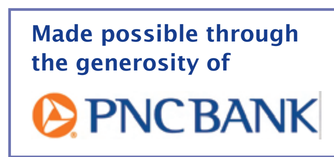
National Low Income Housing Coalition Presents

2009 Advocates' Guide

to Housing & Community Development Policy



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The National Low Income Housing Coalition is dedicated solely to achieving socially just public policy that assures people with the lowest incomes in the United States have affordable and decent homes.

The National Low Income Housing Coalition was established in 1974 by Cushing N. Dolbeare.

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How to Use the Advocates' Guide

The National Low Income Housing Coalition 2009 Advocates' Guide is intended to provide advocates, policymakers, students, and others with information on the most relevant housing and housing-related programs and issues, as well as information related to the community planning process.

Each article provides basic information on a specific program or issue, and its current status. Where appropriate, advocacy alerts are provided to help advocates weigh in on particular topics. The appendices are intended to further assist advocates in making their voices heard.

2009 is a year of rapid change for housing policy in Washington. The beginning of a new Administration and a new Congress (the 111th) means that new bills are being introduced at a quick pace. Additionally, the deepening foreclosure and economic crises mean that many bills important to low income housing advocates are receiving increased attention.

Articles are current as of March 15, 2009. In general, articles have been updated to include the final fiscal year 2009 (FY09) appropriations and President Obama's initial budget request for fiscal year 2010 (FY10, which runs from October 1, 2009 through September 30, 2010). We do not include information on the FY10 Congressional appropriations process, as it has not begun as we go to press.

To stay up to date, members of NLIHC receive weekly updates on housing policy through our newsletter, Memo to Members, as well as through regular Calls to Action. We hope that you will use the membership form at the back of this Guide, or visit www.nlihc.org, to join or renew your NLIHC membership as a way of staying current and active in our fight.

Would you like additional copies of this Guide for conferences or the classroom? Call us at 202-662-1530 to inquire about bulk rates for nonprofit NLIHC members.

The 2009 Advocates' Guide to Housing and Community Development Policy was edited by Kim Schaffer, Communications and Development Director at NLIHC. The Guide was compiled with the help of many of our partner organizations. We are deeply grateful to all of the authors for their assistance; the Guide would not be possible without each of them.

National Low Income Housing Coalition Policy Issues Agenda 2009 – 2010

1. **National Housing Trust Fund.** National Housing Trust Fund (NHTF) legislation was signed into law in July of 2008. Under the rubric of the NHTF policy group, NLIHC will ensure development of strong NHTF regulations, urge enactment of legislation to address remaining issues, and secure additional dedicated funding streams.

2. **2,000,000 New Vouchers.** To support the units added by the National Housing Trust Fund and otherwise assist the lowest income families in accessing affordable housing, NLIHC will lead a campaign to secure 2,000,000 new housing choice vouchers over the next 10 years, through work on the FY09 and FY10 budget resolutions and appropriations bills.

3. **Foreclosure Intervention.** NLIHC will seek statutory protections for renters (including voucher holders) in foreclosure, as well as and housing assistance to protect people in foreclosure from becoming homeless. NLIHC will assure equal treatment of renters in all legislative and administrative measures for homeowners in foreclosure. NLIHC will also monitor the Neighborhood Stabilization Program to ensure its very low income housing component is properly administered, and the Homelessness Prevention Fund to ensure adequate short- and medium-term assistance is available.

4. **Preservation of Public and Assisted Housing.** NLIHC will preserve existing federally subsidized housing, including public and project-based housing, and will enact data collection provisions to aid in preservation efforts. NLIHC will also work for public housing reform legislation that reflects one-for-one replacement of units and the right to return to their housing for residents. NLIHC will also work to preserve and expand resident participation policies and the use of ConPlans for preservation.

5. **Gulf Coast Housing Recovery.** Through its leadership in the Katrina Housing Group, NLIHC will work to enact Gulf Coast Recovery legislation, ensure an adequate National Disaster Housing Strategy, support a Gulf Coast Recovery Advisor in the White House, and work with HUD and FEMA.

6. **Section 8 Voucher Reform.** NLIHC will work to enact a Section 8 voucher reform act bill with emphasis on increasing the authorized level of vouchers in the bill, increasing the percentage of vouchers that can be project-based, ensuring affordability in voucher program, and supporting Fair Market Rent and portability improvements.

7. **Budget and Appropriations.** NLIHC will coordinate the Campaign for Housing and Community Development Funding and will work to secure the best possible funding for housing programs that meet the needs of the lowest income people.

8. **Housing Plus Services.** NLIHC will work with our partners to enact McKinney-Vento reauthorization and reforms of the Section 811 and 202 programs.

9. **Equitable Housing Policy.** NLIHC's policy work for equitable housing policy will include ensuring a new structure of federal housing finance includes low income component. In addition, any climate change and transportation reauthorization bills should take low income consumers and affordable housing developers into account. NLIHC will also work on a new federal definition of poverty.

10. **Transition Project.** NLIHC will work with new executive and legislative branch officials and staff to educate them on NLIHC's mission, policy agenda and resources.

National Housing Trust Fund

By Greg White, Housing Policy Analyst, National Low Income Housing Coalition

Legislation to establish the National Housing Trust Fund (NHTF) was signed into law by President George W. Bush in July of 2008. Once funded, the NHTF will provide communities with funds to build, rehabilitate, and preserve housing for people with the lowest incomes. NHTF is the first new federal housing production program to serve extremely low income families since 1974.

As passed, the NHTF was to receive funding based on a percentage of new business for Freddie Mac and Fannie Mae, which was considered initial funding towards the goal of enough funding to build or preserve 1.5 million rental homes affordable for the lowest income people. With Fannie and Freddie in financial distress and their regulator indefinitely suspending their contributions to the NHTF, other permanent revenue sources are needed. The NHTF Campaign now turns its attention to identifying and securing new revenue sources. President Obama has proposed an initial capitalization of $1 billion for the NHTF in his FY10 budget proposal, all of which could be obligated in FY10.

HUD will administer the NHTF, likely through the Office of Community Planning and Development.

History

The National Housing Trust Fund became law with the passage of H.R. 3221, the Housing Economic Recovery Act of 2008 (HERA). HERA was signed by President Bush on July 30, 2008, and became P.L. 110-289. Among other things, HERA created a new regulatory structure for Fannie Mae, Freddie Mac, and the Federal Home Loan Banks, known as the housing Government Sponsored Enterprises (GSEs) (for more information, see the chapters on Fannie Mae, Freddie Mac, and the Federal Home Loan Banks).

During consideration of H.R. 3221 in the Senate Committee on Banking, Housing, and Urban Affairs, an amendment offered by Senator Jack Reed (D-RI) was adopted that dealt with the affordable housing requirements for the GSEs. The amendment was a revised version of his bill S. 2391, the GSE Mission improvement Act of 2007. Senator Reed agreed to important changes that meant the NHTF campaign could endorse his approach, specifically targeting 75% of the funds for rental housing affordable for extremely low income households and adding language that would permit Congress to “transfer, appropriate, or credit” other funds to the National Housing Trust Fund.
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There were two other bills introduced during the 110th Congress that would have established a National Affordable Housing Trust Fund, H.R. 2895 and S. 2523. While they were not enacted into law, these bills shared the basics tenets of the provisions in H.R. 3221. H.R. 2895 passed the House of Representatives in October of 2007, and laid the groundwork for the overall support of the Housing Trust Fund provision in HERA. H.R. 2895 was sponsored by Representative Barney Frank (D-MA) and S.2523 was sponsored by Senator John Kerry (D-MA). Both bills were endorsed by the NHTF Campaign.

Program Summary

The purpose of the NHTF is to increase and preserve the supply of rental housing for extremely low and very low income families, including homeless families, and to increase homeownership for extremely low and very low income families. The NHTF’s most important features are:

- It is a permanent program with a dedicated source of funding not subject to the annual appropriations process. (Although the initial source of funding has been suspended indefinitely as of December 2008, due to the financial difficulties of Fannie Mae and Freddie Mac.)

- At least 90% of the funds must be used for the production, preservation, rehabilitation, or operation of rental housing. Up to 10% can be used for the following homeownership activities for first-time homebuyers: production,

preservation, and rehabilitation; down payment assistance; closing cost assistance; and assistance for interest rate buy-downs.

- At least 75% of the funds for rental housing must benefit extremely low income households and all funds must benefit very low income households.

For the purposes of federal civil rights laws, the NHTF is considered federal financial assistance. All activities carried out must comply with federal laws on tenant protection and tenant participation, laws requiring public participation, and fair housing and laws related to accessibility for people with disabilities.

HUD will provide NHTF grants to states, which will designate a state housing finance agency, housing and community development entity, a tribal designated housing entity, or any other qualified agency to receive the grants.

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

Prohibited uses of NHTF grants are political activities, lobbying, counseling, traveling and administrative expenses, or endorsements of a particular candidate or party. Recipients must conduct and submit periodic financial and project reports, and conform to audit and record retention requirements.

The statute directs HUD to establish a distribution formula to the states by July 30, 2009. The factors that HUD must use in determining the formula are prescribed in detail in the bill and are based on need for affordable rental housing for extremely low and very low income households. The statute also directs HUD to develop regulations for the program.

The version of the NHTF that was enacted does not have the level of detail about how to operate the program that was in H.R.2895 and S. 2523. The NHTF campaign has submitted a letter to HUD requesting that the regulations include a range of provisions that were in the other bills and that reflect the provisions of the NHTF campaign policy proposal. HUD staff report that regulations have been drafted and are under review as of publication of the *2009 Advocates' Guide*.

Funding

As laid out in P.L. 110-289, funds for the NHTF will come from annual contributions made by Fannie Mae and Freddie Mac. Given the recent instability of Fannie Mae and Freddie Mac, concerns have been raised about whether any funds will be available for new programs. The new regulator of the entities has the authority to suspend contributions under certain circumstances related to the fiscal distress of the GSEs, and did so in December 2008.

Assuming that the GSEs will become more financially sound in the future and their contributions are reinstated, funding will be based on a percentage of each company's annual new business. Using the formula in the bill, the amount in 2007 would have been $557 million. Because their new business is increasing, the amount projected in future years is expected to be higher. However, 25% of the funds each year must first go to a reserve fund at the Treasury.

The remaining 75% of the funds will be divided between the Housing Trust Fund, which gets 65%, and a new Capital Magnet Fund that gets 35%. For the first three years, a percentage of the funds (100% in FY09, 50% in FY10, and 25% in FY11) will be diverted to a reserve fund to cover losses that the FHA might incur refinancing troubled mortgages through HUD's HOPE for Homeowners program. Based on the projected amount the formula will produce in calendar year 2008, approximately $300 million would have been available for the NHTF in 2009 had it been in place with no diversions for the HOPE for Homeowners reserve fund. Funds not needed to cover FHA losses eventually will revert to the NHTF and the Capital Magnet Fund.

In his proposed budget for FY10, President Obama has suggested an initial capitalization of $1 billion for the NHTF. The entire amount may be spent in FY10. The source of funding is not yet public, but will be released when more details of his budget are announced in May 2009. It is on the mandatory side of the budget.

The Congress must pass a budget resolution, which sets the funding limits and overall framework for the FY10 federal budget. Both the House and Senate passed their respective resolutions prior to adjourning for the April recess. Both resolutions contain language to allow for funding on the NHTF, which is expected to remain in the final budget resolution.

The NHTF Campaign is working with Congress to identify any and all possible revenue streams for the NHTF.

What Advocates Need to Know Now

More than 5,600 national, state and local organizations, religious leaders and state and local elected officials from around the country have endorsed the NHTF Campaign. The endorsers' active and eager participation in the field, communications and policy advocacy efforts are essential components of the campaign's success and will continue to propel the campaign forward until more sources of funding are established and the program is fully implemented.

