proposed project. Even better, advocates should seek a local policy requiring public notice and comment, along with public hearings, about a proposed project.

Before tax credits are allocated, there must be a comprehensive market study of the housing needs of low income people in the area a project is to serve. The project developer must hire a disinterested third party approved by the HFA to conduct the market study.

If a building that does not fit the QAP's priorities is to get tax credits, the HFA must provide a written explanation and make it available to the public.

Qualified Allocation Plan

Most states post a list of properties that have won tax credits after each round of competition. These lists can often be found on an HFA's website.

FOR MORE INFORMATION

List of state HFAs <http://bit.ly/XoOL2b>

State QAPs <http://bit.ly/W2dvjX>

National Housing Trust analysis of numerous incentives in each state's QAP <http://bit.ly/W2dvR0>

State and Local Housing Trust Funds

By Mary E. Brooks, Housing Trust Fund Project Director, Center for Community Change

State and local housing trust funds are created when ongoing, dedicated sources of public funds are committed by ordinance or legislation to support the production and preservation of homes for lower income households. This single key characteristic of housing trust funds advances the way this country funds affordable housing by guaranteeing that revenues are available each year to support critical affordable housing needs.

HISTORY AND PURPOSE

Since the 1980s, state and local housing trust funds have employed the model of committing public funds to address our communities' most critical affordable housing needs. With nearly 700 housing trust funds in cities, counties and states, these funds have become important elements in an overall housing policy and well-known for their flexibility, sustainability and success in addressing critical housing needs.

PROGRAM SUMMARY

Because state and local housing trust funds are distinct funds created through the dedication of public revenues, they are essentially public funds and this shapes how they operate. There are three key elements to any state and local housing trust fund:

Administration. Most housing trust funds are administered by a public or quasi-public agency. Housing advocates are not always comfortable with the performance of local agencies and may not find this an easy condition to accept. While there are alternatives, such as a community foundation administering the fund, there are very few examples of such models. In the long run, it is desirable for elected officials to accept ownership and responsibility for addressing critical housing needs and designate the housing trust fund as one way in which they intend to do this.

One administrative characteristic of housing trust funds that usually improves upon this arrangement is the creation of an appointed oversight board. Most housing trust funds have such boards. They are typically broadly representative of the housing community, including banks, Realtors, developers, nonprofit development organizations, housing advocates, labor, service providers and low income residents. These boards can be merely advisory, but it is preferable to delegate some decision-making authority to them, including determining which projects receive funding from the trust fund, oversight of policies, and evaluating and reporting on performance of the fund.

Programs. The basic programmatic issues for housing trust funds should be defined in the ordinance or legislation that establishes the fund. This ensures that the key operating components of the trust fund are not subject to the whims of changing administrations. Staff and board members will need to develop an application cycle, program requirements, and administrative rules.

State and local housing trust funds are created locally to address the most critical housing needs that exist. In order to ensure that the trust fund succeeds, several decisions must be made about what gets funded through it. This includes determining eligible applicants, eligible activities, and requirements that must be met to receive funding. Most housing trust funds provide loans and grants through a competitive application process, although some establish distinct programs. Grants are important to ensure that housing can be provided to meet the needs of those with the lowest incomes. Eligible applicants typically include nonprofit developers, for-profit developers, government entities, Native American tribes and public housing agencies. Eligible activities are usually quite broadly defined, including new construction, rehabilitation, acquisition, emergency repairs, accessibility, first time

State and Local Housing Trust Funds

homeownership, operating and maintenance costs and many others. Rental assistance is provided by some housing trust funds. There are a few state and local housing trust funds that serve only the needs of the homeless population and define their activities accordingly.

Among the most important decisions to be made regarding programs are the requirements projects must meet to be eligible for funding. Chief among these is the income level of those who benefit from the housing provided. Most housing trust funds serve populations earning no more than 80% of the area median income, but many serve lower income households either entirely or in part by setting aside a portion of the funds to serve these populations in particular. Without setting aside funds to serve very low and extremely low income households, these most critical needs continue to be ignored. It is important to give serious consideration to these set-asides and other programmatic issues that enable funding for those with the most critical needs. Another key concern is the long-term affordability requirements that must be met. Many state and local housing trust funds require that the units supported through the trust fund remain affordable to the targeted population for a defined amount of time or in perpetuity.

Housing advocates may identify other requirements to incorporate, including accessibility, mixed-income, green housing principles, transit-oriented housing, rural housing and housing-related services requirements.

Revenue sources: Identifying public revenue sources that can be committed to a local housing trust fund is what makes creating these trust funds difficult. Different revenue sources are available to different jurisdictions, because each controls specific taxes and fees. Research must be done to identify appropriate funding sources.

The most common revenue source for a city housing trust fund is a linkage program. These are impact fees placed on non-residential developers to offset the strain the development's employees may have on the housing supply and are part of the zoning ordinance. Along with linkage fees, many jurisdictions also use inclusionary zoning in-lieu fees. Other cities have committed various fees, such as condominium conversion fees or demolition fees, along with taxes, including property taxes, real estate excise taxes, and hotel and motel taxes.

The best and most common revenue source for a county housing trust fund is a document recording fee, a fee paid upon filing various types of official documents with a state or local government. This is one of the few revenue sources that most counties can commit. Other sources used by counties include sales taxes, developer fees, real estate transfer taxes and real estate excise taxes.

State housing trust funds are most commonly funded by real estate transfer taxes, but states have committed nearly two dozen revenue sources to housing trust funds. Other options include interest from state-held funds (such as unclaimed property funds and budget stabilization funds), interest from real estate escrow or mortgage escrow accounts, and document recording fees.

Often housing advocates study alternative revenue sources themselves and propose the best options. These are not difficult studies, but it takes time and some diligence to obtain the necessary information. Some housing trust funds were created through specially designated task forces that have responsibility for doing the background research and making recommendations on how best to create the proposed housing trust fund. Regardless, it is important for advocates to advance their own proposals for a housing trust fund with a specific revenue source recommendation, instead of leaving this critical element up to elected officials to determine.

State and Local Housing Trust Funds

Each state is unique in its treatment of taxes and fees. Research must be conducted into what the state constitution and statutes permit with regard to dedicating public revenues to a specific purpose; what, if any, limitations are placed on specific revenues options, including caps on the rate of a tax or fee applied; and the uses to which the revenue may be applied, among other questions. New ideas are constantly being explored, so it pays to be creative in searching for potential public revenue sources.

As the search for revenue sources is undertaken, it is extremely important that a goal identifying the amount of revenue needed each year for the housing trust fund be established. This can be based on actual need, a realistic assessment of what can be secured or an evaluation of the capacity to use new funds. This goal will be the measure by which each potential revenue source will be judged as sufficient. A combination of revenue sources may be necessary.

It is critical to keep the focus on dedicated sources of public funding that will provide an ongoing stream of revenue for the housing trust fund. Other alternatives will be proposed, such as a one-time appropriation, bond revenues or private sources, but the campaign must keep its sights on putting into place an ordinance or legislation that will change the future of affordable housing.

The relationship between state and local housing trust funds. One of the most innovative recent advances in the state and local housing trust fund field is state legislation that enables local jurisdictions to create housing trust funds. There are several models in place. States can enact legislation that opens a door for local housing trust funds either by providing matching funds to encourage and support local housing trust fund efforts, enabling cities or counties to utilize a specific revenue source for local housing trust funds by sharing a new public revenue source with local jurisdictions or establishing a process whereby local jurisdictions can decide to commit specific funds to a local housing trust fund.

FORECAST FOR 2013

Today's economic climate continues to be challenging to the goal of securing dedicated public revenue for a housing trust fund and for preserving what we thought we had. State and local housing trust funds have lost dedicated revenues either through the decline in revenue collected through a tax or fee, or from cuts imposed through efforts to address budget deficits. Some of this decline will recover naturally as the economy regains strength and revenue collections rebound. Nonetheless, many if not most housing trust funds are facing severe challenges to their sustainability. As devastating as this may seem, the model of dedicated revenue established through legislation or ordinance appears to create a foundation from which effective campaigning for sustainability can be launched.

The housing trust fund concept continues to have resiliency. Several housing trust funds have added new revenues and new housing trust funds continue to be created. With nearly 700 such funds created and implemented over the past thirty years, housing trust funds are well established as a vital part of the affordable housing field. Cities, counties, and states have developed models that work, supported innovative approaches to all aspects of addressing affordable housing and homelessness needs and demonstrated that decent, affordable homes can be provided for everyone if communities are willing to commit the resources to do so. This commitment expands local economies, reveals new partnerships and builds local capacity to engage in public policy initiatives. Creating a state and local housing trust fund is a proactive step that housing advocates can take to make systemic change in the housing field.

Tips for Local Success

While it is relatively easy for the public at large, and elected officials in particular, to nod toward the need to provide more affordable homes, committing precious resources to make it happen requires an active campaign. The challenge advocates face is in making affordable housing enough of a priority that elected

State and Local Housing Trust Funds

officials can make the right decision. Housing trust fund campaigns have made important contributions in reframing affordable housing as a policy priority that is integral to the success of our communities. Not only is there an obvious connection between jobs and housing, but building housing also fuels the economy in a number of direct and indirect ways. Housing has a direct relationship to education, health, the environment and neighborhood quality. Personal stories and connections to real families have given the issue a face that is far more powerful than statistics reflect. Campaigns have created effective communication strategies based on the value frame that everyone should have a place to call home.

Housing trust fund campaigns have found numerous ways to boast about what housing programs can accomplish. There is no reason to be bashful about this. There are thousands of remarkable and outstanding examples of good, well-managed, integrated affordable housing. Housing advocates have an obligation to educate the public and elected officials about the new face of affordable housing. Rarely have housing trust funds been created without the pressure applied by such a campaign. Housing advocates have succeeded in making the point that providing decent, safe affordable homes is no longer an arbitrary decision to which we can simply choose to devote resources or not. Rather, it is an ongoing, essential part of every community, no less important than streets, sewers, health centers, police or fire protection, schools, and other basic components of a viable community.

One of the most exciting aspects of housing trust funds is the demonstration that housing advocates can engage in progressive campaigns to make a change in the way this country supports affordable housing. Campaigns have been waged by local faith-based organizations, city-wide coalitions of nonprofit developers, state-wide housing advocacy groups and many others. Coalitions have been built engaging the full spectrum of the housing industry. Their stories are as unique as they are uplifting and full of promise.

Today, there are easily 30 housing trust fund campaigns underway in cities, counties, and states across the country. Some are focused on creating new housing trust funds; many are working to increase resources for existing housing trust funds. The housing trust fund model can be adapted in many ways to make it possible to dedicate public funding to addressing critical housing needs. They have been created in many states, in small cities, rural counties, and large metropolitan areas.

Over the last couple of years, eight new housing trust funds have been created, plus another ten in Massachusetts Community Preservation Act communities. More than \$244 million in revenues were added to housing trust funds, including these victories:

- North Dakota created a state housing trust fund with tax credit revenues and gained \$15 million in revenues.
- Savannah, Georgia established a city housing trust fund.
- Camden County, New Jersey created the eighth county homeless trust fund in the state.
- Virginia initiated state housing trust fund with \$7 million in national mortgage settlement funds.
- Alabama passed housing trust fund legislation.
- Colorado initiated state housing trust fund with \$13.2 million in national mortgage settlement funds.
- San Francisco, California voters approved a \$1.1 billion housing trust fund, with at least \$20 million in year one.
- Bellingham, Washington voters approved a \$21 million housing trust fund, with annual revenues of \$3 million.
- Under the Massachusetts Community Preservation Act program, a total of ten municipalities have voted to approve local CPA programs during this two year period: Brimfield, Pelham, Norfolk, Beverly, Canton, Fall River, Great Barrington, Salem, Somerset, and Somerville.

State and Local Housing Trust Funds

While Massachusetts built local voter approved trust funds into its Community Preservation Act program (44% of the Commonwealth's cities and towns—155 communities—have passed a CPA program, which allows adopting jurisdictions to raise funds to create a local dedicated fund to support affordable housing and other community uses) and the Seattle, WA Housing Levy has been approved by voters four times over now, among other examples of voter approved trust fund ... most housing trust funds are established by elected officials.

The added success in Bellingham, Washington and San Francisco, California suggests that public support for affordable housing may be worth noting. Whether a housing trust fund requires a public vote or not, as affordable housing/homeless advocates it might well be prudent to be very strategic about integrating an expression of public support in our campaigns—through organizing initiatives, story telling, social media networks, public events, postcard campaigns, among many other examples—to let elected officials hear from their constituents that having a secure affordable home is something they will speak up for.

FOR MORE INFORMATION

Housing Trust Fund Project of the Center for Community Change • 661-245-0318 •
www.housingtrustfundproject.org

Ten-Year Plans to End Homelessness

By Norm Suchar, Director of Capacity Building, National Alliance to End Homelessness

The homeless population was once assumed to be largely suffering from mental illness, urban, and unable to live independently. The solution was to manage homelessness through the creation of emergency shelters, transitional housing and other homeless services. These assumptions have disappeared. Over the last few decades, numerous studies have dispelled the myths that have surrounded homelessness. Now, communities of all sizes across the country are completing plans to end homelessness, declaring that it is no longer suitable for any community to yield to what we have come to learn is a surmountable problem. Since 2003, hundreds of communities have completed and began implementing ten-year plans to end homelessness.

HISTORY

In 2000 the National Alliance to End Homelessness released *A Plan, Not a Dream: How to End Homelessness in Ten Years*. Drawing upon years of research and promising approaches from around the country, the blueprint provided the key strategies needed to address the issue of homelessness in ten years. In 2001, HUD, together with the Bush Administration, created an initiative to end chronic homelessness. As part of the initiative, the reactivated U.S. Interagency Council on Homelessness (ICH) was challenged cities to create plans to end chronic homelessness.

In 2010, ICH released *Opening Doors: The Federal Strategic Plan to Prevent and End Homelessness*. *Opening Doors* is the first-ever comprehensive federal commitment to end homelessness. The plan is especially notable because when the federal government challenged communities to create plans to end homelessness in 2003, there was little in the way of federal assistance for these plans. *Opening Doors* aims to support local plan implementation, and promote effective strategies across the country with a concrete timeframe and clear, measurable national goals.

COMPONENTS OF THE PLAN

Local plans to end homelessness have been completed in all regions of the country in all types of communities: rural, urban and suburban. While some of the elements in the plans differ, common plan components include a summary of baseline data, strategies for ending homelessness among people currently experiencing homelessness, prevention efforts to reach people at risk of homelessness, increasing the supply of affordable housing and community outreach plans.

The Alliance published a summary of 234 plans to end homelessness in 2009. It found that most plans start from the same place: understanding the local homeless population. More than 80% of communities with completed ten-year plans collected baseline data on homelessness prior to engaging in planning efforts. This data allows communities to better understand which community members become homeless, how they become homeless, and which programs will work best to solve each community's specific problems.

The strategies outlined in the plans vary widely depending on the unique needs of the community. One common component is the need for permanent housing. Approximately 89% of the plans include permanent housing as a strategy to end homelessness, and 77% identify the need for permanent supportive housing in particular. In total, the plans call for the creation of more than 375,000 units of affordable and permanent supportive housing for homeless people. Efforts to shorten the length of time people spend homeless through Housing First or rapid re-housing initiatives are included in 94% of the plans.

Ten-Year Plans to End Homelessness

While the initial challenge was to create plans to end chronic or long-term homelessness, 74% of communities extended their plans to include all homelessness. Many plans outline additional strategies to address the unique needs of various subpopulations such as veterans, youth, families, victims of domestic violence, and the elderly. Of the completed plans to end homelessness, 70% identify strategies to end chronic homelessness (including those that target it specifically). Furthermore, 50% lay out strategies to end homelessness among youth, 49% provide strategies to end family homelessness, and 32% address the housing needs of former prisoners re-entering the community.

Prevention is an integral part of ending homelessness in every community. By identifying and serving those most at-risk of becoming homeless, communities can cap the endless stream of people entering into homelessness. Emergency prevention strategies, such as eviction prevention through rent, utility, or mortgage assistance, case management, and landlord intervention are included in 83% of the plans. Systems-level prevention, such as discharge planning from correctional facilities, mental health facilities, youth aging out of foster care, and residential treatment programs, are included in 83% of the plans.

Outreach plays an important role in ending homelessness by engaging persons on the street and helping them both get into housing and access needed services. Over 62% of plans focus on increasing outreach efforts to people living on the streets and provide them with basic services such as food, medical care, and housing. Many already have outreach activities, such as assertive community treatment (ACT) teams and safe havens, in place. The provision of, or links to, mainstream services are included in 78% of the plans. Increasing income through job training services, Supplemental Security Income (SSI) outreach, Temporary Assistance to Needy Families (TANF) outreach, or Earned Income Tax Credit (EITC) outreach was included in over three-quarters of the plans.

TIPS FOR LOCAL SUCCESS

To be successful, the planning process should be participatory and involve multiple sectors of the community. Receiving input from the public, private, and nonprofit sectors allows for greater community buy-in and a smoother transition from planning to implementation. The completed plans incorporate a wide range of stakeholders in the process, from formerly homeless persons to the local chamber of commerce. Approximately 40% involved public sector stakeholders, 36% involved the nonprofit community, and 25% of plans had private sector representation.

It has been 12 years since NAEH released *A Plan, Not a Dream*, and nine years since ICH challenged communities to end chronic homelessness. In that time the country has dramatically improved the way we respond to homelessness. As a result, the number of people experiencing homelessness across the country, particularly the number of people experiencing chronic homelessness, has declined. However, there is much more to be done.

Including elements such as ways to measure progress, defining parties responsible for each action step, identifying funding sources, and creating timelines can help communities stay on track. Further, plans should be living documents that can be modified and updated in response to a community's changing need.

FOR MORE INFORMATION

National Alliance to End Homelessness • 202-838-1526 • www.endhomelessness.org

ABOUT NLIHC

Accessing NLIHC Resources

In addition to the *Advocates' Guide*, NLIHC offers many other resources for advocates, policymakers, students and others in order to provide information on the most relevant housing and housing-related programs and issues. Here are ways to get the most out of your relationship with NLIHC.

OUTREACH

Your first point of contact at NLIHC is your Outreach Associate. NLIHC's Outreach Associates are members' direct best resource for answers to federal policy or membership questions. The outreach team also coordinates responses from members when there is a federal housing issue that needs attention. NLIHC's outreach associates are assigned specific states. Find the contact information for your state's Outreach Associate at www.nlihc.org/whatwedo/outreach/team or e-mail outreach@nlihc.org.

POLICY

NLIHC's policy team tracks, analyzes, and advocates for NLIHC's policy priorities. The policy team updates Fact Sheets on NLIHC's policy initiatives and priority legislation on a monthly basis. NLIHC's policy priorities can be found at www.nlihc.org/issues. NLIHC also convenes a policy advisory committee, comprised of NLIHC board members and individual members, that informs NLIHC's policy agenda. Committee information is available on the website under "About Us."

RESEARCH

NLIHC's research team publishes resources on housing-related topics throughout the year. Access the latest research and reports in our "Resource Library" online at www.nlihc.org/library.

Out of Reach. NLIHC's flagship research publication, *Out of Reach*, offers a side-by-side comparison of wages and rents in every county, metropolitan area (MSAs and HMFAs), combined nonmetropolitan area and state in the United States. Advocates across the country use the data in this report to show the extent of housing need in their communities. For each jurisdiction, the report calculates the amount of money a household must earn in order to afford a rental unit at a range of sizes (0,1,2,3, and 4 bedrooms) at the area's Fair Market Rent (FMR), based on the generally accepted affordability standard of paying no more than 30% of income for housing costs. *Out of Reach* is available on NLIHC's website at www.nlihc.org/oor.

Housing Spotlight. This series of occasional research briefs from the National Low Income Housing Coalition uses data from different sources to highlight a variety of housing issues. NLIHC members receive each issue of Housing Spotlight by email and by mail. Find them online in the Resource Library at www.nlihc.org/library/housingspotlight.

Congressional District Housing Profiles. NLIHC's Congressional District Housing Profiles offer a snapshot of housing needs for each Congressional district in the country. Each profile pulls from a variety of sources and illuminates several dimensions of housing affordability for renter households in each district, the surrounding area, and the state. The profiles can be found at www.nlihc.org/library/CDP.

State Housing Profiles. This resource illustrates the housing needs of low income renter households for each state in the country. These profiles include visual representations of housing affordability issues as well as key facts about housing in each state. The profiles can be found at www.nlihc.org/library/SHP.

National Housing Preservation Database. NLIHC and the Public and Affordable Housing Research Corporation (PAHRC), maintain an inventory of all federally assisted multifamily housing in the country.

Accessing NLIHC Resources

It includes information on properties subsidized by HUD, the USDA and the Treasury Department. Advocates can use this database to get a clear picture of the subsidized stock of housing in their community and to identify properties that might be at risk of losing a subsidy. The National Housing Preservation Database can be found at www.preservationdatabase.org. For more information on the database and background on its development, visit <http://nlihc.org/library/other/preservation>.

CONTACT YOUR ELECTED OFFICIALS

To find contact information for your state or federal elected officials, visit www.nlihc.org and enter your zip code in the “Contact Congress” box on the lower left side of the page. Access NLIHC’s entire Legislative Action Center at www.capwiz.com/nlihc/home.

NLIHC STATE COALITION PARTNERS

NLIHC maintains close ties with our state partners, housing and homeless advocacy organizations who serve statewide or regional areas. To find out what’s happening in your state, visit www.nlihc.org/involvement/local/events. NLIHC also maintains a repository of state-generated research, at www.nlihc.org/library/sirr.

ANNUAL HOUSING POLICY CONFERENCE AND LOBBY DAY

NLIHC hosts a conference every spring in Washington, D.C., that offers federal housing policy related workshops, plenary sessions, and keynote speakers, as well as a lobby day at which advocates have the opportunity to weigh in with Members of Congress and their staffs. For more information, visit www.nlihc.org/conference.

NLIHC ON SOCIAL MEDIA

Facebook. Like NLIHC on Facebook and get instant updates on the latest housing news and information at www.facebook.com/NationalLowIncomeHousingCoalition.

Twitter. Follow @NLIHC on Twitter for daily updates at www.twitter.com/NLIHC.

LinkedIn. Connect with NLIHC on LinkedIn and interact with some of the people who are part of our work. <http://www.linkedin.com/company/national-low-income-housing-coalition>

Pinterest. NLIHC is on Pinterest! Visit our Pinterest boards to view research and resources and find new ways to tell the affordable housing story. <http://pinterest.com/nlihc/>

Blog. NLIHC’s blog, *On the Home Front*, features news and analysis from our staff, guest posts from state and national partners, and opinion on the latest developments in housing policy. Join the discussion at www.nlihc.wordpress.com.

JOIN NLIHC

NLIHC membership is the best way to stay informed about affordable housing issues, keep in touch with advocates around the country, and support NLIHC’s work. Your membership is essential to our shared success on behalf of low income people in need of safe and affordable housing. NLIHC membership is open to individuals, organizations, corporations and government agencies, and members receive a number of important benefits, including weekly email delivery of Memo to Members, periodic Calls to Action alerts to significant policy developments requiring constituent calls, a subscription to Shelterforce, discounted conference rates, free or discounted publications including *Out of Reach* and the *Advocates’ Guide*, membership in NARFE Premier Credit Union, telephone resource referrals to state and regional networks, and participation in the policy-setting decisions of NLIHC.

Accessing NLIHC Resources

To learn more or become a member, visit www.nlihc.org/membership.

DONATE

Your contribution goes directly to supporting our efforts to achieve socially just public policy that assures people with the lowest incomes in the United States have affordable and decent homes. You can support NLIHC by making a year-end gift, a general contribution, or a scholarship donation. You can also sponsor our Annual Housing Leadership Awards Reception or contribute to the Cushing Niles Dolbeare Endowment Fund. Learn more about these and other ways to strengthen your relationship with NLIHC at <http://nlihc.org/donate>.

NLIHC State Coalition Partners

NLIHC's 64 state coalition partners in 41 states and the District of Columbia are an integral part of the work we do. Our state partners are housing and homeless advocacy organizations serving statewide or regional areas, and are the organizations with which we work most closely. Please join the partner or partners where you live, as well as NLIHC, to strengthen state and national advocacy for more affordable housing.