Now that it has achieved this important and long-sought milestone, the NHTF campaign will turn its attention to the next two steps towards achieving its goal of 1.5 million homes in 10 years. The first is implementation of the program—working with HUD to create an effective and timely fund distribution system.

Advocates should be contacting their governors to express their opinions about which state agency should administer the NHTF in their states. Advocates also should familiarize themselves with the planning processes that will be required by states for distribution of the NHTF funding when the regulations come out and be prepared to influence and monitor their state plans to assure that funds are spent primarily to expand the supply of rental housing affordable for extremely low income people.

The second is more funding. Advocates must work to convince Congress to add other dedicated sources of revenue for the NHTF. In addition, the Campaign will seek additional Housing Choice Vouchers to support NHTF units.

The latest news on the National Housing Trust Fund can be found at www.nhtf.org.

For More Information

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

National Housing Trust Fund Campaign · 202-662-1530 · www.nhtf.org

Capital Magnet Fund

By Greg White, Housing Policy Analyst, National Low Income Housing Coalition

The Capital Magnet Fund (CMF) was established in the Housing Economic Recovery Act (HERA) of 2008. The CMF will be an account within the Community Development Financial Institutions (CDFI) Fund at the Department of Treasury. The initial funding source was a percentage of new business for Fannie Mae and Freddie Mac; however, in December 2008, the regulator for Freddie and Fannie announced that he was suspending their contributions indefinitely.

The CMF will be administered by the CDFI Fund located within the Treasury Department.

History

Senator Jack Reed (D-RI) initially created the CMF as a provision in stand-alone legislation he introduced in 2007, S. 2391, the GSE Mission improvement Act of 2007. That bill was the basis for the affordable housing provisions in HERA.

Program Summary

The CMF was established to carry out a competitive grant program to attract private capital for and increase investment in: the development, preservation, rehabilitation, or the purchasing of affordable housing for low income families. The CMF also promotes 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. Furthermore, the CMF may also be used to provide loan loss reserves, to capitalize a revolving loan fund or an affordable housing fund, or for risk-sharing loans.

Eligible recipients are Treasury-certified Community Development Financial Institutions or non-profits that have as at least one of their purposes the development or management of affordable housing.

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.

The criteria for determining which areas should be served are:

- the percentage of low income families or the extent of poverty
- the rate of unemployment or underemployment
- the extent of blight and disinvestment
- projects targeting extremely low, very low , and low income families in an area of economic distress
- any other criteria chosen by the Secretary

No institution can be awarded more than 15% of all Capital Magnet funds available for grants in that year, and those receiving grants must spend the funds within two years from the date of receiving them.

Prohibited uses are political activities, advocacy, lobbying, counseling services, travel expenses, and endorsements of a particular candidate or party.

Each grantee must track its funds by issuing periodic financial and project reporting, and audit requirements. If the Treasury Secretary is not satisfied with the compliance, the grantee may receive fewer funds, have to pay the Treasury back, or have their grant terminated.

The Secretary 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

Under HERA, the CMF will be funded with a percentage of new business generated by Fannie Mae and Freddie Mac. However, that funding source may be in jeopardy, as these two entities were taken into conservatorship by the federal government in September 2008. The federal regulator of Fannie Mae and Freddie Mac suspended their contributions in December 2008 based on the financial condition of the companies.

If Freddie and Fannie stabilize and the regulator again allows contributions, 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 National Housing Trust Fund (NHTF), which takes the other 65%. For the first three years, a percentage of the funds (100% in FY09, 50% in FY10, and 25% in FY11) are first directed to offset FHA losses in HUD's Hope for Homeowners program. Funds not needed to cover FHA losses eventually will revert to the NHTF and the CMF. According to estimates by the Congressional Budget Office in June 2008, the CMF would receive approximately $226 million per year from FY10-18. If authorized by Congress, the CMF is able to collect funding from other dedicated revenue sources.

What Advocates Need to Know Now

The Treasury Department is seeking public comment on the CMF until May 5, 2009. The statute provides significant latitude in eligible uses. The National Low Income Housing Coalition and the members of the National Housing Trust Fund Campaign will submit comments urging more targeted use of the funds for rental homes that are affordable for extremely low income families.

To review the request for public comment, go to http://www.cdfifund.gov/docs/cmf/Federal%20Register%20Notice%20Vol%2074%20No%2043.pdf

For More Information

Corporation for Enterprise Development (CFED) · 202-408-9788 · www.cfed.org

Opportunity Finance Network · 215-923-4754 · www.opportunityfinance.net/

Community Development Block Grant Program

By Ed Gramlich, Director of Outreach, 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.

The CDBG program is administered by HUD's Office of Community Planning and Development (CPD).

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 give communities more flexibility in how they spent 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 for persons with low and moderate incomes. The emphasis on people with low incomes is reinforced by the formulas that determine how much money each entitlement jurisdiction and state receives. 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 more than 50,000 in population and counties with more than 200,000. These are called entitlement jurisdictions. The remaining 30% goes to states for distribution to their small towns and rural counties.

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. For instance, in Cincinnati 80% of AMI was $52,950 in 2008. AMI in some jurisdictions is so high (the AMI in the Lowell, MA, metro area was $84,800 in 2008) that HUD caps the qualifying household income at the national median income, which was $61,500 for a four-person household in 2008.

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. In recent years, about 25% of CDBG funds have been used for some type of housing program, which is a decline from 35% in previous 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 its service area. If 51% of the residents in the activity's service area are people with lower income, 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 income.

(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: 1) limit participation to people with lower

income; 2) show that at least 51% of the beneficiaries are lower income; or 3) 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 income.

(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 income. Those with lower income must receive first consideration for the jobs.

Eligible Activities. CDBG funds can be used for a wide array of activities, including: housing rehabilitation (such as loans and grants to homeowners, landlords, nonprofits and developers); new housing construction by certain neighborhood-based nonprofits; downpayment assistance and other help for first-time home buyers; lead-based paint detection and removal; 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 and/or are disabled; public services such as job training, transportation, healthcare and child care (public services are capped at 15% of a jurisdiction's CDBG funds); capacity-building for nonprofits; rehabilitating commercial or industrial buildings; and loans or grants to businesses.

Public Participation. Every jurisdiction must have a public participation plan that describes how the jurisdiction will provide for and encourage involvement by people with low incomes. Public hearings are required at all stages of the CDBG process. Hearings must give residents a chance to state community needs, review the proposed uses of CDBG funds and comment on the 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 (for more information see the Consolidated Plan chapter) 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.'

Funding

In FY08, CDBG received an appropriation of $3.593 billion, a decrease from FY07's funding of $3.711 billion. For FY09, CDBG formula grants received an appropriation of $3.642 billion. In addition, the American Recovery and Reinvestment Act of 2009 (ARRA) created a one-time stimulus amount of $1 billion, directing states and entitlement jurisdictions to give priority to projects that can be awarded contracts based on bids within 120 days. The President's FY10 budget proposes $4.5 billion, along with recommendations to revise the allocation formula and to create a new Sustainable Communities Initiative.

Tips for Local Success

Because only 70% of CDBG funds have to 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 never 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, 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 your local jurisdiction.

What Advocates Need to Know Now

In the February 26, 2009, release of an overview of his FY10 budget request, President Obama proposed a 25% increase for the CDBG program, up from $3.6 billion to $4.5 billion. In addition, the President will seek changes in the law to 'modernize' CDBG "through a more effective formula, appropriate incentives and accountability measures, and a new Sustainable Communities Initiative…to better target funds to distressed communities and promote sustainable and economically viable communities." White House staff, in a February 26 budget teleconference, said that the proposal will "hold harmless somewhat more affluent communities but create benefits for more vulnerable communities." Details were not available as the Advocates' Guide went to print. NLIHC's long-standing position is that the most effective way to reform the CDBG program is to more deeply target CDBG's resources to very and extremely low income groups.

For More Information

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

HUD's Entitlement Cities Division · 202-708-1577 · www.hud.gov/offices/cpd/communitydevelopment/programs/entitlement/index.cfm

HUD's States and Small Cities Division · 202-708-1322 · www.hud.gov/offices/cpd/communitydevelopment/programs/stateadmin/index.cfm

Community Development Block Grant Program:

Section 108 Loan Guarantee Program

By Ed Gramlich, Director of Outreach, National Low Income Housing Coalition

The Section 108 Loan Guarantee Program is part of the Community Development Block Grant Program (CDBG). The 108 program allows communities to use up to five years of a jurisdiction's CDBG as collateral for a publicly financed loan.

The program is administered by HUD's Office of Community Planning and Development (CPD).

History

Section 108 was enacted as part of the Housing and Community Development Act of 1974. It is codified at 42 U.S.C. §5308 and the governing regulations can be found at 24 C.F.R. 570.700, et seq.

Program Summary

Usually jurisdictions borrow money issuing bonds for big projects such as arenas, parking garages, and downtown malls. The money borrowed is paid back from future taxes generated by the project, or from revenues earned by the project built with the bond financing. CDBG's Section 108 Loan Guarantee program provides an alternative way to finance such projects.

Section 108 attracts private investors because the money they lend is guaranteed by the "full faith and credit of the United States government," meaning HUD pledges to use funds from jurisdiction's future CDBG allocation to pay investors back in full if project resources are insufficient to cover the costs. Consequently, investors are not only willing to make the loans, they are also willing to accept lower interest payments in return – which should translate into lower development costs. Some jurisdictions do not intend to use future taxes or project revenues to pay off the loan; instead, they plan to use CDBG funds directly. This is an eligible use of CDBG. HUD says there has never been a default under Section 108. That is misleading to the average reader; what it means is that investors have never lost any of their money – but low income people have lost.

All the CDBG rules apply. Funds obtained by a jurisdiction using a a Section 108 Loan Guarantee can be used for a broad array of CDBG-eligible development activities and are counted when determining whether 70% of a jurisdiction's CDBG program benefits people with lower incomes. An activity financed with a Section 108 guaranteed loan must meet one of the 'national objectives' (that is, meet one of the four lower income benefit tests, or meet the 'slums and blight' test). Section 108 projects must be presented on a jurisdiction's Annual Action Plan, and must be fully reported in the annual Grantee Performance Report (GPR). However, unlike 'regular' CDBG funding, which automatically comes to cities, urban counties, and states, a jurisdiction must apply to HUD for a Section 108 Loan Guarantee.

Statutory Restrictions. The following restrictions are placed on Section 108:
1) The amount of the loan guaranteed by Section 108 is limited to five times a jurisdiction's annual CDBG allocation (its 'entitlement amount'), minus any outstanding Section 108 commitments or loan balances. For a small town or rural county, the state must agree to use its CDBG as collateral.
2) The repayment period is limited to 20 years.
3) The jurisdiction must 'certify' (pledge) that the jurisdiction has made efforts to finance the project without Section 108, and that the project cannot be completed without it.

Public participation requirements. The law and regulations contain the same relatively strong public participation requirements as the CDBG program. Before an application is sent to HUD, there must be a proposed application which describes the activities to be assisted in sufficient detail to allow the public to determine the degree to which they will be affected. At a minimum the description must include: the amount of guaranteed loan sought; the location of the project; an estimate of the revenues the project will generate ('program income'); and, which 'national

objective' will be met. The proposed application must be published community-wide so that the public can review it and offer comments, and there must be a public hearing regarding it.

What Advocates Need to Know Now

Section 108 shifts investors' risk to low income people because it is low income people's CDBG money -- for the next five years -- that is put on the line. This is because HUD pays investors from the jurisdiction's CDBG entitlement amounts if project revenues are not adequate. For example, a downtown mall in Richmond, VA, did not generate the revenues planned, so each year CDBG money was taken off the top of the city's entitlement allocation before low income people could attempt to direct CDBG money to their most pressing housing needs. So low income advocates should determine whether the downtown shopping mall's Section 108 Loan Guarantee holds either five years' worth of CDBG money hostage, or whether it will actually cause a direct and immediate drain on CDBG funds over a several-year period. (It could do both.)