Alabama

Alabama Arise
334-832-9060
www.arisecitizens.org

Low Income Housing Coalition of Alabama (c/o Collaborative Solutions)
205-939-0411
www.collaborative-solutions.net/Programs/lihca.html

Alaska

Alaska Coalition on Housing and Homelessness
907-743-5726
www.akcoalition.com

Arkansas

Arkansas Coalition of Housing and Neighborhood Growth for Empowerment
501-776-3941
www.achange.org

Housing Arkansas
501-626-9220
www.housingarkansas.net

Arizona

Arizona Housing Alliance
480-788-4180
www.azhousingalliance.org

California

California Coalition for Rural Housing
916-443-4448
www.calruralhousing.org

California Housing Partnership Corporation
415-433-6804
www.chpc.net
Housing California
916-447-0503
www.housingca.org

NLHC State Coalition Partners

Non-Profit Housing Association of Northern California
415-989-8160
www.nonprofithousing.org

Southern California Association of Non Profit Housing
213-480-1249
www.scanph.org

Colorado

Colorado Coalition for the Homeless
303-293-2217
www.coloradocoalition.org

Housing Colorado
303-863-0124
www.housingcolorado.org

Connecticut

Connecticut Housing Coalition
860-563-2943
www.ct-housing.org

Delaware

Delaware Housing Coalition
302-678-2286
www.housingforall.org

District of Columbia

Coalition for Nonprofit Housing and Economic Development
202-745-0902
www.cnhed.org

Florida

Florida Coalition for the Homeless
850-412-0021
www.fchonline.org

Florida Housing Coalition, Inc.
850-878-4219
www.flhousing.org
Georgia

Georgia State Trade Association of Nonprofit Developers
404-526-1260
www.gstand.org

NLIHC State Coalition Partners

Hawaii

Affordable Housing and Homeless Alliance
808-782-6864
www.hawaiihomeless.org

Illinois

Housing Action Illinois
312-939-6074
www.housingactionil.org

Indiana

Indiana Association for Community Economic Development
317-454-8533
www.iaced.org

Kansas

Kansas Statewide Homeless Coalition
785-354-4990
www.kshomeless.com

Kentucky

Homeless and Housing Coalition of Kentucky
502-223-1834
www.hhck.org

Louisiana

Louisiana Housing Alliance
225-381-0041
www.lahousingalliance.org

Maine

Maine Affordable Housing Coalition
207-553-7777
www.mainehousingcoalition.org

Massachusetts

Citizens' Housing and Planning Association
617-742-0820
www.chapa.org

Michigan

Community Economic Development Association of Michigan
517-485-3588
www.cedam.info

NLHC State Coalition Partners

Michigan Disability Rights Coalition
616-821-2517
www.copower.org

Minnesota

Minnesota Housing Partnership
651-649-1710
www.mhponline.org

Minnesota Coalition for the Homeless
651-645-7332
www.mnhomelesscoalition.org

Missouri

Missouri Association for Social Welfare
573-634-2901
www.masw.org

Nebraska

Nebraska Housing Developers Association
402-435-0315
www.housingdevelopers.org

New Hampshire

Housing Action New Hampshire
603-828-5916
www.housingactionnh.org

New Jersey

Housing and Community Development Network of New Jersey
609-393-3752
www.hcdnnj.org
New Mexico

New Mexico Coalition to End Homelessness
505-217-9570
www.nmceh.org

Supportive Housing Coalition of New Mexico
505-255-3643
www.thehousingcoalition.com

New York

Coalition for the Homeless
212-964-5900
www.coalitionforthehomeless.org

NLIHC State Coalition Partners

Neighborhood Preservation Coalition of New York State
518-432-6757
www.npcnys.org

New York State Rural Housing Coalition
518-458-8696
www.ruralhousing.org

Supportive Housing Network of New York
646-619-9640 or 518-465-3233
www.shnny.org

New York State Tenants and Neighbors Information Service
212-608-4320
www.tandn.org

North Carolina

North Carolina Coalition to End Homelessness
919-755-4393
www.ncceh.org

North Carolina Housing Coalition
919-881-0707
www.nchousing.org

North Dakota

North Dakota Coalition for Homeless People
701-390-1635
www.ndhomelesscoalition.org

Ohio

Coalition on Homelessness and Housing in Ohio
614-280-1984
www.cohhio.org

Oregon

Housing Alliance (c/o Neighborhood Partnerships)
503-226-3001
www.oregonhousingalliance.org

Pennsylvania

Housing Alliance of Pennsylvania
215-576-7044
www.housingalliancepa.org

NLHC State Coalition Partners

Rhode Island

Housing Action Coalition of Rhode Island
401-521-1461
www.housingactionri.org

Housing Network of Rhode Island
401-521-1461
www.housingnetworkri.org

Rhode Island Coalition for the Homeless
401-721-5685
www.rihomeless.com

South Carolina

Affordable Housing Coalition of South Carolina
803-808-2980
www.affordablehousingsc.org

Texas

Texas Association of Community Development Corporations
512-916-0508
www.tacdc.org

Texas Homeless Network
512-482-8270
www.thn.org

Texas Low Income Housing Information Service
512-477-8910
www.texashousing.org

Utah

Utah Housing Coalition
801-364-0077
www.utahhousing.org

Vermont

Vermont Affordable Housing Coalition
802-660-9484
www.vtaffordablehousing.org

Virginia

Virginia Coalition to End Homelessness
703-250-4904
www.vceh.org

NLIHC State Coalition Partners

Virginia Housing Coalition
804-497-3060
www.vahousingcoalition.org

Washington

Washington Low Income Housing Alliance
206-442-9455
www.wliha.org

West Virginia

West Virginia Coalition to End Homelessness
304-269-8600
www.wvceh.org

Wisconsin

Housing for All (c/o Independence First)
414-291-7520

Wisconsin Partnership for Housing Development, Inc.
608-258-5560
www.wphd.org

Wyoming

Wyoming Coalition for the Homeless
307-634-8499
www.wch.vcn.com

NLIHC Direct Assistance Program

The National Low Income Housing Coalition receives hundreds of calls, emails, and letters each year from people looking for housing they can afford or solutions to other kinds of housing problems. We explain to the people who request direct services that NLIHC is not an agency that provides housing assistance to individual people.

We then suggest that they call the office of their Member of Congress and ask to speak to the person who provides constituent services. We help people find the phone number of the office closest to their homes. We explain the constituent service function of Members of Congress and their rights as constituents to such services. In addition to providing this information to people who contact us by mail, email, and telephone, NLIHC has a “looking for housing” page on its web site which contains similar information. It is available at www.nlihc.org/involvement/housing.

This approach has several advantages:

- First, people who are seeking help receive some tangible information from an empathetic person in lieu of simply being told NLIHC cannot help them.
- Second, people learn how to communicate with the offices of their elected representatives and may be empowered to become more active as advocates.
- Third, the constituent case workers will become more aware of the housing problems of people who live in their Congressional districts and communicate these needs to the Member of Congress.
- Finally, the people in need may actually obtain knowledgeable assistance in their own communities in their search for affordable housing.

APPENDICES

List of Abbreviated Statutory References

- Section 3, Housing and Urban Development Act of 1968, 12 U.S.C. 1701u, economic opportunities for low and very low income persons.
- Section 8, United States Housing Act of 1937, 42 U.S.C. 1437f, low income rental housing assistance.
- Section 9, United States Housing Act of 1937, 42 U.S.C. 1437g, funding for public housing.
- Section 18, United States Housing Act of 1937, 42 U.S.C. 1437p, demolition and disposition of public housing.
- Section 42, Internal Revenue Code of 1986, 26 U.S.C. 42, low income housing tax credit.
- Section 108, Housing and Community Development Act of 1974, 42 U.S.C. 5308, CDBG loan guarantees.
- Section 202, Housing Act of 1959, 12 U.S.C. 1701q, elderly and handicapped housing.
- Section 203, National Housing Act, 12 U.S.C. 1709, single-family mortgage insurance.
- Section 203k, National Housing Act, 12 U.S.C. 1709(k), single-family mortgage insurance for rehabilitation.
- Section 207, National Housing Act, 12 U.S.C. 1713, multifamily mortgage insurance.
- Section 221, National Housing Act, 12 U.S.C. 1715, multifamily mortgage insurance.
- Section 221(d)(3), National Housing Act, 12 U.S.C. 1715(d)(3), below-market interest rate (BMIR) rental housing mortgage insurance.
- Section 221(d)(4), National Housing Act, 12 U.S.C. 1715(d)(4), mortgage insurance refinancing.
- Section 221(g)(4), National Housing Act, 12 U.S.C. 1715(g)(4), assignment of mortgages to HUD.
- Section 223(a)(7), National Housing Act, 12 U.S.C. 1715n(a)(7), insurance for refinancing.
- Section 223(d), National Housing Act, 12 U.S.C. 1715n(d), insurance for multifamily operating loss loans.
- Section 223(f), National Housing Act, 12 U.S.C. 1715n(f), mortgage insurance for multifamily refinancing.
- Section 231, National Housing Act, 12 U.S.C. 1715v, mortgage insurance for elderly and handicapped rental housing.
- Section 235, National Housing Act, 12 U.S.C. 1715z, home mortgage interest reduction payments.
- Section 236, National Housing Act, 12 U.S.C. 1715z-1, rental and cooperative housing interest reduction payments.
- Section 241, National Housing Act, 12 U.S.C. 1715z-6, multifamily supplemental loans.
- Section 502, Housing Act of 1949, 42 U.S.C. 1472, rural direct and guaranteed single-family housing loans.
- Section 504, Housing Act of 1949, 42 U.S.C. 1474, rural very low income home repair loans and grants.
- Section 504, Rehabilitation Act of 1973, 29 U.S.C. 794, prohibits disability discrimination, requires accessibility standards
- Section 514, Housing Act of 1949, 42 U.S.C. 1484, farm labor housing loans.
- Section 515, Housing Act of 1949, 42 U.S.C. 1485, rural rental and cooperative housing.
- Section 516, Housing Act of 1949, 42 U.S.C. 1486, farm labor housing grants.
- Section 521, Housing Act of 1949, 42 U.S.C. 1490a, rural rental assistance.
- Section 533, Housing Act of 1949, 42 U.S.C. 1490m, rural housing preservation grants.
- Section 538, Housing Act of 1949, 42 U.S.C. 1490p-2, guaranteed rural rental housing loans.
- Section 811, Cranston-Gonzalez National Affordable Housing Act, 42 U.S.C. 8013, supportive housing for persons with disabilities.
- Title V, McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11411-114412, excess federal properties available to assist homeless.

FOR MORE INFORMATION

HUD list of programs frequently identified by statute <http://1.usa.gov/13i1mt5>

Selected List of Major Housing & Housing-Related Laws

- Age Discrimination Act of 1975, P.L. 101-336.
- AIDS Housing Opportunity Act (Housing Opportunities for Persons with AIDS [HOPWA]), title VIII, subtitle D of the Cranston-Gonzalez National Affordable Housing Act, P.L. 101-625, 104 Stat. 4079.
- Americans with Disabilities Act of 1990, P.L. 110-325.
- American Recovery and Reinvestment Act of 2009, P.L. 111-5, 123 Stat. 115.
- Civil Rights Act of 1964, P.L. 88-352, 78 Stat. 241.
- Fair Housing Act, title VIII, Civil Rights Act of 1968, P.L. 90-284, 82 Stat. 81.
- Cranston-Gonzalez National Affordable Housing Act, P.L. 101-625, 104 Stat. 4079.
- Department of Housing and Urban Development Act, P.L. 89-117, 79 Stat. 667.
- Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, P.L. 111-203, 124 Stat. 1376.
- Frank Melville Supportive Housing Investment Act of 2010, P.L. 111-374.
- HOME Investment Partnerships Act, title II, Cranston-Gonzalez National Affordable Housing Act, P.L. 101-625, 104 Stat. 4079.
- Home Mortgage Disclosure Act, P. L. 94-200, 89 Stat. 1125.
- Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH), Division B, Helping Families Save Their Homes Act of 2009, P.L. 111-222, 123 Stat. 1633.
- Housing Act of 1949, P.L. 81-171, 63 Stat. 413.
- Housing Act of 1959, P.L. 86-372, 73 Stat. 654.
- Housing and Community Development Act of 1974, P.L. 93-383, 88 Stat. 633.
- Housing and Community Development Act of 1987, P.L. 100-242. 101 Stat. 1815.
- Housing and Community Development Act of 1992, P.L. 102-550, 106 Stat. 3672.
- Housing and Economic Recovery Act of 2008, P.L. 110-289, 122 Stat. 2654.
- Housing and Urban Development Act of 1965, P.L. 89-117, 79 Stat. 451.
- Housing and Urban Development Act of 1968, P.L. 90-448, 82 Stat. 476.
- Housing and Urban Development Reform Act of 1989, P.L. 101-235, 103 Stat. 1987.
- Housing and Urban-Rural Recovery Act of 1983, P.L. 98-181, 97 Stat. 1153.
- Lead-Based Paint Poisoning Prevention Act, P.L. 91-695.
- Multifamily Assistance and Housing Reform and Affordability Act of 1997, P.L. 105-65, 111 Stat. 1384.
- Multifamily Housing Property Disposition Reform Act of 1994, P.L. 103-233, 108 Stat. 342.
- National Housing Act, P.L. 73-479, 48 Stat 1246.
- National Housing Trust Fund, §1338 to the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, P.L. 102-550 (FHEFSSA), as amended by §1131 of the Housing and Economic Recovery Act of 2008, P.L. 109-289.
- Protecting Tenants at Foreclosure Act, Division A, title VII, Helping Families Save Their Homes Act of 2009, P.L. 111-22, 123 Stat. 1633.
- Quality Housing and Work Responsibility Act of 1998, P.L. 105-276, 112 Stat. 2461.
- Rehabilitation Act of 1973, P.L. 93-112.
- Section 202 Supportive Housing for the Elderly Act of 2010, P.L. 111-372.
- Stafford Disaster Relief and Emergency Assistance Act, P.L. 100-707.
- Stewart B. McKinney Homeless Assistance Act, P.L. 100-77, 101 Stat. 482.
- Supportive Housing for Persons with Disabilities, Section 811, Cranston-Gonzalez National Affordable Housing Act, P.L. 101-625, 104 Stat. 4079.
- United States Housing Act of 1937, P.L. 75-412, 50 Stat. 888.
- Violence Against Women Act, P.L. 109-162, 119 Stat. 2960.

FOR MORE INFORMATION

Key HUD Statutes <http://1.usa.gov/13i1SY1>

Glossary

ADVANCE APPROPRIATION. Budget authority or appropriation that becomes available in one or more fiscal years after the fiscal year for which the appropriation was enacted. For example, an advance appropriation in the FY10 appropriations act would become available for programs in FY11 or beyond. The amount is not included in the budget totals of the year for which the appropriation act is enacted but rather in those for the fiscal year in which the amount will become available for obligation.

AFFORDABLE HOUSING. Housing that costs an owner or renter no more than 30% of household income.

AMORTIZE. Decrease an amount gradually or in installments, especially in order to write off an expenditure or liquidate a debt.

AFFORDABLE HOUSING PROGRAM (AHP). A program of the Federal Home Loan Bank system, AHP provides subsidized cash advances to member institutions to permit them to make below-market loans for eligible housing activities.

ANNUAL ADJUSTMENT FACTOR. The mechanism for adjusting rents in certain types of Section 8-assisted properties, including Section 8 New Construction/Substantial Rehab. HUD publishes annual percentage factors by unit type and region.

ANTI-DEFICIENCY ACT. A federal law forbidding federal employees from spending money or incurring obligations that have not been provided for in an appropriation.

APPROPRIATION. A provision of law providing budget authority that enables an agency to incur obligations and to make payments out of the Treasury for specified purposes. Non-entitlement programs are funded through annual appropriations.

AREA MEDIAN INCOME (AMI). The midpoint in the income distribution of within a specific geographic area. By definition, 50% of households, families or individuals earn less than the median income, and 50% earn more. HUD calculates family AMI levels for different communities annually, with adjustments for family size. AMI is used to determine the eligibility of applicants for both federally and locally funded housing programs.

ASSISTED HOUSING. Housing where the monthly costs to the tenant are subsidized by federal or other programs.

AUTHORIZATION. Legislation that establishes or continues operation of a federal program or agency either indefinitely or for a specific period of time or that sanctions a particular type of obligation or expenditure within a program.

BELOW MARKET INTEREST RATE (BMIR). See Section 221(d)(3) BMIR.

BLOCK GRANTS. Grants made by the federal government on a formula basis, usually to a state or local government.

BORROWING AUTHORITY. The authority to incur indebtedness for which the federal government is liable, which is granted in advance of the provision of appropriations to repay such debts. Borrowing authority may take the form of authority to borrow from the Treasury or authority to borrow from the

public by means of the sale of federal agency obligations. Borrowing authority is not an appropriation since it provides a federal agency only with the authority to incur a debt, and not the authority to make payments from the Treasury under the debt. Appropriations are required to liquidate the borrowing authority.

BROOKE RULE. Federal housing policy that limits a tenant's contribution to rent in public housing and under the Section 8 program to 30% of income. This amount is considered to be the maximum that one should have to pay for rent without becoming 'burdened.' The rule is based on an amendment sponsored by then Senator Edward Brooke (R-MA) to the public housing program in 1971. The original Brooke amendment limited tenant contributions to 25%. The limit was increased from 25% to 30% in 1981.

BUDGET AUTHORITY. The legal authority to enter into obligations that will result in immediate or future outlays of federal funds. Budget authority is provided in appropriation acts.

BUDGET ENFORCEMENT ACT (BEA). An expired 1990 Act of Congress credited in part with creating a budget surplus by establishing limits on discretionary spending, maximum deficit amounts, pay-as-you-go rules for revenue and direct spending, new credit budgeting procedures, and other changes in budget practices. Congress has wrangled over the re-establishment of pay-as-you-go rules and disagreement about whether such rules should apply to both spending and taxation or only to spending.

BUDGET RESOLUTION. A concurrent resolution passed by both houses of Congress that does not require the signature of the president. The budget resolution sets forth various budget totals and functional allocations and may include reconciliation instructions to specific House or Senate committees.

COLONIAS. The rural, mostly unincorporated communities located in California, Arizona, New Mexico, and Texas along the U.S.-Mexico border. Colonias are characterized by high poverty rates and substandard living conditions, and are defined primarily by what they lack, such as potable drinking water, water and wastewater systems, paved streets, and standard mortgage financing.

COMMUNITY AND HOUSING DEVELOPMENT ORGANIZATION (CHDO). A federally defined type of nonprofit housing provider that must receive a minimum of 15% of all federal HOME Investment Partnership Funds.

COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG). The annual grants administered by HUD on a formula basis to cities and other units of government for community development activities. The CDBG program is authorized by Title I of the Housing and Community Development Act of 1974.

COMMUNITY DEVELOPMENT CORPORATIONS. Community development corporations are nonprofit, community-based organizations that provide capital locally through the development of both residential and commercial property, ranging from affordable housing to developing shopping centers and even owning businesses.

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION (CDFI). A specialized financial institution that works in market niches that have not been adequately served by traditional financial institutions. CDFIs provide a wide range of financial products and services, including mortgage financing, commercial loans, financing for community facilities, and financial services needed by low income households. Some CDFIs also provide technical assistance. To be certified as a CDFI by the CDFI Fund of the Treasury Department, an institution must engage in community development, serve a targeted population, provide financing, have community representatives on its board, and be a non-governmental organization.

Glossary

COMMUNITY REINVESTMENT ACT (CRA). A program that requires periodic evaluations of insured depository institutions and their efforts in helping meet the credit needs in their communities.

CONGRESSIONAL BUDGET OFFICE (CBO). An organization created by Congress that provides staff assistance to Congress on the federal budget.

CONSOLIDATED PLAN. The Consolidated Plan, or ConPlan, combines all of the planning, application, and performance requirements previously required separately for Community Development Block Grants (CDBG), Emergency Shelter Grants (ESG), Housing Opportunities for People With AIDS (HOPWA), and programs such as HOME that require a Comprehensive Housing Affordability Strategy (CHAS).

CONTINUING RESOLUTION (CR). Spending bill that provides funds for government operations for a short period of time until Congress and the President agree on an appropriations bill.

CREDIT UNION. A nonprofit financial institution typically formed by employees of a company, labor union, or religious group and operated as a cooperative. Credit unions may offer a full range of financial services and pay higher rates on deposits and charge lower rates on loans than commercial banks. Federally chartered credit unions are regulated and insured by the National Credit Union Administration.

DISCRETIONARY SPENDING. Budget authority, other than for entitlements, and ensuing outlays provided in annual appropriations acts. The Budget Resolution sets limits or caps on discretionary budget authority and outlays.

EARMARKS. Appropriations that are dedicated for a specific, particular purpose. The funding of the Community Development Fund typically has earmarks as part of the Economic Development Initiative.

EMERGENCY LOW INCOME HOUSING PRESERVATION ACT (ELIHPA). The 1987 statute authorizing the original federal program to preserve federally assisted multifamily housing. The program was active 1987-1992.

ENHANCED VOUCHERS. The tenant-based Section 8 assistance provided to eligible residents when owners prepay their subsidized mortgages or opt out of project-based Section 8 contracts. Rents are set at market comparable levels, instead of the regular voucher payment standard, as long as the tenant elects to remain in the housing.

ENTITLEMENT JURISDICTION. Under the Community Development Block Grant communities that meet certain statutory requirements are 'entitled' to receive funding under the program. These communities are known as 'entitlement jurisdictions.'

ENTITLEMENTS. Entitlements benefits available based on meeting a certain set of criteria. Access to entitlement benefits, such as social security, is not limited by the need for appropriations.

EXIT TAX. The taxes paid on the recapture of depreciation and other deductions, experienced upon sale of a property. In some affordable housing transactions, sellers may face a significant exit tax even when they do not receive net cash at sale.

EXPIRING USE RESTRICTIONS. The low and moderate income affordability requirements associated with subsidized mortgages under Section 221(d)3 BMIR and Section 236, which terminate when the mortgage is prepaid.

EXTREMELY LOW INCOME. A household income below 30% of area median, as defined by HUD.

FAIR MARKET RENTS (FMR). HUD's estimate of the actual market rent for a modest apartment in the conventional marketplace. Fair market rents include utility costs (except for telephones). Every year, HUD develops and publishes FMRs for every MSA and apartment type. FMRs are currently established at the 40th percentile rent, the top of the range that renters pay for 40% of the apartments being surveyed, with the exception of some high-cost jurisdictions, where it is set at the 50th percentile.

FANNIE MAE (FEDERAL NATIONAL MORTGAGE ASSOCIATION). A federally chartered government-sponsored enterprise that purchases mortgages from originators to facilitate new mortgage lending. Similar to Freddie Mac.

FARMERS HOME ADMINISTRATION (FmHA). The former name of the Rural Housing Service.

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC). The federal agency established in 1933 that guarantees (within limits) funds on deposits in member banks and thrift institutions and performs other functions such as making loans to or buying assets from member institutions to facilitate mergers or prevent failures.

FEDERAL HOUSING ADMINISTRATION (FHA). A part of the Department of Housing and Urban Development that insures lenders against loss on residential mortgages. It was founded in 1934 in response to the Great Depression to execute the provisions of the National Housing Act.

FEDERAL HOUSING FINANCE AGENCY (FHFA). Created in 2008 to take over the functions of the Office of Federal Housing Enterprise Oversight (OFHEO) and the Federal Housing Finance Board (FHFB). OFHEO was the regulator for Freddie Mac and Fannie Mae, and the FHFB regulated the Federal Home Loan Banks.

FEDERAL HOUSING FINANCE BOARD (FHFB). Federal agency created by Congress in 1989 to assume oversight of the Federal Home Loan Bank System from the dismantled Federal Home Loan Bank Board. The FHFB was merged into the Federal Housing Finance Agency (FHFA) in 2008. The FHFA also regulates Freddie Mac and Fannie Mae.

FEDERAL RESERVE BOARD (FRB). The governing board of the Federal Reserve System. Its seven members are appointed by the president, subject to Senate confirmation, and serve 14-year terms. The Board establishes Federal Reserve System policies on such key matters as reserve requirements and other bank regulations, sets the discount rates, and tightens or loosens the availability of credit in the economy.

FEDERAL RESERVE SYSTEM. The system established by the Federal Reserve Act of 1913 to regulate the U.S. monetary and banking system. The Federal Reserve System ('the Fed') consists of 12 regional Federal Reserve Banks, their 24 branches, and all national and state banks that are part of the system. National banks are stockholders of the Federal Reserve Bank in their region. The Federal Reserve System's main functions are to regulate the national money supply, set reserve requirements for member banks, supervise the printing of currency at the mint, act as clearinghouse for the transfer of funds throughout the banking system, and examine member banks' compliance with Federal Reserve regulations.

FINANCIAL INSTITUTION. An institution that collects funds from the public to place in financial assets such as stocks, bonds, money market instruments, bank deposits, or loans. Depository institutions (banks, savings and loans, saving banks, credit unions) pay interest on deposits and invest the deposit money, mostly in loans. Non-depository institutions (insurance companies, pension plans) collect money by selling

Glossary

insurance policies or receiving employer contributions and pay it out for legitimate claims or for retirement benefits. Increasingly, many institutions are performing both depository and non-depository functions.