Advocates have used the public participation requirements to prevent the approval of risky Section 108 applications or to prevent the use of CDBG dollars when a project was in trouble. Be sure your jurisdiction adequately identifies a Section 108 project in their Annual Action Plans and GPRs, and indicates which national objective the project is addressing.

Zeroed out in the President's FY10 budget request. In the February 26, 2009 release of an overview of his FY10 budget request, President Obama proposed to 'zero out' the Section 108 Loan Guarantee Program. The Bush Administration also proposed eliminating the program, but a modest program has historically been restored by Congress each year.

For More Information

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

HUD's Section 8 Office · 202-708-1871 · www.hud.gov/offices/cpd/communitydevelopment/programs/108/

Community Development Financial Institutions Fund

By Fred Zeytoonjian, Executive Director, and Joel Befus, Program Associate, Coalition of Community Development Financial Institutions

The U.S. Department of the Treasury's Community Development Financial Institutions (CDFI) Fund is an innovative federal program that leverages private investment to benefit low income people and communities by investing in CDFIs, private sector financial intermediaries that serve economically disadvantaged communities and customers.

Authorized by the Riegle Community Development Banking and Financial Institutions Act of 1994, the CDFI Fund was created to expand the availability of credit, investment capital and financial services in distressed urban and rural communities.

Funded as an independent agency, the CDFI Fund administers a competitive grant program that provides capital grants, loans and equity investments to support the community development finance activity of CDFIs. CDFIs match this federal investment on average 19-27 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.

Program Summary

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.

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. The CDFI Fund provides financial and technical assistance to CDFIs that leverage this investment to fund poverty alleviation projects in their communities.

CDFIs are financing entities united by a primary mission of community development, but they assume many different forms including banks, community development corporations, credit unions, loan funds, venture capital funds, and microenterprise loan funds. 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.

The CDFI Fund's Programs

The CDFI Fund currently operates four programs designed to both build the capacity of CDFIs and increase private investment in distressed communities nationwide. These programs included the CDFI Program, the Native Initiatives Program, the Bank Enterprise Award Program, and the New Markets Tax Credit program. A fifth, the Capital Magnet Fund, has been created but not yet funded. 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.

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

Since its first round of funding in FY95, the CDFI Fund has made more than $1.1 billion in awards to community development organizations and financial institutions. Currently, more than 1,000 CDFIs manage over $30 billion in predominantly private capital (30 times the Fund's investment).

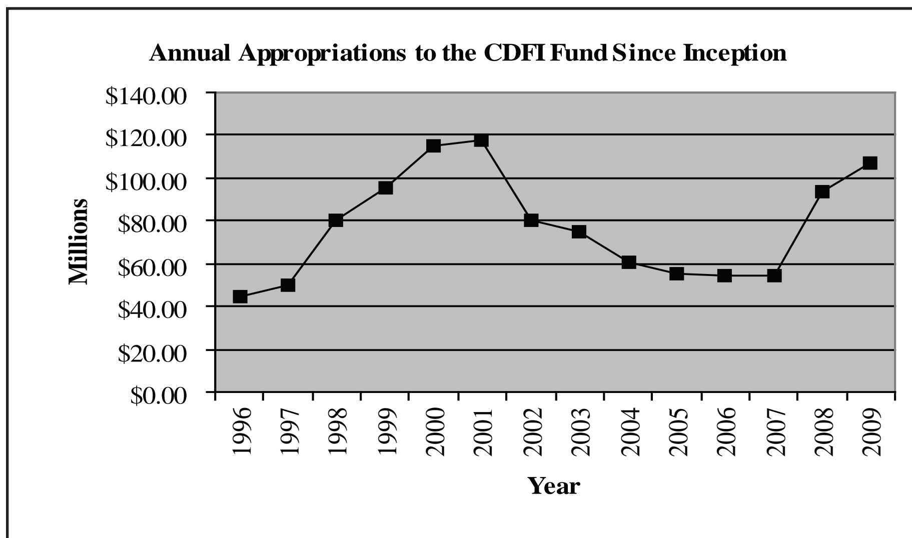
CDFIs to support their capitalization and capacity-building, enhancing their ability to create community development impact in underserved markets. CDFIs compete for federal support based on their business plans, market analyses, and performance goals. FA awards are for established certified CDFIs and 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

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.

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 Funds dollars and puts more capital to work in distressed communities throughout the nation.

New Markets Tax Credit (NMTC) Program. The New Markets Tax Credit Program was designed to stimulate investment and economic growth in low income urban neighborhoods and rural communities by offering a seven-year, 39% federal income tax credit for Qualified Equity Investments (QEI) made through investment vehicles known as Community Development Entities (CDE). 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 was named as one of the Top 50 Programs for the prestigious 2008 Innovations in American Government Award (for more information, see the chapter on NMTC).

Capital Magnet Fund (CMF). The newest CDFI program has not yet been funded. The Capital Magnet Fund was created in July 2008. The legislation creates a permanent trust fund for CDFI Fund certified CDFIs and nonprofit organizations that principally develop or manage affordable housing. The CMF will receive annual allocations from Fannie Mae and Freddie Mac when fully funded in 2012 (for more information see the chapter on CMF).



Funding

President Obama's budget recommended a "doubling" of the appropriation for the CDFI Fund in FY10. In the FY09 budget, the CDFI Fund was appropriated $107 million, its highest level since 2001. The CDFI Fund also received $100 million in the American Recovery and Reinvestment Act.

This outlook is drastically different from budgets a few years ago that called for elimination of the CDFI Fund. The Bush Administration demonstrated opposition to the future existence of the CDFI Fund grant programs, but with broad bipartisan support, the CDFI Fund remained funded at lower appropriations levels. Appropriations for the CDFI Fund reached a high of $118 million in FY01, but had decreased to $54.5 million in FY07. At the same time, 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.

What to Say to Legislators

Advocates should contact Members of Congress, especially members of the Senate and House Appropriations Committees, to encourage support for increased funding of the CDFI Fund to help meet the demand for financial services and capital in low income communities. In particular, advocates should urge Members of Congress to support and co-sponsor the NMTC reauthorization legislation. Further, advocates are encouraged to promote public policy efforts aimed at strengthening the larger community development finance movement. These may include supporting anti-predatory lending legislation, the Community Reinvestment Act, Individual Development Accounts, and financial literacy programs.

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.

Visit a local CDFI and contact your Member of Congress with stories of how they can meet borrowers or investors in local communities. Ask banks that have received Bank Enterprise Awards to get in touch with legislators as well. Contact local media and express interest in more coverage of community development financing models or write an op-ed that highlights the impact of a local CDFI.

For More Information

Consult the CDFI Coalition website for CDFI Fund analysis and tools such as state fact sheets. The CDFI Data Project, a data collaborative that produces high quality, comprehensive data for and about the community development finance field, contains evidence of the impact and effectiveness of CDFIs in serving under-invested communities.

Contact the CDFI Coalition with thoughts on how the CDFI Fund could better serve the CDFI field.
Join the CDFI Coalition Action Network to help promote CDFIs. Sign-up at www.cdfi.org.

The CDFI Coalition · 703-294-6970 · www.cdfi.org
The CDFI Fund · 202-622-6355 · www.cdfifund.gov

Community Reinvestment Act

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

The Community Reinvestment Act mandates that banks have a continuing and affirmative responsibility to meet the credit needs of low and moderate income (LMI) neighborhoods where they are located. While the CRA became a target of attacks in 2008 as the foreclosure crisis grew, the evidence is clear that financial institutions subject to CRA were not responsible for the predatory lending practices that were detrimental to many families. Now, Congress is considering updating this critical law to strengthen the CRA as applied to banks and expand CRA to non-bank financial institutions.

Four 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), the Federal Deposit Insurance Corporation (FDIC), and the Office of Thrift Supervision (OTS).

History

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 extend credit to their residents. Since its enactment three decades ago, CRA has been the primary law for increasing the flow of private capital and expanding access to banking services in minority and LMI communities.

How CRA Works

CRA Examinations. CRA directs the four federal banking 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 the merger application subject to specific pledges to improve CRA and fair lending performance.

About once every two years, a bank or thrift savings institution with assets greater than $250 million undergoes a CRA exam. Small banks with assets less than $250 million are examined about once every four or five years. For large banks with assets greater than $1 billion, a CRA exam includes a lending test, an investment test, and a service test. These tests scrutinize the number and types of loans, investments, and services banks make to LMI borrowers and communities. Housing advocates can use CRA exams to see how many home mortgage loans, loans for rental developments, and Low Income Housing Tax Credits a lender issued. Banks with assets between $250 million and $1 billion 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.

CRA exams give banks a CRA rating based on a four-point scale, ranging from ‘Outstanding’ to ‘Substantial Noncompliance.’ CRA exams are available to the public and can be obtained online via www.ffiec.gov. The general public is encouraged to comment on upcoming CRA exams; 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.

CRA agreements are bank commitments to make specific numbers and dollar amounts of loans, investments, and services in minority and LMI 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 benefits of CRA. Because the CRA holds lenders publicly accountable and empowers citizens and communities to intervene in the regulatory process, the CRA has been effective in increasing access to credit and capital for traditionally underserved communities.

The Treasury Department found that CRA-covered lenders increased their home mortgage loans to LMI areas and borrowers by 39% from 1993 to 1998, more than twice the increase (of 17%) to middle and upper income borrowers and areas. Moreover, since 1996, banks have made 373,404 community development loans totaling more than $407 billion. They also made 14.8 million small business loans of more than $581 billion in LMI neighborhoods from 1996 through 2007.

The Federal Reserve has demonstrated that CRA-covered banks are less likely to issue high-cost and risky loans than institutions such as mortgage companies not covered by CRA. CRA exams award banks points for counseling and foreclosure prevention and penalize banks for issuing abusive and illegal loans. CRA is an important antidote to the current foreclosure crisis by encouraging safe and sound lending.

What Advocates Need to Know Now

Protecting and preserving CRA. During the 2008 Presidential election, certain pundits criticized CRA as pressuring banks to over-reach in making loans to minorities and LMI borrowers by sacrificing prudent practices. On the contrary, CRA is vital to promoting safe and sound lending and investing in communities. Supporters of this law should promote CRA in letters to the editor or opinion pieces in their local papers. They should also affirm the value of CRA for foreclosure prevention, affordable housing, and economic development during any Town Hall meetings or other public events in their communities.

CRA modernization. Representatives Eddie Bernice Johnson (D-TX) and Luis Gutierrez (D-IL) introduced H.R. 1479, the CRA Modernization Act of 2009, in March. The bill would ensure that the great majority of loans issued by banks are scrutinized on CRA exams. It would also apply CRA to non-bank financial institutions including credit unions, mortgage companies, and insurance firms.

The CRA Modernization Act would expand the areas in which an institution's action must be evaluated to include areas where they lend, including areas where the provide loans through brokers or through the internet. Currently institutions are evaluated only in areas where they have actual physical locations. The bill also expands the types of activities examined to include lending and services to minority communities. Institutions would be penalized in the ratings process for predatory lending or other credit practices that have a negative impact on any community or a neighborhood.

This bill would also apply CRA to a variety of non-bank institutions including independent mortgage companies, some credit unions, mortgage company affiliates of banks, insurance companies, and securities firms. Advocates contend that if these non-bank institutions had been subject to CRA requirements sooner, the foreclosure crisis might have been prevented because CRA requires institutions to serve communities consistent with principles of safety and soundness.

The CRA Modernization Act would also increase the accountability of covered institutions through improved data disclosure and additional opportunities for public comment on an institution's performance. Data collection requirements would be expanded to include the race and gender in the case of small business loans, data on deposit accounts by neighborhood and data from insurance companies similar to the data required under the Home Mortgage Disclosure Act. The CRA Modernization Act would require federal regulatory agencies to hold more public hearings and meetings when banks merge.

Tips for Local Success

Use CRA in your work. 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. Also, organizations should establish and expand upon dialogues with CRA officers of banks in their service areas to see how banks can increase their support of affordable housing.

What to Say to Legislators

Call your Members of Congress and ask to speak to the person who deals with banking or housing policy with the message that strengthening the Community Reinvestment Act (CRA) is vital to continue the wealth building, housing and economic development in our neighborhoods. CRA is the antidote to the foreclosure crisis by requiring safe and sound lending and investing.

Your member of Congress should:

- Support and co-sponsor H.R. 1479, the CRA Modernization Act of 2009
- Support other bills that update CRA
- Oppose any bills that weaken CRA and reduce current requirements for banks to make home loans and serve LMI communities.

For More Information

The National Community Reinvestment Coalition (NCRC) has developed a toolkit in support of CRA. It includes talking points on the role of regulatory failure in the financial crisis, a comprehensive overview of CRA and its impact on communities, and a press release template that can be customized by CRA proponents and publicly disseminated to community leaders, local officials, and members of Congress. To view this information, go to www.ncrc.org and click on 'The Community Reinvestment Act Myth vs. Fact' button. From here, you will be able to view NCRC's suite of resources for protecting and preserving CRA.

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

Disaster Housing Programs

By Greg White, Housing Policy Analyst, National Low Income Housing Coalition

Even though it has been more than three years since hurricanes Katrina and Rita hit the Gulf Coast of the United States, destroying hundreds of thousands of homes and displacing millions of people, a severe affordable housing crisis continues in the Gulf Coast states. The further devastation caused in 2008 by hurricanes Gustav, Dolly, and Ike highlights the vulnerability of the area to future storms that can impede the Gulf Coast's recovery efforts.

As a result of the failings of housing assistance programs provided by the Federal Emergency Management Agency (FEMA) in the wake of hurricanes Katrina and Rita, HUD played a more direct role in providing temporary housing after Hurricanes Gustav and Ike.

In September 2006, Congress directed FEMA to develop a National Disaster Housing Strategy (NDHS) to be submitted to Congress by July 2007. In the waning hours of the Bush Administration, FEMA released a National Disaster Housing Strategy on January 16, 2009. The plan as released does not contain all the required elements and largely defers the work to a yet-to-be formed National Disaster Housing Joint Task Force called for in the report. However, the NDHS does provide some details about shelter programs, interim housing, and permanent housing and recommends that HUD operate any rental assistance programs in future disasters.

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.

Bound by the Stafford Disaster Relief and Emergency Assistance Act (Stafford Act, Public Law 100-707), FEMA has the responsibility for coordinating government-wide relief efforts. The act was designed to bring a systemic means of federal natural disaster assistance to state and local governments.

FEMA provides immediate, direct financial and physical assistance to those affected by disasters. Agencies and programs under its purview include the National Flood Insurance Program and the U.S. Fire Administration. FEMA also works closely with the U.S. Small Business Administration to provide low-interest loans to the help those affected by disaster losses.

The agency focuses its assistance on the affected individuals and families as well as on the state and affected local governments. FEMA's Individuals and Households Assistance Program provides up to $26,600 (adjusted each year for inflation) in cash grants per individual or household. It includes housing assistance, such as: lodging expenses reimbursement (for a hotel or motel); rental assistance (cash payment for a temporary rental unit or a manufactured home); home repair cash grant; home replacement cash grant; or, very rarely, permanent housing construction. FEMA also provides 'other needs assistance' under this program. This may include medical, dental and funeral costs, transportation costs and other disaster-related needs. FEMA also, along with other government agencies, 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 the current Federal Response Plan, 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 Resources (PIH), including assistance to Public Housing Authorities (PHAs); and Community Planning and Development's (CPD) Community Development Block Grant (CDBG) and HOME funds.

Disaster Housing Assistance Program (DHAP). Beginning September 1, 2007, HUD took over management of FEMA's rental assistance program for some 30,000 Katrina and Rita evacuee households, creating the Disaster Housing

Assistance Program (DHAP). DHAP is administered by local public housing agencies (PHAs). Later, some of the 15,000 families who were still living in FEMA trailers were transferred to DHAP as well. DHAP was funded by FEMA under an Interagency Agreement (IAA) with HUD.

The program was set to expire in March 2009, but new HUD Secretary Shaun Donovan announced an extension of the program until August 31, 2009. During the extension, DHAP recipients who qualify for the Housing Choice Voucher Program will be assisted to transfer into that program.

Based on DHAP, HUD and FEMA signed another Interagency Agreement to administer DHAP-Ike to victims of Hurricanes Ike and Gustav. DHAP-Ike, which began on November 1, 2008, provides 18 months of rent assistance for displaced households. The IAA provides for the option of extending the program through March 13, 2010.

U.S. Department of Agriculture (USDA)
In addition to FEMA and HUD, USDA provides loans, grants and loan servicing options to its single-family housing loan borrowers or grant recipients. Multifamily Housing loan borrowers and their tenants are eligible for rental assistance as well as priority occupancy in any USDA apartment complex. In addition, USDA provides community facility loan borrowers and business owners with a variety of assistance options, including grants, loans and an intermediary re-lending program.

Outlook for Future Disasters: National Disaster Housing Strategy
FEMA released its National Disaster Housing Strategy on January 16, 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 latest iteration of the NDHS offers more detailed information on the role different federal agencies should play in responding to a disaster than did the earlier version, but still defers the bulk of responsibility to a future National Disaster Housing Joint Task Force to produce a final plan. No timetable has been set for when the Task Force would be convened.

Far From Home. On February 26, 2009, the Senate Subcommittee on Disaster Recovery released a report on its nine-month investigation into the problems in the housing assistance programs for people displaced by Katrina and Rita. *Far From Home: Deficiencies in Federal Disaster Housing Assistance After Hurricanes Katrina and Rita and Recommendations for Improvement* details the federal housing response to the hurricanes, and the power struggle of determining which agency would take the lead role in administering housing assistance between HUD or FEMA.

One important finding was that FEMA did not use its authority to spend disaster relief funds to repair damaged rental property in the Gulf Coast, which could have resulted in many more people returning home more quickly. The lack of available rental housing in the affected areas reduced the effectiveness of the FEMA rent assistance programs and caused an overreliance on trailers, which proved to be much more costly and fraught with health hazards. The report recommends establishing a standing rental repair program with corresponding Stafford Act authority.

Another recommendation is that HUD be required to develop a "National Housing Stock Plan" to identify available housing for rent with disaster housing assistance. In testimony at a hearing on the report, NLIHC noted the overall lack of rental housing affordable for extremely low income households and suggested that expanding the supply of affordable rental housing was needed with or without another disaster.

What Advocates Need to Know Now

The National Low Income Housing Coalition and its many partners in the Katrina Housing Group continue to work on Gulf Coast housing recovery. NLIHC supports the recommendations in the *Far From Home* report, including a greater role for HUD and PHAs in responding to housing problems created by future disasters.

NLIHC and the Katrina Housing Group have recommended that President Obama establish an Office of Gulf Coast Recovery at the White House to oversee the completion of the post Katrina and Rita recovery, including housing. One of the tasks recommended for the Gulf Coast Recovery Advisor is to propose changes to existing legislation needed for an improved response to future disasters.

For More Information

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

Earned Income Tax Credit

By 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.

As a tax program, the EITC is administered by the Internal Revenue Service (IRS).

History

Congress established the EITC in 1975 under Section 32 of the Internal Revenue Code. The EITC has been expanded by Congress several times with the support of both Republican and Democratic presidents.

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), each year the EITC lifts between 4 million and 5 million people in working families, about half of them children, out of poverty – more than any other social program [see bar chart]. 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. Workers with income less than $38,646 raising two or more children in 2008 can receive up to $4,824. Workers with income less than $33,995 raising one child in 2008 can receive up to $2,917. For a family with two children and very low wages, the EITC equals 40% of the first $12,000 in earnings in 2008 [see graph].

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 $438. Such workers must be between 25 and 64 years old at the end of 2008, with income less than $12,880. They are not required to file Schedule EIC with their tax form.

EITC income limits are $3,000 higher for married workers, providing a slightly higher EITC for many married workers.

Eligible workers with children may also choose to receive in their paychecks 'advance payment' of a portion of the EITC for which they qualify in the current year: a tax-free boost to take home pay of as much as $137 each month. Workers give a completed IRS Form W-5 to their employer to begin advance EITC payments.

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 will not immediately count against resource limits. In 2009, 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.

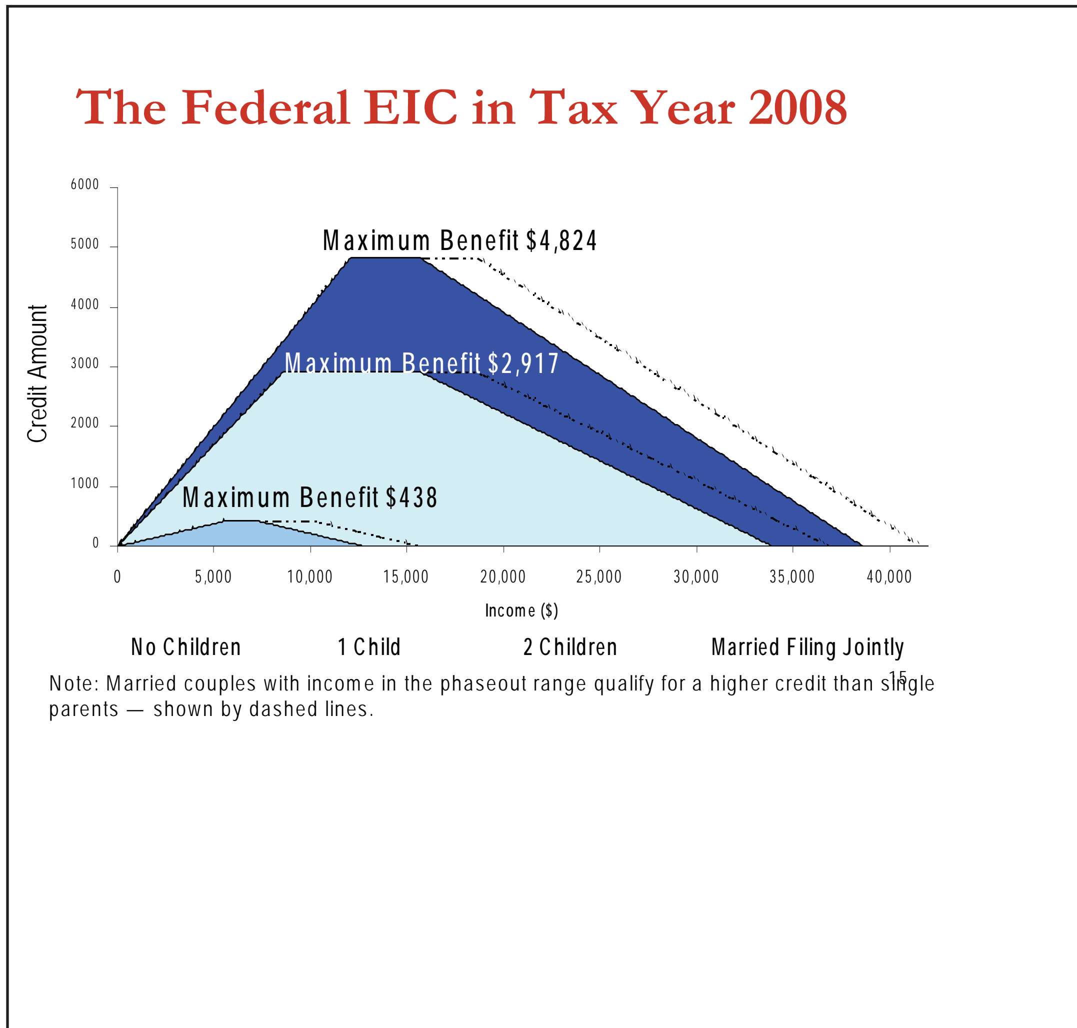
Child Tax Credit. Many workers who claim the EITC may also qualify for the Child Tax Credit (CTC), worth up to $1,000 for each qualifying child under age 17. With the CTC, many families who earn too little to owe federal income tax still

receive a refund. To be eligible for this 'Additional CTC' in 2008, workers must have taxable earned income above $8,500.