FISCAL YEAR (FY). The accounting period for the federal government. The fiscal year for the federal government begins on October 1 and ends the next September 30. It is designated by the calendar year in which it ends; for example, FY11 begins on October 1, 2010, and ends on September 30, 2011.

FLEXIBLE SUBSIDY. A direct HUD loan or grant for rehabilitation or operating losses, available to eligible owners of certain HUD-subsidized properties. Owners must continue to operate the project as low and moderate income housing for the original mortgage term. Not currently active.

FORECLOSURE. The process by which a mortgage holder who has not made timely payments of principal and interest on a mortgage loses title to the home. The holder of the mortgage, whether it be a bank, a savings and loan, or an individual, uses the foreclosure process to satisfy the mortgage debt either by obtaining the proceeds from the sale of the property at foreclosure or taking title to the property and selling it at a later date. Foreclosure processes vary from state to state and can be either judicial or non-judicial.

FORMULA ALLOCATION. These programs allocate funds to recipients based on a formula. The parameters for the formula are usually established by statute and are often based in the need of the recipient for the program being funded. CDBG and HOME are formula allocation programs.

FREDDIE MAC (FEDERAL HOME LOAN MORTGAGE CORPORATION). A federally chartered government-sponsored enterprise that purchases mortgages from originators to facilitate new mortgage lending. Similar to Fannie Mae.

FREEDOM OF INFORMATION ACT (FOIA). This generally refers to the process of securing documents from HUD or other federal agencies in accordance with required procedures. Certain types of documents, including owner financial statements, are considered privileged and are not available for disclosure to the public.

GOVERNMENT ACCOUNTABILITY OFFICE (GAO). Formerly known as the General Accounting Office, the GAO is a Congressional agency that monitors the programs and expenditures of the federal government.

GINNIE MAE (GOVERNMENT NATIONAL MORTGAGE ASSOCIATION). An agency of HUD, Ginnie Mae guarantees payment on mortgage-backed securities, which represent pools of residential mortgages insured or guaranteed by the FHA, the Veterans Administration, or the Rural Housing Service.

GOVERNMENT SPONSORED ENTERPRISE (GSE). An enterprise established by the federal government but privately-owned and operated. Fannie Mae and Freddie Mac are GSEs, as are the Federal Home Loan Banks.

GUARANTEED LOAN. A loan in which a private lender is assured repayment by the federal government of part or all of the principal, interest, or both, in the event of a default by the borrower.

HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME). Administered by HUD's Office of Community Planning and Development, this program provides formula grants to states and localities (see also PARTICIPATING JURISDICTIONS) to fund a wide range of activities that build, buy, and/or rehabilitate affordable housing for rent or homeownership or provide direct rental assistance to low income people. The HOME program is authorized by Title II of the 1990 Cranston-Gonzalez National Affordable Housing Act.

HOME MORTGAGE DISCLOSURE ACT (HMDA). This act, which was created in 1975, requires most financial institutions that make mortgage loans, home improvement loans, or home refinance loans to collect and disclose information about their lending practices.

HOMELESS EMERGENCY ASSISTANCE AND RAPID TRANSITION TO HOUSING (HEARTH) Act of 2009. Signed into law in 2009 (P.L. 111-22), this law revises the McKinney-Vento Homeless Assistance Grant programs and will provide communities with new resources and better tools to prevent and end homelessness. The legislation: increases priority on homeless families with children, significantly increases resources to prevent homelessness, provides incentives for developing permanent supportive housing and creates new tools to address homelessness in rural areas.

HOUSING ASSISTANCE PAYMENTS (HAP). HAP is the payment made according to a HAP contract to provide Section 8 tenant-based assistance under the Housing Choice Voucher program. The local voucher program is administered by a public housing agency (PHA). The HAP contract is an agreement between the PHA and the owner of a unit occupied by an assisted family.

HOUSING BONDS. Bonds that are secured by mortgages on homes or rental properties. Generally the bonds are issued by states and the housing financed by the bond is targeted to lower income families or individuals.

HOUSING CHOICE VOUCHERS (HVC). Also known as Section 8 or Section 8 vouchers, this is a rental assistance program funded by HUD. The goal of the program is to assist primarily extremely low income families rent housing in the private market. Under the program the federal government pays a portion of the family's rent each month. Families participating in the Housing Choice Voucher Program can rent a single-family home, an apartment or a condominium. Prior to receiving a subsidy every unit must pass a housing inspection. Once the unit passes inspection and rent guidelines, voucher families pay a percentage of their monthly adjusted income toward monthly rent and utilities (generally not more than 30%) and the rest is paid with the federal subsidy.

HOUSING COSTS. Essentially, they are the costs of occupying housing. Calculated on a monthly basis, housing costs for renters include "contract rent, utilities, property insurance, mobile home park fee." For owners, monthly housing costs are "the sum of monthly payments for all mortgages or installment loans or contracts, except reverse annuity mortgages and home equity lines of credit. Costs also include real estate taxes (including taxes on manufactured/ mobile homes, and manufactured/mobile home sites if the site is owned), property insurance, homeowner association fees, cooperative or condominium fees, mobile home park fees, land rent, utilities." Utilities include "electricity, gas, fuels (oil, coal, kerosene, or wood), water, sewage disposal, garbage and trash collection." (2001 AHS, Appendix A, <http://www.census.gov/hhes/www/housing/ahs/ahs01/appendixa.pdf>)

HOUSING FINANCE AGENCY. The state agency responsible for financing housing and administering assisted housing programs.

HOUSING STARTS. The indicator of residential construction activity monitored by the Department of Commerce. Housing starts represent the start of construction of a house or apartment building, which means the digging of the foundation. Other categories are housing permits, housing completions, and new home sales.

HOUSING TRUST FUNDS. Distinct funds, usually established by state or local governments, that receive ongoing public revenues which can only be spent on affordable housing initiatives, including new

Glossary

construction, preservation of existing housing, emergency repairs, homeless shelters, housing-related services, and multifamily building for nonprofit organizations.

HUD INSPECTOR GENERAL. The HUD official appointed by the president who is responsible for conducting audits and investigations of HUD's programs and operations.

INCLUSIONARY ZONING. A requirement or incentive to reserve a specific percentage of units in new residential developments for moderate income households.

INDEPENDENT AGENCY. An agency of the United States government that is created by an act of Congress and is independent of the executive departments. The Securities and Exchange Commission is an example of an independent agency.

INTERMEDIARY ORGANIZATION. Organizations that play a fundamental role in encouraging, promoting, and facilitating business-to-business contacts. These can include both nonprofit and for-profit organizations: chambers of commerce; trade associations; local, civic, and community groups; state and local governments; academic institutions; and private corporations.

LEVERAGING. The maximization of the effects of federal assistance for a project by obtaining additional project funding from non-federal sources.

LOW INCOME HOUSING PRESERVATION AND RESIDENT HOMEOWNERSHIP ACT (LIHPRHA). The 1990 statute authorizing the 'permanent' federal multifamily preservation program. The program was active 1990 - 1996.

LOW INCOME HOUSING TAX CREDITS (LIHTC). Enacted by Congress in 1986 to provide the private market with an incentive to invest in affordable rental housing. Federal housing tax credits are awarded to developers of qualified projects. Developers then sell these credits to investors to raise capital (or equity) for their projects, which reduces the debt that the developer would otherwise have to borrow. Because the debt is lower, a tax credit property can in turn offer lower, more affordable rents. Provided the property maintains compliance with the program requirements, investors receive a dollar-for-dollar credit against their Federal tax liability each year over a period of 10 years. The amount of the annual credit is based on the amount invested in the affordable housing.

LOW INCOME. As applied to most housing programs, household income below 80% of metropolitan area median, as defined by HUD, is classified as low income. See also **EXTREMELY LOW INCOME**, **VERY LOW INCOME**.

MARK-TO-MARKET. The process of reducing above-market rents to market levels. In ordinary usage, this means HUD recognizing defaults on FHA-insured mortgages, paying the mortgage claims, and restructuring the remaining available debt service into a new mortgage.

MARK-UP-TO-MARKET. A federal program to adjust rents on assisted housing up to the market rate.

METROPOLITAN STATISTICAL AREA (MSA). The basic census unit for defining urban areas and rental markets.

MODEL CITIES. An element of President Lyndon Johnson's War on Poverty. It was created 1966 but ended in 1974. The purpose of the program was to improve coordination of existing urban programs and provide additional funds for local plans.

MODERATE HOUSING PROBLEMS. As used in this Guide and by HUD, moderate problems consist of cost burden above 30% but not more than 50% of income, occupancy of housing with moderate physical problems, or overcrowding (more than one person per room).

MORTGAGE BANKER. The company, or individual, that originates mortgage loans, sells them to other investors, services the monthly payments, keeps related records, and acts as escrow agent to disperse funds for taxes and insurance. A mortgage banker's income derives from origination and servicing fees, profits on the resale of loans, and the spread between mortgage yields and the interest paid on borrowings while a particular mortgage is held before resale.

MORTGAGE BROKER. A company or individual that brings together a borrower and a lender for the purpose of assisting a borrower in obtaining a mortgage loan. The broker does not originate or service the loan.

MORTGAGE INTEREST DEDUCTION. The federal tax deduction for mortgage interest paid in a taxable year. Interest on a mortgage to acquire, construct, or substantially improve a residence is deductible for indebtedness of up to \$1 million.

MORTGAGE. The debt instrument by which the borrower (mortgagor) gives the lender (mortgagee) a lien on property as security for the repayment of a loan. The borrower has use of the property, and the lien is removed when the obligation is fully paid.

MOVING TO WORK (MTW). A demonstration program for public housing agencies (PHAs) that provides them the opportunity to design and test innovative, strategies that use Federal dollars to help residents find employment and become self-sufficient. MTW gives PHAs exemptions from many existing public housing and voucher rules and more flexibility with how they use their federal funds. See article on MTW in this Guide for more information.

MULTIFAMILY ASSISTED HOUSING REFORM AND AFFORDABILITY ACT (MAHRA). The 1997 statute authorizing the Mark-to-Market program and renewals of expiring Section 8 contracts.

MULTIFAMILY. A building with five or more residential units.

NEW CONSTRUCTION/SUBSTANTIAL REHAB. A form of project-based Section 8 assistance used in the original development and financing of some multifamily housing. Projects could be both insured and uninsured (with conventional or state/local bond financing). These contracts were long-term (20-40 years). Active 1976 - 1985.

NOTICE OF FUNDING AVAILABILITY (NOFA). A notice by a federal agency, including HUD, used to inform potential applicants that program funding is available.

OFFICE OF AFFORDABLE HOUSING PRESERVATION. Formerly the Office of Multifamily Housing Assistance Restructuring (OMHAR), HUD established this office to oversee the continuation of the Mark to Market program and provide assistance in the oversight and preservation of a wide spectrum of affordable housing programs.

OFFICE OF RURAL HOUSING PRESERVATION (ORHP). Processes applications to prepay RHS multifamily housing loans and preserve housing as affordable low and very low income housing.

Glossary

OFFICE OF THRIFT SUPERVISION (OTS). An agency of the Treasury Department created by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). The OTS replaced the disbanded Federal Home Loan Bank Board and assumed regulatory responsibility for the nation's saving and loan industry.

OUTLAYS. Payments made (usually through the issuance of checks or disbursement of cash) to liquidate obligations. Outlays during a fiscal year may be for payment of obligations incurred in the previous year or in the same year.

PARTICIPATING JURISDICTION (PJ). A HUD-recognized entity that is an eligible recipient of HOME funding.

PAY-AS-YOU-GO or PAYGO. A requirement that Congress offset the costs of tax cuts or increases in entitlement spending with increased revenue or savings elsewhere in the budget.

PAYMENT STANDARD. The amount used to determine how much rent a housing authority will pay monthly to subsidize a housing choice voucher holder, expressed as a percentage of the Fair Market Rent. The payment standard must be at least 80% of the FMR.

PERFORMANCE FUNDING SYSTEM. Developed by HUD to analyze costs of operating public housing developments, used as the basis for calculating the need for operating subsidies.

PERMANENT SUPPORTIVE HOUSING. Decent, safe and affordable permanent community-based housing targeted to vulnerable very low income households with serious and long term disabilities that is linked with an array of voluntary and flexible services to support successful tenancies.

PREPAYMENT PENALTY. A fee that may be levied for repayment of a loan before it falls due.

PRESERVATION. A program (enacted in 1987 with the Emergency Low Income Housing Preservation Act (ELIPHA) and later amended into the Low Income Housing Preservation and Resident Homeownership Act (LIHPRHA)) that (a) prevented owners of what are called older assisted properties from prepaying their mortgages and converting the buildings to market rate use, and (b) compensated them with financial incentives available through extension or continuation of ownership, or sale to a nonprofit buyer. While neither ELIPHA nor LIHPRHA are currently in effect, their preemption provisions may threaten state and local laws regulating the preservation of federally assisted housing.