Example: A single worker in 2008 who earns $18,000 with three qualifying children under age 17 can claim a CTC refund worth $1,425 and an EITC of $4,343. CTC refunds are not counted as income in determining eligibility for *any* federally funded program and do not count immediately toward resource limits.

Funding

The EITC and CTC are each 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 2007, more than 23 million low and moderate income workers received more than $44 billion from the EITC.



What Advocates Need to Know Now

Current issues. Expansions to both the EITC and CTC were enacted in the 2009 economic recovery legislation, the American Recovery and Reinvestment Act. The EITC benefit was increased for families with three or more children. EITC income limits are now $5,000 higher for married workers than single workers, resulting in a benefit increase of several hundred dollars for many married workers and allowing more married workers to qualify. The earnings level needed to qualify for the CTC was reduced from $8,500 to $3,000, making many more very low income families newly eligible and increasing the benefit amount for many others. EITC and CTC recipients will also benefit in 2009 from the new Making Work Pay Credit, worth $400 for an individual and $800 for married workers. Other workers earning up to $75,000 ($150,000 for joint filers) also qualify for this credit. The amount of the credit phases down at higher earning levels. These expansions take effect for tax year 2009 (the 2010 filing season) and continue through 2010. The President's FY10 Budget proposes they be made permanent. Congress will determine this in the current budget process. Another congressional proposal to expand the EITC most likely to be considered in 2009 is an increase in the benefit of the EITC for workers not claiming a child.

CBPP closely monitors congressional action on the EITC, 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 expansion of the EITC and provides specific legislative action materials designed for state and local advocacy at www.tax-coalition.org.

Tips for Local Success

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. CBPP provides local organizations with training and technical assistance in building tax credit outreach campaigns and local free tax filing assistance 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.cbpp.org/eic2009, as well as other materials for specific constituencies and analyses of the EITC.

The National Community Tax Coalition provides information and technical assistance to free tax filing assistance programs. Also see resources available from the IRS (www.irs.gov/eitc). The IRS and HUD partner nationally to promote these credits and free tax filing assistance programs.

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

Emergency Food and Shelter National Board Program

By Patrick Ian Jackson, Manager, Public Policy, United Way of America

The Emergency Food and Shelter National Board Program (EFSP) helps meet the needs of the nation's hungry and homeless and those at risk of becoming homeless due to an economic emergency. Federal funds provided through the program supplement the work of local agencies providing food, shelter and utility assistance. With the current challenges facing the U.S. economy, the EFSP program has received increased attention as a mechanism to distribute funds quickly to Americans most in need. This increased attention has resulted in a near doubling of funding for the program for FY09, with the funding increasing from $153 million in FY08 to $300 million for FY09.

EFSP is unique in its administration. The U.S. Department of Homeland Security administers EFSP through the Federal Emergency Management Agency (FEMA), which serves as chair of the EFSP National Board. The Board is comprised of the United Way of America, Salvation Army, Catholic Charities USA, National Council of the Churches of Christ in the USA, United Jewish Communities, and the American Red Cross. United Way is the Secretariat and Fiscal Agent to the Board, which relieves FEMA of the majority of the administrative burden. In this capacity, United Way maintains responsibility for the day-to-day operation of the program.

History

Congress, responding to an increased need for services due to the recession of the early 1980s, established EFSP in 1983 and provided $50 million for the program's operation. Congress authorized the United Way of America to distribute the funds because the organization was uniquely positioned to do so. Specifically, UWA had proven its ability to allocate limited resources effectively, demonstrated the ability to work in cooperation with other organizations, and maintained the technological systems to accurately process and distribute a large amount of funds. EFSP celebrated its 25th Anniversary on May 6, 2008.

Program Summary

EFSP distributes funds to the neediest areas of the country quickly. Although EFSP is a federal program with a National Board, one of the key elements to the program's success is that it is locally focused.

The National Board uses a formula involving population, poverty, and unemployment data to determine the eligibility of a civil jurisdiction, usually a county. In each civil jurisdiction funded by EFSP there must be a local board similar in composition to the National Board, with a local government official replacing the FEMA representative. Local boards may have additional members, and are required to include a homeless or formerly homeless person as a member. If a jurisdiction is located within or encompasses a federally-recognized Indian reservation, a Native American representative must be invited to serve on the local board.

Once Congress allocates the EFSP funds for a particular year, local boards advertise the availability of funds, establish priorities among community needs, and distribute funds to local agencies, called 'Local Recipient Organizations, (LROs) that qualify for awards. After an LROs receives the funds, it uses them for the services that the organization provides, which may include food pantries, served meals, nights of shelter, rent or mortgage assistance and utility payments.

Since its inception, EFSP has distributed more than $3.1 billion to 2,500 local boards, which in turn provide funds to more than 12,000 local recipient organizations. This translates into more than 2 billion meals; 241 million nights of shelter; 4.3 million rent or mortgage payments; and 5.9 million utility payments.

In 1985, the National Board created a state set-aside process to identify and fund areas of need not reflected in the national criteria. State set-aside committees, with members mirroring local boards, receive funds based upon the number of unemployed people in counties within their state that do not qualify under the National Board's criteria.

Funding

On September 30, 2008, the President signed the Consolidated Security, Disaster Assistance and Continuing Appropriations Act, also known as the FY09 Continuing Resolution (CR, H.R. 2638). The CR provided full-year funding for Defense, Military Construction, and Homeland Security programs, including $200 million for EFSP. This represents an increase of $47 million above the FY08 appropriation and twice the amount in the President's FY09 budget request.

The American Recovery and Reinvestment Act (ARRA), the Administration's economic recovery bill that was signed into law on February 17, 2009, provided an additional $100 million in funding for EFSP.

Tips for Local Success

Local advocates and organizations should pay close attention to the information provided by their Local Boards and follow EFSP program guidelines if their organization chooses to apply for funding.

What to Say to Legislators

For FY10, advocates should urge Members of Congress to at a minimum preserve the $200 million regular appropriation provided by the FY09 CR.

For More Information

Emergency Food and Shelter National Board Program · 703-706-9660 · www.efsp.unitedway.org.

Fair Housing Programs

By Deidre Swesnik, Director of Public Policy and Communications, 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's fair housing programs are the Fair Housing Initiatives Program (FHIP) and the Fair Housing Assistance Program (FHAP). These fair housing programs are administered by HUD's Office of Fair Housing and Equal Opportunity (FHEO), which is also responsible for processing fair housing complaints. The Civil Rights Division of the U.S. Department of Justice is responsible for litigating on behalf of the federal government in cases of fair housing violations.

History

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 Fair Housing Act.

Programs Summary

Residential segregation contributes to economic disadvantage by reducing home appreciation, access to public benefits and employment opportunities, and perpetuating racially separate and unequal schools. Federal fair housing programs are intended to promote integration and the elimination of discrimination.

Fair Housing Initiatives Program (FHIP). FHIP funds private fair housing centers to provide education and outreach programs for housing consumers and housing providers; investigate allegations of rental, sales, homeowners insurance, and lending discrimination; and conduct studies to determine the nature and extent of housing discrimination in the regions they serve.

Fair Housing Assistance Program (FHAP). FHAP funds state and local fair housing enforcement agencies, including civil rights commissions, with laws substantially equivalent to the federal Fair Housing Act.

In FY07, private nonprofit fair housing organizations processed 16,834, or nearly 65%, of the fair housing complaints in the United States, while public FHAP agencies processed 7,705, or 25%. HUD processed 2,449, or 10%, of all complaints.

In addition, the Community Development Block Grant (CDBG) program and Neighborhood Stabilization Program (NSP) contain a fair housing component. Fair housing centers nationwide rely on CDBG funding to assist in their education and outreach programs. Fair housing centers are also active in assisting jurisdictions in formulating and compiling their Analyses of Impediments to Fair Housing Choice, a requirement under the Comprehensive Plans. There are more than 1,100 CDBG entitlement jurisdictions in the country, all of which are required to 'affirmatively further fair housing.' (It is difficult to enforce this requirement, however, because HUD has failed to promulgate regulations for its implementation, although the law was passed in 1974.) Fewer than 10% of these recipients actually have programs to address fair housing concerns in their communities. Even fewer provide funding to private fair housing organizations serving their jurisdiction. With the continued proposed weakening of the CDBG program, our communities are at an even greater risk of limited fair housing education and enforcement and of perpetuating segregation (for more information see chapters on CDBG and Analysis of Impediments).

NSP, newly created under the Housing and Economic Recovery Act of 2008, allows states and communities to acquire foreclosed homes for redevelopment or rehabilitation. NSP funds flow through HUD's CDBG program, which obligate grantees to spend funds in ways that affirmatively further fair housing. Grantees' action plans should redress past discrimination, encourage future inclusion, be nondiscriminatory, incorporate the principles of integration and overcome the effects or conditions that have kept communities from being open to all members of protected classes under the Fair Housing Act (for more information see chapter on NSP).

Funding

FHIP received funding of $27.5 million in FY09, nearly $4 million more than FY08 appropriations. Yet even with this modest program, fewer than half of eligible fair housing centers are currently funded to carry out the daunting

tasks of educating the community and enforcing the Fair Housing Act with activities, like testing. 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.

FHAP received $26 million in FY09, consistent with FY08 funding level.

What Advocates Need to Know Now

Violations are underreported. The Fair Housing Act protects all people. HUD estimates that only 1% of fair housing violations committed are ever reported, but even this number is conservative. Every year, over 4 million fair housing violations are committed against members of protected classes under the Fair Housing Act. The most complaints processed by fair housing centers are based on disability (35%), race (22%), and family status (13%). More than 95% are settled through administrative or conciliation processes.

Even though HUD processed 2,449 housing discrimination cases in FY07, it issued only 31 charges following a determination that there was reasonable cause to believe that unlawful discrimination occurred. This number dropped from even the small number of 34 issued in FY06. The Department of Justice filed fewer fair housing cases in the past two years than in previous years. DOJ filed 35 fair housing cases in 2007 and 31 cases in 2006, compared to 42 in 2005, and 53 in 2001.

Funding is diverted to illegitimate uses. In recent years, FHIP funding has been earmarked for research and other projects, which, while important, are inappropriate uses of FHIP funding. As a result, the small amount of FHIP funds has resulted in education and outreach initiative grants being funded at only 75% and private enforcement initiative grants at only 80% of their typical size; an inconsistent funding stream for a national media campaign as mandated by HUD's authorizing statute; and little money for the creation of new groups.

Over the past five years, one-quarter of all fair housing organizations nationwide have closed their doors due to lack of funding. A number of other organizations have had to significantly curtail or eliminate their enforcement activities due to cutbacks, including reduction of staff. In some cases, groups served densely populated and large metropolitan areas; in other cases, groups served an entire state and their closing continues to have a drastic effect on a substantial geographic area.

Conflict of interest. Currently, when a complaint is filed against a HUD program, or a HUD-funded agency or organization (public housing authorities, for example), HUD's FHEO is responsible for investigating the complaint. This puts FHEO in a position of investigating its own agency. This compromises what should be independent, objective investigations, putting them through the litmus test of public policy considerations and the very real issue of being ranked lower than other HUD priorities. In addition, HUD collaborates with many actors in the real estate and lending communities, and its ability to effectively enforce the Fair Housing Act with these industry players is compromised by these relationships.

FHEO should be designated an independent agency in order to be a truly objective and effective civil rights enforcement institution. This is the core recommendation of the National Commission on Fair Housing and Equal Opportunity.