PRIMARY MARKET. A market where financial instruments, such as loans, are created. When a homeowner gets a loan from a bank they are acting in the primary market.

PROJECT-BASED VOUCHERS. A component of a public housing agencies (PHAs) housing choice voucher program. A PHA can attach up to 20 percent of its voucher assistance to specific housing units if the owner agrees to either rehabilitate or construct the units, or the owner agrees to set-aside a portion of the units in an existing development for lower income families. Rehabilitated units must require at least \$1,000 of rehabilitation per unit to be subsidized, and all units must meet HUD housing quality standards.

REAL ESTATE ASSESSMENT CENTER (REAC). The office within HUD responsible for tracking, monitoring, and enforcing the regulatory agreements of multifamily housing projects with FHA insurance or project-based assistance, including regular property inspections.

REAL ESTATE INVESTMENT TRUST (REIT). A business trust or corporation that combines the capital of many investors to acquire or finance real estate, which may include assisted housing. Cash flow generated by the properties is distributed to investors in the form of stock dividends. The REIT can also provide an attractive tax deferral mechanism by enabling investors to exchange their partnership shares for interests in the REIT, a nontaxable transfer.

REAL ESTATE SETTLEMENT PROCEDURES ACT (RESPA). A statute that prohibits kickbacks and referral fees that unnecessarily increase the costs of certain settlement services in connection with real estate transactions and provides for disclosures in connection with such transactions. HUD enforces RESPA.

RECONCILIATION BILL. A bill containing changes in law recommended by House or Senate committees pursuant to reconciliation instructions in a budget resolution.

RENT SUPPLEMENT. An older HUD project-based rental subsidy program used for some 221(d)3 and 236 properties. The subsidy contract is coterminous with the mortgage. Most rent supplement contracts in HUD-insured projects were converted to Section 8 in the 1970s.

RESIDUAL RECEIPTS. Cash accounts maintained under joint control of the owner and HUD (or Housing Finance Agency) into which is deposited all surplus cash generated over and above the allowable limited dividend or profit. The disposition of residual receipts at the end of the Section 8 contract and/or mortgage is governed by the Regulatory Agreement.

RIGHT OF FIRST REFUSAL. The right of first refusal means the right to match the terms and conditions of a third-party offer to purchase a property, within a specified time period.

RURAL DEVELOPMENT (RD). Part of the U.S. Department of Agriculture, RD administers grant and loan programs to promote and support housing and essential community facilities development in rural communities.

RURAL HOUSING SERVICE (RHS). A part of the Department of Agriculture's Rural Development division, RHS is responsible for administering a number of rural housing programs.

RURAL. As used in this guide, areas that are not urbanized. The Census Bureau defines an urbanized area as "an incorporated place and adjacent densely settled (1.6 or more people per acre) surrounding area that together have a minimum population of 50,000."

SAVINGS AND LOAN ASSOCIATION (S&L). A depository financial institution, federally or state chartered, that obtains the bulk of its deposits from consumers and holds the majority of its assets as home mortgage loans. In 1989, responding to a massive wave of insolvencies caused by mismanagement, corruption, and economic factors, Congress passed a savings and loan "bailout bill" that revamped the regulatory structure of the industry under a newly created agency, the Office of Thrift Supervision.

SAVINGS BANK. A depository financial institution that primarily accepts consumer deposits and makes home mortgage loans. Historically, savings banks were of the mutual (depositor-owned) form and chartered in only 16 states; the majority of savings banks were located in the New England states, New York, and New Jersey.

SECONDARY MARKET. The term secondary market refers to the market in which loans and other financial instruments are bought and sold. Freddie Mac and Fannie Mae, for example, operate in the secondary market because they do not deal directly with the borrower but instead purchase loans from lenders.

Glossary

SECTION 202. A HUD program created in 1959 to provide direct government loans or grants to non-profits to develop housing for the elderly and handicapped. Currently, the program provides capital grants and project rental assistance contracts.

SECTION 221(d)(3) BELOW MARKET INTEREST RATES (BMIR). A HUD program under which the federal government provided direct loans at a below market interest rate (3 percent) and FHA mortgage insurance to private developers of low and moderate income housing. Active 1963 - 1970.

SECTION 236. A program under which HUD provided interest subsidies (known as Interest Reduction Payments or IRP subsidies) and mortgage insurance to private developers of low and moderate income housing. The interest subsidy effectively reduced the interest rate on the loan to one percent. Active 1968 - 1975.

SECTION 514 LOANS AND SECTION 516 GRANTS. Administered by RHS and may be used to buy, build, improve or repair housing for farm laborers. Authorized by the Housing Act of 1949.

SECTION 515 RURAL RENTAL HOUSING PROGRAM. Provides funds for loans made by RHS to nonprofit, for profit, cooperatives, and public entities for the construction of rental or cooperative housing in rural areas for families, elderly persons, persons with disabilities, or for congregate living facilities. Authorized by the Housing Act of 1949.

SECTION 533 HOUSING PRESERVATION GRANT PROGRAM (HPG). This program, administered by RHS, provides grants to promote preservation of Section 515 properties. Authorized by the Housing Act of 1949.

SECTION 538 RENTAL HOUSING LOAN GUARANTEES. RHS may guarantee loans made by private lenders for the development of affordable rural rental housing. This program serves a higher income population than that served by the Section 515 program. Authorized the Housing Act of 1949.

SECTION 8 PROJECT-BASED CONTRACTS or PROJECT-BASED SECTION 8. Administered by HUD's Office of Multifamily Housing, Section 8 Project-Based Assistance takes the form of a contract between HUD and building owners, who agree to provide housing to eligible tenants in exchange for long-term subsidies. Project-Based Assistance limits tenant contributions to 30 percent of the household's adjusted income. Assistance may be provided to some or all of the units in a project occupied by eligible tenants and is attached to the unit and stays with the housing after the tenant leaves.

SECTION 8 PROJECT-BASED VOUCHERS. Uses housing choice vouchers to provide place-based assistance to a project by allowing local housing authorities to contract with property owners to place a limited number of vouchers in a project. These vouchers remain with the project even if the assisted tenant moves. The effect is similar to the project-based section 8 program in that the place-based funding helps preserve the affordability of the units. One difference between the two programs is the mobility feature of the project-based voucher program which allows a tenant to move with continued assistance in the form of a housing choice vouchers. This program is administered by HUD's Office of Public and Indian Housing and local housing authorities.

SECTION 8 VOUCHERS. Administered by HUD's Office of Public and Indian Housing and local housing authorities, housing choice vouchers are allocated to individual households and provide a rental subsidy, generally limiting the tenant contribution to rent to 30 percent of the household's adjusted income. Local housing authorities can attach a limited number of their housing choice vouchers to individual units, thereby 'project-basing' them. See Section 8 project-based vouchers.

SECTION 811. The program provides funds to nonprofit organizations to develop rental housing, with supportive services, for very low income adults with disabilities and provides rent subsidies for the projects to help make them affordable.

SEVERE HOUSING PROBLEMS. As used by HUD in defining priorities, severe housing problems are homelessness, displacement, housing cost burden above 50% of income, and occupancy of housing with serious physical problems. Data on severe housing problems drawn from the American Housing Survey measures only cost burden and physical problems.

SINGLE-FAMILY. A single-family property is a residential property with fewer than 5 units.

STAFFORD DISASTER RELIEF AND EMERGENCY ASSISTANCE ACT (STAFFORD ACT, P.L. 100-707). Provides a systemic means of providing federal natural disaster assistance to state and local governments. The act establishes the Presidential declaration process for major emergencies, provides for the implementation of disaster assistance, and sets forth the various disaster assistance programs.

STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT. Enacted in July 1987, the McKinney Act, P.L. 100-77 established distinct assistance programs for the growing numbers of homeless persons. Recognizing the variety of causes of homelessness, the original McKinney Act authorized 20 programs offering a multitude of services, including emergency food and shelter, transitional and permanent housing, education, job training, mental health care, primary health care services, substance abuse treatment, and veterans' assistance services. The Act was renamed to the McKinney-Vento Homeless Assistance Act, in 2000 to reflect the late Representative Bruce Vento's (D-MN) work to improve housing for the poor and homeless. The Act was revised in 20002 and again in 2009. See Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act of 2009.

TAX CREDIT. A provision of the tax code that specifies an amount by which a taxpayer's taxes will be reduced in return for some behavior.

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF). Provides block grants to states administered under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, which established a new welfare system. The TANF block grant replaced Aid to Families with Dependent Children (AFDC). The chief feature of TANF was the abolition of a federal entitlement to cash assistance.

THRIFT. See SAVINGS AND LOAN ASSOCIATION (S&L).

VERY LOW INCOME (VLI). A household where the household income is at or below 50% of area median, as defined by HUD.

VOUCHER. A government payment to, or on behalf of, a household, to be used solely to pay a portion of the household's housing costs in the private market. Vouchers are considered tenant-based assistance because they are not typically connected to a particular property or unit (although they may be 'project-based' in some cases) but are issued to a tenant.

WORST CASE HOUSING PROBLEMS. Unsubsidized very low income renter households with severe housing problems. HUD is required to submit a periodic report to Congress on worst case housing problems.

Advocates' Guide Authors

Steven R. Berg

Steve Berg is Vice President for Programs and Policy at the National Alliance to End Homelessness, where he works to end homelessness by promoting effective public policies and local practices regarding housing, employment, and human services. He oversees most of the programmatic work of the Alliance. He came to the Alliance from the Center on Budget and Policy Priorities, where he worked on state-level welfare reform and employment. Before coming to Washington, Steve spent 14 years as a legal services attorney in California and Connecticut, working on housing, government benefits, employment and family integrity issues. His experience includes nonprofit management and staff training and development.

Nancy Bernstine

Nancy Bernstine has served as executive director of the National AIDS Housing Coalition (NAHC) since 2003. NAHC is a national housing advocacy and policy organization which focuses on the housing and housing-related support service needs of people with HIV/AIDS. Previously, she was a member of a Washington, D.C. law firm providing legislative and administrative representation for nonprofit housing organizations and housing industry trade associations. She has worked in senior policy positions in U.S. nonprofit housing organizations including the National Housing Law Project and the McAuley Institute. Nancy is a trustee of the National Housing Conference and is a member of the District of Columbia Bar and the American Bar Association Affordable Housing Forum.

Cathy Bishop

Catherine has been a member of the NHLP staff for over 32 years, and is a recognized expert in the field of federal housing law. She has built long-standing relationships with housing, legal and policy advocates nationwide. Her work has been instrumental in increasing housing authorities' responsiveness and effective service to special needs populations including people with disabilities, the re-entry population, and survivors of domestic violence and sexual assault. Catherine led NHLP's 2009-2010 Resident Engagement Initiative, which culminated in landmark face-to-face policy dialogues between HUD Secretary Shaun Donovan and a pool of 100 residents from HUD's major housing programs to discuss plans for the preservation and improvement of public housing, which became the Rental Assistance Demonstration program. She also led an offshoot of that successful effort under NHLP's Resident Training Academy, a national webinar training school intended to empower federally assisted residents to assume leadership roles and to participate in local and federal policy opportunities. Catherine also leads NHLP's work in advancing HUD Section 3 jobs and economic opportunities and Public Housing and Voucher Initiatives.

Megan Bolton

Megan was promoted to Research Director in June 2012; she first joined the National Low Income Housing Coalition as Research Analyst in June 2009. Prior to joining NLIHC as a full-time employee, she earned a master's degree in public policy from the George Washington University while working as a research intern at NLIHC and then as an intern with the Local Initiatives Support Corporation (LISC), where she worked for the Housing Authority Resource Center, a national program run by LISC. Before moving to D.C. to pursue her master's degree, Megan spent almost five years working as the Portfolio Analyst at the Low Income Investment Fund in San Francisco. Megan has a B.A. in anthropology from Penn State University.

Elina Braave

Elina joined the NLIHC staff in September 2010. Prior to joining NLIHC, Elina worked on affordable housing policy for the U.S. Green Building Council and undertook a housing market study for the

Washington, D.C. Office of Planning. She completed her undergraduate studies in sociology and politics at Brandeis University and earned a master's degree in city and regional planning from the University of North Carolina–Chapel Hill.