Tips for Local Success

Fair housing complaints can be filed with local fair housing centers, state or local fair housing agencies, or HUD. Fair housing activities are carried out by a network of fair housing organizations, as well as state and local fair housing agencies, often operated in conjunction with state and local civil rights commissions.

In addition, all jurisdictions receiving funds through the CDBG program, including cities, counties, and states, are required to 'affirmatively further fair housing' in at least two ways. First, each must conduct an Analysis of Impediments (AI) to Fair Housing Choice through which they examine housing opportunities and levels of segregation and accessibility in the community (for more information see chapter on Analysis of Impediments). Second, each jurisdiction must develop and implement a plan to eliminate the impediments to fair housing that are identified.

For More Information

National Fair Housing Alliance · 202-898-1661 · www.nationalfairhousing.org

Fannie Mae and Freddie Mac

By Danna Fischer, Legislative Director and Counsel, National Low Income Housing Coalition

The Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, government sponsored enterprises or GSEs) were established by Congress to provide liquidity and create a secondary market for residential mortgages, both single and multifamily. 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.

While Freddie Mac and Fannie Mae remain a vital part of the housing finance system, 2008 was a time of significant change for the GSEs. The Housing and Economic Recovery Act of 2008 (HERA) created a new regulatory system for Freddie and Fannie with enhanced powers. In addition, the GSEs were placed in conservatorship in the fall of 2008 and will remain in conservatorship at least through 2009.

New Regulators. Fannie Mae and Freddie Mac are regulated by the Federal Housing Finance Agency (FHFA). This agency was created in the Housing and Economic Recovery Act of 2008 (HERA). The FHFA also regulates the 12 Federal Home Loan Banks, which are also housing government sponsored enterprises (for more information see the chapter on the Federal Home Loan Banks). This new regulator was provided expanded powers over the enterprises under its control, including the ability to impose restrictions on the amount and type of mortgages the GSEs retain in their own portfolios.

The new structure replaces as regulators the Office of Federal Housing Enterprise Oversight (OFHEO), HUD (except for Fair Housing regulation), and the Federal Housing Finance Board (FHFB).

Conservatorship. The FHFA placed Freddie Mac and Fannie Mae in conservatorship on September 7, 2008, based on the financial condition of the enterprises. Conservatorship is the legal process in which a person or entity is appointed to establish control and oversight of a company to put it in a sound and solvent condition. The FHFA is the conservator for Freddie Mac and Fannie Mae and 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.

GSE Operations

Through their activities as financial intermediaries, Fannie Mae and Freddie Mac help provide liquidity and stability to the conventional (non-government insured) conforming mortgage market. 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.

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. Generally, the GSEs provide support for 30-year fixed-rate mortgages on single-family homes (one to four units). However, the GSEs also purchases mortgages on multifamily dwellings (five or more units). Freddie Mac and Fannie Mae have also played a significant role in supporting the affordable rental market through their purchases of Low Income Housing Tax Credits (LIHTCs).

Under HERA, Fannie and Freddie can only purchase mortgages whose principal balance is equal to or less than the conforming loan limit established annually by FHFA. Under HERA the limit for 2008 would have been $417,000, with a limit of $625,500 in some high costs areas. However, for 2009 the American Recovery and Reinvestment Act (ARRA) established different limits for areas with high housing costs. This limit is $729,750 and is adjusted for property size.

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. As of the fourth quarter of 2008, Freddie Mac and Fannie Mae owned 56% of the outstanding mortgages in this country. However, in any given year their share of the mortgage market can vary widely; in 2004 the GSEs' share of mortgage originations was less than 35%, in 2008 it was over 73%.

Although they hold some mortgages in their portfolios, most mortgages are placed in mortgage pools to support MBS. When the GSEs securitize a mortgage, they are guaranteeing the timely payment of interest and principal to the purchaser of the MBS. In order for 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 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 and lowering costs for the homebuyer.

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.

HERA also authorized the Department of Treasury to purchase obligations and other securities from Freddie Mac and Fannie Mae in amounts to be determined by the Secretary. As of February 2009, the Treasury had committed to purchase $200 billion of such obligations and securities from each enterprise 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 have been actively purchasing MBS issued by Freddie Mac and Fannie Mae, in an effort to increase investor confidence in the GSEs and lower mortgage rates.

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. These housing goals are set annually and as a percentage of the regulated entity's single family and multi-family business lines.

In 2008, both Fannie Mae and Freddie Mac missed almost all of these goals, but they did succeed in directing more than half their purchases to low and moderate income families. James B. Lockhart noted in a March 13, 2009, speech that the 2008 goals were sent in 2004 and may not have been achievable given the market conditions in 2008.

FHFA's unofficial 2008 housing goals figures for Fannie Mae and Freddie Mac are:

HOUSING GOALS	GOAL TARGETS	FANNIE MAE RESULTS	FREDDIE MAC RESULTS
Low- and Moderate-Income	56%	53.6%	51.5%
Underserved Areas	39%	39.4%	37.7%
Special Affordable	27%	26%	23%

The GSEs's 2009 goals have not been set, according to Mr. Lockhart, but he expects them to be lower than the 2008 goals given the conditions in the market.

Beginning in 2010, the GSEs will have a new goal structure as established in 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. HERA also created a new duty for the enterprises to lead the industry in developing loan products and flexible underwriting guidelines for manufactured housing; affordable housing preservation; and rural markets.

National Housing Trust Fund. HERA also established Freddie Mac and Fannie Mae sources of funding for the National Housing Trust Fund (NHTF; Division A, Title I, Subtitle B). Fannie Mae and Freddie Mac are required to set aside an amount equal to 4.2 basis points for each dollar of 'total new business purchases' and transfer 65% to the Secretary of HUD to fund an NHTF. In the first years, the fund will be diverted to cover the costs of the Hope for Homeowners program. Thereafter, funds will be allocated to states using a needs-based formula in order to provide affordable housing primarily for extremely low income households. The remaining 35% will be transferred to a Capital Magnets Fund (CMF) maintained by the Treasury. In 2008, FHFA suspended Fannie's and Freddie's contributions to these funds and the Hope for Homeowners program, due to the financial conditions of the entities.

The GSEs have taken the lead in addressing the needs of renters in foreclosed properties. Both entities have adopted programs to allow renters in a property that they acquire through foreclosure to remain in the property in a month-to-month lease (for more information see the chapter on Foreclosure Intervention: Protecting Renters).

What Advocates Need to Know

Freddie Mac and Fannie Mae are likely to remain in conservatorship for some time. As the housing crisis has worsened, policymakers have expanded their reliance on Freddie Mac and Fannie Mae, looking to the GSEs to refinance troubled mortgages and lower homeownership costs. In addition, as Congress and the Obama Administration look to reform the financial system to address some of the systemic problems that lead to the financial crisis, they will be assessing the purpose of the GSEs and their role in the housing finance system. As these efforts move forward, advocates need to ensure that there is support for long term fixed rate mortgages for lower income families and affordable rental housing and that the GSEs return to financial viability and satisfy their obligations to support the NHTF.

What to Say to Legislators

In any legislation to reform the housing finance system, ensure that Freddie Mac and Fannie Mae can fulfill their obligations to the National Housing Trust Fund.

For more information

www.fhfa.gov/ · www.freddiemac.com · www.fanniemae.com

Federal Home Loan Bank System

By Jennifer Cowell, Director of Congressional Relations, Council of Federal Home Loan Banks

Federal Home Loan Banks (FHLBanks) and their members are the largest source of residential mortgage and community development credit in the United States. FHLBanks provide advances to their members, which in turn use their access to FHLBank credit to finance affordable mortgages and community development.

The FHLBs were created in 1932 by the Federal Home Loan Bank Act.

Structure

The 12 FHLBanks that make up the FHLBank system are government-sponsored housing and community development enterprises (GSEs). The FHLBanks provide advances to their 8,100 members, including community banks, thrifts, credit unions and CDFIs, which in turn use their access to FHLBank credit to finance affordable mortgages and community development. The bank system also promotes community partnerships through the Affordable Housing Program (AHP), the Community Investment Program (CIP), the Community Investment Cash Advance (CICA) and other grant and loan programs that promote homeownership, economic development and affordable rental housing.

The Housing and Economic Recovery Act of 2008 (HERA) made several significant changes in the regulatory structure for the FHLBanks. The FHLBanks, which had previously been regulated by the Federal Housing Finance Board, are now regulated by the Federal Housing Finance Agency (FHFA). The FHFA also regulates Freddie Mac and Fannie Mae. HERA also requires FHFA to establish housing goals for the FHLBanks similar those for Freddie Mac and Fannie Mae. Finally, HERA provides that until July 30, 2010, AHP subsidized advances may be used to refinance loans for families having an income at or below 80% of the median area income. Without this authority, the AHP was limited to assisting borrowers purchasing a home.

The FHLBank system today has over $1 trillion in assets. The AHP is the crown jewel of the system, having leveraged $20 billion in investment.

Affordable Housing Program. AHP, created by Congress in 1989, is among the most popular of the banks' programs and a very important source of private funding for affordable housing. AHP subsidizes the cost of housing for very low income, low and moderate income owner-occupied and rental housing. The average unit subsidy is $7,926. AHP can be used for acquisition, construction, purchase and rehabilitation of affordable housing. Economic development projects include commercial, industrial, manufacturing, social service, infrastructure projects and public facility projects and activities. The flexibility of the AHP, especially as a private sector match to government sources of funding, is its greatest strength. Because of this flexibility, AHP funds often are used in combination with other programs, ensuring a project's feasibility.

The FHLBanks are required to dedicate 10% of their net income each year to AHP. Funds are then awarded on a competitive basis to projects that are sponsored by member institutions in partnership with community-based nonprofit partners. In addition to the AHP, each bank is required to provide CICA and CIP. Some FHLBanks offer additional programs such as the New Market Tax Credit initiative, Economic Development Grants, Urban

From 1990 to 2007, the FHLBank system awarded over $3.2 billion in AHP funding, providing for 623,503 housing units (204,675 owner-occupied and 409,308 rental). From 1990 to 2007, $51 billion in CICA advances (including CIP advances) for housing have been made system-wide, resulting in 672,592 housing units (461,423 owner-occupied and 211,169 rental units). In 2007, the FHLBank system provided cash grants of $304 million for affordable housing development.

Development Advances, Rural Development Advances and Letters of Credit. In addition, each FHLBank has been required to develop a Community Lending Plan that explains how the FHLBank will address the needs of the communities it serves.

What Advocates Need to Know Now

In response to the crisis in the U.S. financial market, policymakers will be considering proposals to restructure the regulatory system for U.S. financial institutions. Any such restructuring will be looking at the mortgage finance system which could result in changes to the FHLBanks.

For More Information

Council of Federal Home Loan Banks · www.fhlbanks.com

Federal Housing Administration

By Danna Fischer, Legislative Director and Counsel, National Low Income Housing Coalition

The Federal Housing Administration (FHA) is a mortgage insurance program that provides single- and multifamily housing for low and moderate income families. The Federal Housing Administration has insured over 35 million home mortgages and 47,205 multifamily project mortgages since 1934. Currently, FHA has 4.8 million insured single-family mortgages and 13,000 insured multifamily projects in its portfolio.

History

The program was established in 1934 under the National Housing Act to expand homeownership, broaden the availability of mortgages, protect lending institutions and stimulate home construction. It is the largest insurer of mortgages in the world, having insured about 34 million properties since its inception. 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 insures mortgages on both single (one to four unit) dwellings and multifamily (five or more unit) dwellings. FHA programs do not lend money directly, but instead insure private loans made by FHA-approved lenders. Lenders make a claim to FHA when a loan defaults, triggering a FHA payment to the lender for the claim amount. FHA then takes possession of the property securing the mortgage loan.

FHA consists of several insurance funds supported by premium, fee and interest income, Congressional appropriations, borrowing from the U.S. Treasury, and other miscellaneous sources. In 2008, the total mortgage insurance-in-force (IIF) in the FHA insurance funds was $531.7 billion, an increase of $131.7 billion or 32.9%, compared to FY07.

Mutual Mortgage Insurance. FHA's primary single-family programs are within the Mutual Mortgage Insurance fund and managed out of the Office of Single Family Housing. At the end of 2008, 84% of the FHA's IIF was in the MMI fund. 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 covers administrative costs. The MMI fund is required to be actuarially sound and it remained so in 2008. However, due to house price declines and increases in insurance in force, the MMI's capital ratio (the measure of the Fund's economic worth) declined from 6.4% in 2007 to 3% in 2008. In 2008, about 80% of single-family purchase loans went to first-time buyers and of these first time homebuyers 31% were minorities.

The Housing and Economic Recovery Act of 2008 (HERA) amended the FHA single-family program requirements. This summary reflects those changes.

Borrowers pay a fee for FHA insurance. For single family loans this fee consists of an up front amount of 1.75% 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, but in no case more than .55%. The annual fee is collected with the monthly mortgage payments. FHA's risked-based pricing, that varied premiums with credit scores and LTV was suspended by HERA until October 1, 2009.

HERA increased the downpayment requirements from 3% to 3.5% and prohibited seller-funded downpayments. Funds from the governmental programs such as the Community Development Block Grant (CDBG) and HOME programs can be used for the downpayment.

HERA also increased the FHA single-family loan limits. Generally, the loan limits are set at 115% of area median home prices, with a floor of 65% of the Freddie Mac limit and a ceiling of 150% of the Freddie Mac limit. However, for calendar year 2009 the limit is $729,750 in high cost areas and the floor is $271,050. The mortgage amount also cannot exceed 100% of the property's appraised value.

In an effort to provide borrowers facing foreclosure with additional options to refinance their mortgage loans, Congress created a new FHA program, the Hope for Homeowners program, in HERA. (The Emergency Economic Stabilization

Act of October 2008 [EESA] amended the program. For more information see the article on Foreclosure Prevention.) Prior to January 2009, FHA also operated a program called FHASecure which provided refinancing opportunities to homeowners with adjustable rate mortgages. FHASecure was discontinued effective December 31, 2008.

Special Risk Insurance and General Insurance funds. FHA also operates Special Risk Insurance and General Insurance Funds, insuring loans used for the development, construction, rehabilitation, purchase and refinancing of multifamily housing and healthcare facilities. Unlike the MMI Fund, these insurance pools have in the past failed to break even and have required subsidies from the federal budget.

Other FHA initiatives that fall under the insurance funds include:

- **Distressed Areas.** FHA also has programs to help distressed neighborhoods. The Asset Control Area (ACA) Program is designed to help stabilize distressed communities and overcome blight through expanded homeownership for low income families. FHA foreclosed single-family homes in designated revitalization areas are sold to local governments and experienced nonprofits at a discount. HUD currently has 13 operating ACA participants. During FY08, ACA participants sold 190 HUD properties to income eligible homeowners and acquired 100 new HUD properties that are currently being rehabilitated.
- **Purchase-Rehab.** FHA's Section 203(k) program allows for purchase and renovation of properties with one to four units in one loan, using flexible underwriting guidelines and standards. The 'Streamlined (K)' Limited Repair Program permits homebuyers to finance an additional $35,000 into their mortgage to improve or upgrade their homes prior to move-in. HERA moved this program from the General Insurance Fund to the MMI fund.
- **Manufactured Housing.** FHA provides insurance for the purchase or refinancing of a manufactured home, a loan on a developed lot on which to place a manufactured home, 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 $48,600 for a manufactured home, $16, 200 for a manufactured home lot and $64,800 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 a 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, enabling a constant flow of capital for mortgage loans. Since its creation in 1968, Ginnie Mae has guaranteed approximately $2.9 trillion in mortgage backed securities (MBS).

What Advocates Need to Know Now

Rising delinquencies and foreclosures. As would be expected, the FHA program has seen a rise in both its delinquencies and foreclosure rates recently. According to figures produced by the Mortgage Bankers Association, the delinquency rate on FHA-insured mortgages increased 81 basis points to 13.73% between the 3rd quarter of 20008 and the first quarter of 2009. This is compared with the non-FHA prime market, where the rate increased 72 basis points to 5.06%. In the subprime market, the rate increased 185 basis points to 21.88%, and for VA loans the increase was 24 basis points to 7.52%.

Similar increases have occurred in the foreclosure rates. The percent of loans in the foreclosure process increased 11 basis points to 2.43% for FHA loans, 30 basis points to 13.71% for prime loans, and 116 basis points for subprime loans to 13.71% and 20 basis points to 1.66%.

Changes to the program. The FHA single family program is in flux. On one side Congress has expanded the program's ability to refinance troubled mortgages in an effort to decrease foreclosures. At the same time, Congress has restricted FHA's ability to price according to risk. In addition, FHA losses are increasing, and it is expected that in FY10 the MMI fund will for the first time require appropriated funds to cover program losses. This need for appropriated funds will place pressure on the HUD budget and potentially decrease the amounts available for other HUD programs.

In addition the funding issues, HERA prohibited HUD from insuring seller-funded downpayment mortgages. This program has strong supporters in Congress and the decision to suspend the program is likely to be reviewed.

For More Information

2008 FHA Fiscal Management Report: http://www.hud.gov/offices/hsg/fhafy08annualmanagementreport.pdf

Ginnie Mae 2008 Annual Report to Congress: http://www.ginniemae.gov/ReportToCongress/

Foreclosure Intervention Programs

By Danna Fischer, Legislative Director and Counsel, National Low Income Housing Coalition

Foreclosures devastate families and neighborhoods and hamper economic recovery. Financial services company Credit Suisse has estimated that there may be 8.1 million mortgage foreclosures over the next four years, representing 16% of all mortgages, and that if the unemployment rate increases the number could go higher.

In an effort to prevent 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 additional resources for housing counseling programs.

Making Home Affordable

On March 4, 2009, President Obama announced the details of his plan to address the mortgage crisis by providing additional tools to allow homeowners facing foreclosure to refinance. The program, called Making Home Affordable, is designed to help 9 million American families to refinance or modify their loans to a payment that is affordable. There are two separate parts to the program: a refinance program and a modification program.

Refinance Program. Through this program, Fannie Mae and Freddie Mac will allow the refinancing of mortgage loans that 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. Currently, these 'underwater' mortgages cannot be easily refinanced, leaving borrowers facing unaffordable increases on their adjustable rate mortgages with few options.

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. The amount owed on the mortgage cannot exceed 105% of the current value of the house.

To determine if a mortgage loan is owned by Freddie Mac or Fannie Mae, the borrower can call their mortgage lender or servicer (the organization to whom monthly mortgage payments are made) 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. The program expires June 10, 2010.

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

Modifications. The Making Home Affordable program also offers help to borrowers who are struggling to keep their loans current or who are already behind on their mortgage payments. By providing mortgage servicers with financial incentives to modify existing first mortgages, the Treasury hopes to help as many as 3 million to 4 million homeowners avoid foreclosure regardless of who owns or services the mortgage.

The 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 potion of the debt.

Borrowers who make timely payments on their modified loans will receive financial incentives. For every month a timely payment is made, the government will make a payment directly against the borrower's principal balance, up to total of $5,000 in payments. The program expires on December 31, 2012.

Additional information about the Making Home Affordable initiative can be found at can be http://www.makinghomeaffordable.gov/

Hope for Homeowners

In an effort to provide borrowers facing foreclosure with additional options to refinance their mortgage loans, Congress created a new FHA program, the Hope for Homeowners program, in the Housing and Economic Recovery Act of 2008 HERA. (The Emergency Economic Stabilization Act of 2008 [EESA] amended the program.)

Under Hope for Homeowners, owner-occupants can refinance their current loan into a new FHA-insured 30-year fixed-rate mortgage. This refinance will allow the borrower to reduce their principal balance or interest rate, or both. Mortgages eligible for the program were those originated on or before January 1, 2008, and borrowers must have debt-to-income ratios greater than 31. The new loan cannot exceed 90% of the appraised value, and a recent appraisal is required.

Borrowers pay an upfront premium of 3% and a monthly premium of 1.5%. The maximum mortgage amount that can be financed under this program is $550,440. The new mortgage will be applied to the existing first mortgage and will extinguish all mortgage-related debts, including second liens. Borrowers must certify they did not intentionally default on the original mortgage or other debts or furnish false information (with five year jail time for false statements) to obtain the FHA loan. Borrowers are required to share future equity with FHA when the property is sold or the loan is refinanced. The program runs from October 1, 2008 through September 30, 2011.

As of the end of 2008, very few people had taken advantage the program because, among other reasons, it is costly for the borrower and fails to address adequately the problem of second mortgages. H.R. 1106, which passed the House on March 5, 2009, would amend the HOPE for Homeowners Program to make several changes including reducing the premium paid by the borrowers and providing for a payment of not more than $1,000 to a servicer that modifies a mortgage.

Housing Counseling Resources

HOPE NOW. HOPE NOW is an alliance composed of counselors, mortgage companies, investors, and other mortgage market participants. The HOPE NOW participants 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 $360 million program was launched in December 2007 with funds appropriated by Congress to increase the availability of counseling services counseling to homeowners at risk of foreclosure cross the country. NeighborWorks America used these funds to make grants to HUD-approved housing counseling intermediaries, to qualifying state housing finance agencies (HFAs), and to NeighborWorks organizations. The Housing and Economic Recovery Act of 2008 (HERA) appropriated an additional $180 million for the program. HERA also allocated $30 million of the $180 million to counseling intermediaries to hire attorneys who assist homeowners with legal issues directly related to their foreclosure, delinquency or short sale. NeighborWorks maintains an interactive website to help borrowers indentify a counselor in the area at http://www.findaforeclosurecounselor.org/network/nfmc_lookup/.

What Advocates Need to Know Now

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 suffer.

For More Information

National Low Income Houisng Coalition · 202-662-1530 · www.nlihc.org

Foreclosure Intervention: Protecting Renters

By Danilo Pelletiere, Research Director, and Danna Fischer, Legislative Director and Counsel, NLIHC

As the foreclosure crisis has taken hold, experience and research have revealed that rental properties and renters are at significant risk, with as many as 20% of properties affected by foreclosure being occupied by a renter family. These families often have no idea that their landlord has fallen behind on mortgage payments, and, even while current on their own rent payments and obligations, in many cases find themselves with few protections. From the local to the federal level, policymakers are just beginning to recognize the need to address foreclosures on rental housing, and there are some common sense, relatively costless, policy responses, including tenant notice and protection provisions, that can be implemented.

The Issue

Inappropriate lending, a poor economy and falling home prices are leading to increasing numbers of foreclosures across the United States. These trends affect landlords as well as homeowners, and renters lose their homes to foreclosure every day when the owner of the home they are renting goes into foreclosure.

In fact, one in five properties in the foreclosure process are likely rentals. Recent research from the National Low Income Housing Coalition 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 were renters in 2008. And unlike homeowners, who often have some indication that a foreclosure is coming, renters are often caught entirely off guard. In most states, an eviction can proceed less than 30 days after a foreclosure.

As might be expected, very low income families and low income and minority communities are bearing the brunt of rental foreclosures. Data show that for four states in New England, the foreclosure rate on a per-unit basis is more than five times higher in largely non-white, poor neighborhoods than in largely white, low poverty neighborhoods. Even more striking, nearly 60 of every 100 foreclosed properties in high-poverty, non-white neighborhoods are multi-unit, as compared to seven of every 100 in low poverty, white neighborhoods.

The protections for renters in foreclosed properties vary from state to state, and in most states tenants have few protections. The National Law Center on Homelessness and Poverty and the National Low Income Housing Coalition issued a joint report on the foreclosure and eviction laws in each state and the District of Columbia. The report, *Without Just Cause*, can be found at http://www.nlchp.org/content/pubs/Without_Just_Cause1.pdf.