Mary Brooks

Mary E. Brooks has worked as a low income housing advocate for more than 30 years. The majority of her work has involved policy advocacy advancing affordable housing, land use and zoning, community development, and civil rights issues. She holds a Master's Degree in City and Regional Planning from Ohio State University, where she received the College of Engineering Distinguished Alumna Award. She was awarded the Community Housing Leadership Award by the National Low Income Housing Coalition in 2004. Currently, she directs the Housing Trust Fund Project of the Center for Community Change. Mary also serves as a member of the National Low Income Housing Coalition Board of Directors.

Corey Carlisle

Corey Carlisle is the Director of Federal Policy and Government Affairs of the Low Income Investment Fund (LIIF). LIIF's mission is to alleviate poverty by providing capital for housing, childcare, educational facilities, transit-oriented development, healthy foods, and other projects that create healthy families and communities. In this role, he manages LIIF's public policy and advocacy efforts on legislation and programs in these areas that affect low income communities and the community capital industry. Mr. Carlisle is a member of the National Low Income Housing Coalition's Policy Advisory Committee, serves on the advisory boards of the National Housing Conference, the Opportunity Finance Network, and chairs the Charter School Lenders Coalition. Prior to joining LIIF, he was the Associate Vice President of Governmental Affairs at the Mortgage Bankers Association. Mr. Carlisle began his career as the legislative assistant to former U.S. Senator Kent Conrad (D-ND) and went on to work for several large financial institutions and banks including Freddie Mac and Bank of America. Mr. Carlisle holds a Master of Science degree in Political Economy from the London School of Economics and Political Science and a B.A. in Economics and Political Science from the University of Minnesota

Judith Chavis

Judith P. Chavis is the Executive Vice President for Public Policy & Special Projects for the American Association of Service Coordinators (AASC) and has more than 25 years of association, public policy, social services and community assistance experience. Prior to working at AASC, Judy was the Assistant Executive Director of the Ohio Job and Family Services Directors' Association, where she provided training, legislation development, technical assistance and policy advocacy on public assistance programs (e.g., TANF, subsidized child care, Food Stamps/SNAP, Medicaid, etc.) and issues affecting low income families, workforce development programs, adult protective services, child support enforcement and child protective services. Judy has a Master's degree in Public Administration from Ohio University and a B.A. in Political Science/Sociology from The Ohio State University.

Amy Clark

Amy Clark is the Communications Director at the National Low Income Housing Coalition. Amy has been with NLIHC since January 2011. Prior to joining the Coalition, Amy was deputy director and communications director at the Washington Low Income Housing Alliance, an NLIHC state partner, and communications director at a Seattle-based health care reform coalition. She began her career as a speechwriter to the consul general of the Republic of Korea in Seattle. Amy received her bachelor's degree in international affairs from the George Washington University and her master's degree in public administration from the University of Washington.

Advocates' Guide Authors

Linda Couch

Linda Couch is the Senior Vice President for Policy and Research at the National Low Income Housing Coalition. Linda oversees NLIHC's policy and research teams and focuses her work on public and assisted housing, budget and appropriations, the National Housing Trust Fund, and other issues. Linda has been with NLIHC in various roles since 1995, except for three years working on very low income housing issues for the American Association of Homes and Services for the Aging, now LeadingAge. Linda has a background in state governmental affairs, working for a private consulting firm and as a fellow in the Connecticut General Assembly's Office of Legislative Research. Linda has a Master of Public Affairs from the University of Connecticut and a B.A. in philosophy from George Washington University. Linda lives in Mount Rainier, Maryland with her husband and two young children.

Sheila Crowley

Sheila Crowley is the President and CEO of the National Low Income Housing Coalition. She joined the staff of NLIHC in December 1998, after two decades in Richmond, VA, in organizational leadership, direct service, policy advocacy, and scholarship. She is a social worker with a bachelor's (1976), master's (1978), and Ph.D. (1998) from the School of Social Work at Virginia Commonwealth University. She is an adjunct faculty member for the VCU School of Social Work and for George Mason University Department of Social Work, teaching social policy, social justice, policy advocacy, and community and organizational practice. She was the 1996-1997 Social Work Congressional Fellow, where she served on the Democratic staff of the Housing Subcommittee of the United States Senate Banking Committee. From 1984-1992, she was the Executive Director of The Daily Planet, a multipurpose homeless service and advocacy organization in Richmond.

Lance George

Lance George is the Director of Research and Information at the Housing Assistance Council (HAC). Prior to becoming the HAC's Research Director, Lance served as the organization's Senior Research Associate for 10 years. Before HAC, Lance worked for Frontier Housing, Inc., a nonprofit organization that builds affordable homes for low income families in Appalachian Eastern Kentucky. Lance's research and policy analysis at HAC encompasses a wide array of issues and topics related to rural housing, including manufactured housing, poverty and high need rural areas, rural definitions and classifications, mortgage access and finance, and general demography, mapping, and data analysis of rural people and their housing conditions.

Ed Gramlich

Ed Gramlich has been at NLIHC since October 2005. Currently he is the Director of Regulatory Affairs. Prior to joining the staff of the Coalition, Mr. Gramlich worked for 26 years at the Center for Community Change (CCC) where his primary function was to provide technical assistance about CDBG to low income community-based groups. While at CCC, Mr. Gramlich also devoted considerable time to providing technical assistance to groups about the CHAS and ConPlan processes.

Doug Hall

Doug Hall became Director of EPI's Economic Analysis and Research Network (EARN) in July 2009, after being an active member of EARN for ten years. Hall previously served as director of operations and research for the Connecticut EARN partner, Connecticut Voices for Children, where he played a leading role in work related to family economic security and state tax and budget issues. He has most recently authored research on the potential impact of increasing the federal minimum wage, and is the co-author of a report that documents the "pulling apart" of family income within each state. Hall holds a Ph.D. from Queen's University in Ontario.

Nancy Libson

Nancy Libson is the Associate Director for Housing Strategy at Leading Age. Her career in affordable housing has spanned more than 40 years in affordable housing development, policy development, advocacy, and technical assistance. Her experience includes eight years as staff and staff director of the Housing Subcommittee of the House Financial Services Committee, the Office of Legislation at HUD, the Appalachian Regional Commission, the D.C. Public Housing Authority, the National Center for Housing Management, Hessel, Aluise, and Neun, and an affordable housing developer.

Patrick Maier

Patrick Maier is the Executive Director of the Innovative Housing Institute (IHI), a nonprofit consulting organization that is a nationally recognized leader in the field of inclusionary housing. The Institute provides research, consultation, and information on the best practices to local and state governments faced with housing affordability challenges. IHI is currently preparing the Regional Housing Plan for the Baltimore Region's Opportunity Collaborative, a federal Sustainable Communities Initiative Grantee. Under Mr. Maier's direction, IHI is the lead partner of the National Inclusionary Housing Conference, which serves to provide the educational and inspirational leadership of the Inclusionary Housing Movement.

Jane Malone

Jane Malone joined the National Center for Healthy Housing as Policy Director in 2010 after working for the Alliance for Healthy Homes for 12 years. Her current work focuses on advancing commitments to healthy homes by Congress and federal agencies, supporting local partners' policy change work, and improving model housing codes and standards. Prior to focusing on indoor environmental health concerns, she led efforts in Philadelphia to eliminate homelessness and improve public education. She attended the University of Pennsylvania.

Shambhavi Manglik

Sham received a Master of Public Policy and Management from Carnegie Mellon University and joined the staff of NLIHC in May 2011. In her second year of graduate school, Sham worked at the Homelessness Research Institute, the research and education arm of the National Alliance to End Homelessness. Prior to her graduate studies, Sham worked as a legislative assistant to Congresswoman Lucille Roybal-Allard (D-CA), where she advised the congresswoman on HUD appropriations and other housing issues. Sham has a B.A. in politics from the University of California, Santa Cruz.

Sharon McDonald

Sharon McDonald is the Director for Families and Youth at the National Alliance to End Homelessness, where her primary focus is on policy and program strategies to prevent and end family and youth homelessness. Before joining the Alliance in 2001, Sharon was a direct practitioner in a Richmond, Virginia community-based service center for people experiencing homelessness. She has experience providing and supervising the delivery of social work services to families in a service-enriched subsidized housing development for low income families. Sharon was the 1999 National Association of Social Workers/Council on Social Work Education Congressional Fellow and served in Senator Paul D. Wellstone's office, where she focused on welfare and housing issues. Sharon holds an M.S.W and a Ph.D. in Social Work and Social Policy from Virginia Commonwealth University.

Monica McLaughlin

As a life-long activist in the women's movement, Monica began her career as a domestic violence advocate in Montana, Chicago and England. Her work with survivors afforded her a unique perspective on the issues that impact women's lives and increased her desire to advocate for survivors at a macro

Advocates' Guide Authors

level. While completing her Master of Communication Studies, she was the Public Relations and Advocacy Coordinator for a women's substance abuse treatment program, where she coordinated the agency's first legislative call-to-action campaign and initiated a speaker's bureau of women in recovery. Monica joined NNEDV in 2007 as a Public Policy Specialist and co-chairs national coalitions working to improve federal legislation and increase resources to address and prevent domestic violence.

Todd Nedwick

Todd Nedwick serves the National Housing Trust (NHT) as the Assistant Director for Public Policy. He conducts nationwide research and analysis of successful affordable housing preservation policies and practices, writes policy briefs and memos, and coordinates NHT's communications activities. Recently, Mr. Nedwick has focused on implementing an advocacy strategy to influence the use of housing and energy resources. In particular, he has worked closely with national and state partners to develop and advocate best practices for using the Weatherization Assistance Program to improve the energy efficiency of multifamily housing. He currently directs NHT's engagement with private utilities in eight states in order to increase resources and improve energy efficiency programs for multifamily affordable housing. He also directs NHT's policy advocacy work related to transit-oriented affordable housing and is currently leading a two-year HUD research project to determine how the Low Income Housing Tax Credit program can effectively be used to preserve affordable housing near transit. Mr. Nedwick holds a B.A. in Political Science from American University and a Master of Public Policy with a concentration in Social Policy from the University of Maryland School of Public Policy.

Ann O'Hara

Ann is co-founder and Associate Director of TAC and Director of TAC's Housing Group. Ann is nationally known for her public policy work to expand affordable and permanent supportive housing opportunities for people with disabilities and her expertise in housing and supportive services programs and models for people who are homeless or at risk of homelessness. She has over 30 years' experience in federal, state and local affordable housing and human services policy and is an expert in the use of federal affordable and subsidized housing programs to meet the needs of vulnerable extremely low income populations. Working with the Washington, D.C.-based Consortium for Citizens with Disabilities Housing Task Force, Ann has successfully advocated for national housing policy initiatives and developed legislative proposals leading to the creation of more than 80,000 new subsidized housing opportunities for people with the most significant and long-term disabilities. She has testified on these issues in the United States Congress on many occasions and is the author of numerous articles, monographs and studies related to expanding affordable and permanent supportive housing opportunities for persons with disabilities. Ms. O'Hara led recent successful effort to reform the HUD Section 811 Supportive Housing program through the enactment of the Frank Melville Supportive Housing Investment Act of 2010. Prior to founding TAC in 1992, Ms. O'Hara served as Assistant Secretary for Housing and Director of Rental Assistance for the Commonwealth of Massachusetts.

Jordan Press

Jordan Press has been Federal Policy Director at CSH since October 2007. In this role he is responsible for crafting and representing CSH's policy goals on Capitol Hill and within the Administration, coordinating federal policy advocacy with the organization's staff and its coalition partners and reporting policy updates. Jordan's portfolio includes issues related to all HUD programs, veterans, criminal justice involved persons and tax policy. Prior to CSH, Jordan served as senior legislative assistant to U.S. Congressman Christopher Shays of Connecticut. While working for Mr. Shays, Jordan was an advisor on housing, financial services and foreign affairs issues, and also was responsible for the Congressman's work on the Housing Subcommittee.

Melissa Quirk

Melissa Quirk is the Senior Policy Analyst for the National Low Income Housing Coalition. Ms. Quirk handles NLIHC's budget and appropriations work and supports the organization's policy work on the National Housing Trust Fund and housing tax reform. Prior to joining NLIHC, Ms. Quirk was the Assistant Director of the Emergency Shelter Commission in Mayor's Office in the City of Boston, focusing on homelessness policy and planning. She also worked at Citizens' Housing and Planning Association, NLIHC's Massachusetts state partner, and for NLIHC organizational member TAG Associates, a consulting company providing technical assistance to public housing authorities throughout the country. Ms. Quirk holds a B.A. in Urban Studies from Vassar College in New York and an M.A. in Urban and Environmental Policy and Planning from Tufts University in Massachusetts.

Jeremy Rosen

Jeremy Rosen is the Policy Director for the National Law Center on Homelessness & Poverty. Mr. Rosen previously served as Executive Director of the National Policy and Advocacy Council on Homelessness (NPACH), as Director for Homelessness and Mental Health in the National Office of Volunteers of America, and as a Staff Attorney at Legal Services of Greater Miami. He received his B.A. from the University of Wisconsin-Madison in 1994, and his J.D. from The George Washington University Law School in 1998. Mr. Rosen is an expert on federal, state, and local affordable housing policy, with a focus on homelessness, veterans housing, and housing for children, youth, and families. Mr. Rosen's work also focuses on access to government benefits for low income people, prisoner reentry, and the intersection of affordable housing policy and the education and child welfare systems. He is a frequent speaker on these topics, and has published numerous journal articles and papers.

Jaimie Ross

Jaimie Ross is a public interest lawyer at 1000 Friends of Florida. During her tenure as Affordable Housing Director, Ms. Ross initiated the broad-based coalition that successfully advocated passage of the William E. Sadowski Affordable Housing Act, providing a dedicated revenue source for affordable housing in Florida. She authored *Creating Inclusive Communities in Florida: a Guidebook for Local Elected Officials and Staff on Avoiding and Overcoming the NIMBY Syndrome*. Ms. Ross served on the board of the National Low Income Housing Coalition from 1997-2003. She served as editor of the NIMBY Report during that time and subsequently served on the National Low Income Housing Coalition NIMBY Report Advisory Committee. Nationally, she serves on the Board of the Innovative Housing Institute. She is a former Fannie Mae fellow and is currently the President of the Florida Housing Coalition and founding director of the Florida Community Land Trust Institute.

Kathy Ruffing

Kathy Ruffing is a Senior Fellow at the Center on Budget and Policy Priorities, specializing in federal budget issues. Ruffing spent 25 years at the Congressional Budget Office, where she analyzed a wide range of topics including interest costs and federal debt, federal pay, immigration, and Social Security. Upon her departure, the Congressional Record praised her as a dedicated public servant who worked tirelessly to advance the legislative process and whose analyses displayed the best characteristics of CBO reports: impartiality, clarity, and comprehensiveness. Before joining CBO, Ruffing spent several years at the Department of Labor and the Social Security Administration. More recently, she helped launch a budget study at the National Academy of Sciences. Ruffing earned a B.A. in economics and political science at the University of Pittsburgh, and an M.A. in economics at The George Washington University.

Advocates' Guide Authors

David Sanborn

David Sanborn is the Executive Director of the National American Indian Housing Council (NAIHC). David is responsible for carrying out the Board of Director's policies and initiatives, and to advocate for and support American Indians, Alaska Natives and Native Hawaiians in their self-determined goal to provide culturally relevant and quality affordable housing for native people. David has spent his entire professional career working as an advocate for Indian Country. Previously, he was the Senior Advisor and Liaison for Native American Affairs at the U.S. Department of Defense in the Office of Secretary of Defense. He was responsible for the development and implementation of the department's American Indian, Alaska Native and Native Hawaiian Consultation Policies, and advising the department on issues relating to Native Americans. He also managed the Native American Lands Environmental Mitigation Program, a multi-million dollar program to mitigate environmental impacts on Indian lands resulting from past military activities. He also worked at the Smithsonian National Museum of the American Indian in the Public Programs department planning and designing special projects and initiatives for the Director. These successful projects involved consultation and coordination with tribal leaders in government, academia, policy advocacy and the arts. He served on the planning committee of the Seminars and Symposia Program and was project coordinator for the National Native Languages Archive Repository Project.

Barbara Sard

Barbara Sard rejoined the Center as Vice President for Housing Policy in 2011 after 18 months as Senior Advisor on Rental Assistance to HUD Secretary Shaun Donovan. She previously held the director's position at the Center between 1997 and 2009. She has written extensively on welfare, homelessness and housing issues and is considered a leading expert on the housing voucher program, rental assistance, and issues concerning the intersection of housing and welfare policy. Prior to working at the Center, she was the Senior Managing Attorney of the Housing Unit at Greater Boston Legal Services, where she worked for more than 19 years. Sard has a B.A. in Social Studies from Radcliffe College/Harvard University and a J.D. from the Harvard Law School.

Gina Schaak

Gina Schaak is an Associate in TAC's Housing Group and is TAC's policy liaison. She has over ten years experience helping nonprofit housing and service agencies to navigate through local and federal regulations, in order to access resources for permanent supportive housing for the most vulnerable populations. Gina serves as TAC's national policy researcher and public liaison.

Kristin Siglin

Kristin Siglin is vice president for policy at the Housing Partnership Network, where she helps formulate and present the views of Network members to federal policymakers. Prior to joining the Network, she served as vice president at Enterprise Community Partners, a community development intermediary and syndicator of the Low Income Housing Tax Credit. She had also served as Enterprise's vice president and senior policy advisor, vice president for economic opportunities, and vice president for knowledge sharing. She managed a special project that commissioned and disseminated original research on school-centered community revitalization. Initially, she was vice president for policy and opened Enterprise's Washington advocacy office. From 2001 to 2003, Ms. Siglin was the policy director of the Millennial Housing Commission, a 22-member bipartisan commission charged by Congress with examining the nation's housing policy and making recommendations to improve the affordable housing delivery system. She worked on Capitol Hill for 10 years, including a stint as the minority staff director for the Subcommittee on Consumer and Regulatory Affairs of the Senate Committee on Banking, Housing and Urban Affairs. She also served on the personal staff of Sen. Christopher S. Bond (R-MO) and Rep. Jim Leach (R-IA). Ms. Siglin holds a B.A. in History, Magna Cum Laude from Brown University.

Josh Silver

Josh Silver has 20 years' experience in the housing and community development field. As Vice President of Research and Policy, Mr. Silver develops the National Community Reinvestment Coalition's (NCRC) policy positions, produces various research studies, engages in proposal writing and fundraising, and supervises a staff of research and policy analysts. He has written NCRC testimony submitted to the Senate and House Banking Committees on topics including financial modernization, predatory lending, and the effectiveness of the Community Reinvestment Act (CRA). He has also written several comment letters to federal banking agencies on subjects ranging from the merger application process, the content and accuracy of home and small business data, and fair lending issues. Mr. Silver has testified before Congress, municipal and state legislative bodies and has represented NCRC on television and radio. Prior to NCRC, Mr. Silver worked at the Urban Institute for five years, where he specialized in housing market analysis and program evaluation. Mr. Silver holds a master's degree in public affairs from the Lyndon Johnson School of Public Affairs at the University of Texas in Austin and earned a bachelor's degree in economics from Columbia University in New York City. He lives in Bethesda, Maryland with his wife and daughter.

Lisa Sloane

Lisa Sloane is a Senior Associate at the Technical Assistance Collaborative (TAC). For over 20 years, Lisa has worked with federal, state and local governments, as well as nonprofit agencies, to address the supportive housing needs of people with disabilities. She has also worked with the States of Pennsylvania and Louisiana to develop and implement Permanent Supportive Housing programs

Jorge Andres Soto

Jorge Andres Soto is a Public Policy Associate with the National Fair Housing Alliance (NFHA). Jorge represents the interests of NFHA and its member organizations before Congress and federal regulatory agencies and coordinates efforts with advocacy and industry groups on civil rights matters concerning housing and housing finance. Prior to NFHA, Jorge was at Relman, Dane & Colfax PLLC where he worked as a civil rights paralegal on the development and litigation of several housing, lending, and public accommodations cases involving discrimination, as well as on public policy matters concerning employment and contracting diversity in federal financial regulatory agencies. Jorge also previously worked as a social justice intern organizer at Service Employees International Union (SEIU) in Houston, TX and as a community organizer with CRECEN/American Para Todos, also in Houston. Jorge earned his B.A. in History and American Studies from Wesleyan University.

Leslie Strauss

Leslie R. Strauss is Senior Housing Analyst at the Housing Assistance Council. She began working at HAC in 1991 as Research and Information Director and has also served as HAC's Communications Director. Currently she is responsible for a variety of policy and information activities, including much of HAC's work on rental housing preservation. She has a law degree and practiced real estate law for several years before joining HAC. She serves on the board of the National Rural Housing Coalition.

Norm Suchar

Norm Suchar joined the staff of the National Alliance to End Homelessness in 2002. He directs the Alliance's Capacity Building Center, which helps communities implement system-wide strategies that prevent and end homelessness. He assists communities with implementation of the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act and the Homelessness Prevention and Rapid Re-Housing Program (HPRP). His prior experience includes work on federal policy for the Alliance related to housing and homelessness programs, three years in the Budget Office at the U.S. Department of Housing and Urban Development, where he focused on homelessness and community development programs, and two years working in child welfare for the State of Utah.

Advocates' Guide Authors

Eric Tars

Eric Tars currently serves as the Director of Human Rights and Children's Rights Programs with the National Law Center on Homelessness & Poverty. Before coming to the Law Center, Mr. Tars was a Fellow with Global Rights' U.S. Racial Discrimination Program, and consulted with Columbia University Law School's Human Rights Institute and the U.S. Human Rights Network. Mr. Tars currently serves as the Chair of the Training Committee of the U.S. Human Rights Network and on the Steering Committee of the Human Rights at Home Campaign. Mr. Tars received his J.D. as a Global Law Scholar at Georgetown University Law Center, his B.A. in Political Science from Haverford College, and studied international human rights the Institute for European Studies, Vienna, and at the University of Vienna.

John Wancheck

John Wancheck is the Earned Income Credit Campaign Coordinator for the Center on Budget and Policy Priorities, a Washington-based nonprofit organization that conducts research and policy analysis on issues that have an impact on low income Americans. The Center has spearheaded a national public education campaign on low income tax credits each year since 1989 and distributes a widely-used community outreach kit for the Earned Income Tax Credit and Child Tax Credit. John assists local agencies and community groups to organize outreach efforts and to promote free tax filing assistance programs.

Olivia Wein

Olivia Wein is a staff attorney at the National Consumer Law Center (NCLC) focusing on low income energy and utility issues. She is co-author of the fifth edition of NCLC's manual Access to Utility Service and co-author of The Rights of Utility Consumers. She serves on the board of directors of the National Low Income Energy Consortium and co-chairs the LIHEAP Coalition. Ms. Wein served on the Federal Communication Commission's Consumer Advisory Committee. She was an Economic Justice Fellow at Consumers Union prior to her work at NCLC.

Ruth White

Ruth White is one of the nation's leading experts on the nexus between housing policy and child welfare. She is co-founder and Executive Director of the National Center for Housing and Child Welfare and former director of Housing and Homelessness for the Child Welfare League of America (CWLA). Prior to working at CWLA, White managed the front-door family shelter and worked established the shelter diversion and coordinated entry system for the family shelter system in Columbus, OH. White is also a HUD Certified Assisted Housing Manager. White has a Master of Science in Social Administration from Case Western Reserve University and a Bachelor of Science in Social Work from the Ohio State University. She is a doctoral candidate and Furfey Scholar at the National Catholic School of Social Service at Catholic University of America.

Greg Zagorski

Greg Zagorski is a legislative and policy associate at the National Council of State Housing Agencies (NCSHA), focusing on homeownership policy. Prior to joining NCSHA, Greg worked as a Legislative Assistant for Senator Joe Lieberman (I-CT), advising the Senator on housing and other economic issues. He holds a B.A. in political science and history from the University of Connecticut and a master's degree from George Washington University.

2013 *Advocates' Guide* Reader Feedback Form

1) Please indicate how you feel about the following statements.

Strongly Agree Neutral Disagree Strongly Disagree

The *Advocates' Guide* has helped me become a better advocate.

The *Advocates' Guide* gives me information I can't find anywhere else.

The *Advocates' Guide* is written in a way that is clear and easy for me to understand.

The *Advocates' Guide* gives me good ideas of ways to advocate in my own community.

I would recommend the *Advocates' Guide* to others.

2) Please use this space to discuss any of your answers to the previous questions.

3) What would you like to see in the *Advocates' Guide* that is not currently included?

4) Would you like to be contacted about your responses? Please provide your name and contact information if you would like to tell us more about your experience with the *Advocates' Guide*.

*Return completed forms by mail to:
2013 AG Feedback, NLIHC, 727 15th Street NW, 6th Floor, Washington, D.C. 20005.
Or, complete the survey online at <http://www.surveymonkey.com/s/JKDM77H>.*

NATIONAL LOW INCOME HOUSING COALITION

WWW.NLIHC.ORG