As the experiences of local service providers assisting threatened and displaced renters and research quantifying the impact of foreclosure on renters developed, policymakers have sought legislative and regulatory solutions.

Broad Renter Protections: Pending Federal Legislation

H.R. 1728. At the federal level, one of the first attempts to provide broadly applicable protections for tenants was in H.R. 3915, the Mortgage Reform and Anti-Predatory Lending Act of 2007, which passed the House in November 2007. This bill would have required a 90-day notice prior to eviction and the right of a tenant to remain for the term of their lease up to 6 months. H.R. 3915 died at the end of the 110th Congress, but a similar bill, H.R. 1728, has been introduced in the 111th Congress with even stronger tenant protections (for more information see chapter on Predatory Lending Protections).

H.R. 1247. Representative Keith Ellison (D-MN) introduced H.R. 1247, the Protecting Tenants at Foreclosure Act of 2009, on March 2, 2009. This bill would require the purchaser of a property at a foreclosure sale to notify any bona fide tenant 90 days prior to requiring the tenant to vacate the property, and allow any bona fide tenant with a lease to remain in the property until the end of the lease unless that purchaser will occupy the property as a primary residence, but in any case the tenant must be given 90 days notice before being required to vacate the property. The bill also provides specific protections for Section 8 tenants to ensure that they can remain in the property with continued assistance. The Ellison bill formed the basis for the language in H.R. 1728 described above.

Pre-existing Specific Protections
Both the Section 8 Housing Choice Voucher program and the FHA program had already provided some limited protections to tenants living in a foreclosed property.

FHA. The Federal Housing Administration has a program that provides at least 60 days notice before eviction and a right for some homeowners and tenants to remain in a property after it is transferred to FHA. This program, called the 'occupied conveyance program,' which can be found at 24 C.F.R. §203.674, permits residents with temporary, permanent, or long-term illness or injury to remain for some period of time after the lender has made a claim and the property is transferred to FHA.

Section 8 protections. Recipients of Section 8 assistance have some protections during the initial term of the lease because during that period the owner may terminate the lease only if the tenant violates the lease terms. Foreclosure is not grounds for termination of the lease during the initial term. However, during any subsequent terms or extensions, the owner may terminate the lease for 'other good cause,' which can include foreclosure. In addition, under the current HUD form Section 8 voucher contract, foreclosure terminates the contract, leaving the tenant without assistance unless the new owner agrees to be bound by the contract.

New Specific Protections
In the absence of broad renter protections, protections applicable to specific government programs have been adopted, and Freddie Mac and Fannie Mae have adopted programs to provide renters with protections.

ESSA. Section 109 of the Emergency Economic Stabilization Act (EESA) requires the Treasury Secretary to work with federal entities and agencies that hold troubled mortgages to allow tenants to remain for the term of their leases. EESA also imposes obligations to protect rental subsidies and ensure the viability of projects when the Secretary restructures a mortgage on a rental property.

ARRA. The American Recovery and Reinvestment Act (ARRA) requires that in connection with any foreclosed property purchased with Neighborhood Stabilization Program funds:

- Tenants must receive 90 days notice before eviction,
- Tenants with leases must be allowed to remain in the home for the remaining terms of the lease,
- Tenants with Section 8 assistance must be allowed to remain for the terms of the lease with the Section 8 assistance intact, and
- Recipients of NSP funds cannot discriminate against holders of Section 8 assistance.

Fannie Mae and Freddie Mac. Also at the federal level, Fannie Mae and Freddie Mac have announced policies that will allow tenants (and homeowners in Freddie Mac's case) to remain in a foreclosed property on a month-to-month basis. Fannie has explicitly stated that it will take the steps to continue Section 8 contracts where applicable. Information about the Freddie Mac program can be found at http://www.freddiemac.com/news/archives/servicing/2009/20090305_reo-rental-initiative.html and information about the Fannie Mae program can be found at http://www.fanniemae.com/newsreleases/2009/4581.jhtml?p=Media&s=News+Releases.

Homeless Prevention and Rapid Rehousing Program. When eviction cannot be prevented it is important to ensure that lower income families have the assistance they need to transition successfully to a new living arrangement. Moving can be expensive and most families evicted from a foreclosed rental property will not have access to their security deposit before they move, if ever. To assist these families and families who face losing their home due to the recession to avoid homelessness, Congress, in ARRA, created a $1.5 billion Homeless Prevention and Rapid Rehousing Program. These funds, which are allocated under the Emergency Shelter Grant program formula, must be used to provide short-term or medium-term rental assistance; housing relocation and stabilization services including housing search, mediation or outreach to property owners, credit repair, security or utility deposits, utility payments, rental assistance for a final month at a location, moving cost assistance, and case management; or other appropriate activities for homelessness prevention and rapid re-housing of persons who have become homeless. These funds cannot be used for mortgage assistance.

Eligible families are those at or below 50% of area median income who are homeless or at risk of losing their housing. The family also must meet two other criteria: no appropriate subsequent housing options have been identified and the family lacks the financial resources and support network to obtain immediate housing or remain in existing housing.

HUD published a notice implementing the program and establishing the allocations on March 19. Under this notice, communities must submit a substantial amendment to their Consolidated 2008 Action Plan by May 18, HUD must approve of the plans within 45 days of submission, and agreements between grantees and subgrantees must be signed by September 30. Grantees must expend at least 60% of funds within 2 years of the date that funds became available to them for obligation, and 100% of funds within 3 years of such date. HUD published a notice implementing the program and establishing the allocations on March 19, and the Secretary may recapture unexpended funds in violation of the two-year expenditure requirement and reallocate such funds to grantees in compliance with that requirement:

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 should be urged to support legislation that would provide all tenants in foreclosed properties with the right to remain in their home for the term of their lease, at least a 90 day notice before eviction, and special protections for holders of Housing Choice Vouchers that would allow them to continue in place with their assistance through the end of their lease. Members of the House of Representatives should be urged to cosponsor H.R. 1247.

For More Information

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

HOME Investment Partnerships Program

By Ed Gramlich, Director of Outreach, National Low Income Housing Coalition

The HOME Investment Partnerships Program (HOME) is a block grant program designed to expand the supply of decent, affordable housing for lower income people.

HOME is administered by the Office of Affordable Housing Programs in HUD's Office of Community Planning and Development (CPD).

History

The HOME Program was authorized by Congress in 1990 as part of the Cranston-Gonzalez National Affordable Housing Act.

Program Summary

HOME is a federal block grant to participating jurisdictions, or PJs (states and certain localities), that use the funds to provide affordable low income housing. States and localities use the funds for a variety of rental and homeownership activities, such as constructing new units, rehabilitating existing units, offering downpayment assistance, and providing tenant-based rental assistance. In general, all HOME money must benefit people with low incomes, rents must be affordable, and units must remain affordable for a period of time.

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 and/or rehabilitate a home by offering loans, loan guarantees or downpayment assistance. Tenants can be given grants for security deposits and rental assistance (so that they 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 a community-based housing development organization, or CHDO (see gray box for more about 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 low income residents) lose that amount of money.

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 for project-specific administrative costs. Up to 5% of a PJ's HOME funds can be given to CHDOs for operating expenses (which 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.

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 its formula allocation or $3 million, whichever is greater. 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 and other non-cash contributions.

Beneficiaries. When HOME is used to assist renters, at least 90% of the 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 ('low income'). 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 ('very low income'). 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, incomes below 30% of AMI.

Affordability. To qualify as affordable rental housing, rent can be no greater than the fair market rent (FMR) or 30% of the adjusted income of a hypothetical household with an annual income of 65% of AMI – whichever is lower. 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 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: www.hud.gov/offices/cpd/affordablehousing/programs/home/limits/rent.

A rental project must remain affordable for a minimum number of years. Newly constructed projects must remain affordable for 20 years. Existing housing that is either purchased or rehabilitated must remain affordable for 15 years if more than $40,000 per unit is spent, 10 years if between $15,000 and $40,000 per unit is spent, and five years if less than $15,000 per unit is spent.

Homeowner-assisted units are considered affordable if, in general, the value of the house 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 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.

Funding

Congress appropriated $1.629 billion for HOME formula grants in FY08, less than had been provided since FY04. In FY09, Congress appropriated $1.821 billion for HOME formula grants.

Tips for Local Success

At the local level advocates will want to continue to be actively involved in the ConPlan's Annual Action Plan public participation process in order to influence the type of housing, location and beneficiaries of HOME dollars (for more information see chapter on the Consolidated Plan).

Community-based Housing Development Organizations (CHDOs). 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.

Advocates can best influence how HOME dollars are allocated if they know how a jurisdiction has spent its allocations. To monitor your PJ's accomplishments, there are several reports on HUD's web site useful to local advocates: www.hud.gov/offices/cpd/affordablehousing/reports

- 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.
- Vacant Unit Reports
  - 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 · www.hud.gov/offices/cpd/affordablehousing/programs/home/index.cfm.

Nationally, since 1992 (as of September 30, 2008) HOME has delivered 872,747 completed physical units and provided 197,758 tenant-based rental assistance contracts. Out of the 872,747 physical units, 38% (330,295) were rental units, 20% (174,527) were homeowner units and 42% (367,925) were home buyer units. Households with incomes below 30% of AMI occupied 25.4% of the physical units, 43.4% (143,348) of the physical rental units, 31.6% (55,151) of the homeowner units and 6.4% (23,547) of the home buyer units. Fifty-six percent (110,744) of the tenant-based rental assistance units were occupied by extremely low income people.

Housing Bonds

By Mindy La Branche, 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. Unfortunately, the financial crisis has made it nearly impossible for housing finance agencies to sell housing bonds at rates that allow them to lend the proceeds affordably.

As a tax program, housing bonds fall under the jurisdiction of the House Committee on Ways and Means and the Senate Committee on Finance. Housing bonds are among the programs administered by state housing finance agencies (HFAs).

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 are distinct from other tax-exempt bonds because they are issued for private activities as opposed to governmental activities. However, they 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. Some of the public purposes for which private activity bonds are issued are housing, student loans, infrastructure, and redevelopment activities.

State housing finance agencies have authority under the Internal Revenue Code to issue private activity bonds to support affordable housing activities in their states. 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.

Both MRBs and multifamily bonds allow HFAs to access private financing to support housing. HFAs sell the tax-exempt bonds to individual and corporate investors, traditionally including Fannie Mae and Freddie Mac (the housing Government Sponsored Enterprises), 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. In the case of MRBs, the proceeds finance discount mortgages to support the purchase of single-family homes.

MRBs. 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 (AMI). 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. The average MRB borrower earns two-thirds of the national median income and half the average conventional homebuyer's income.

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. In the case of multifamily bonds, the income-restricted apartments financed by those bonds must remain affordable for at least 15 years.

Multifamily housing bond-financed developments must set aside at least 40% of their apartments for families with incomes of 60% of AMI or less, or 20% for families with incomes of 50% of AMI or less. States increasingly combine multifamily bonds with other resources, such as Low Income Housing Tax Credits (LIHTC) and HOME block grant 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 the homeless, transitional housing, senior housing, assisted-living housing, housing for persons with disabilities, housing for persons with AIDS, migrant worker housing, and rural housing.

Funding

Under law, the annual issuance of private activity bonds, including MRBs and multifamily bonds, is capped based on population and indexed to inflation. The 2009 cap is $90 per capita, with a minimum of $273 million in private activity bonding authority allowed each state.

In 2008, Congress provided $11 billion in additional Housing Bond authority to the states and allowed them to use MRBs for refinancing adjustable rate mortgages originated after December 31, 2001 and before January 1, 2008. The additional bond and refinancing authority expire on December 31, 2010.

In 2006, the most recent year for which data are available, MRBs provided $16.4 billion to support the purchase of nearly 120,000 homes nationwide. States issued over $5.2 billion in multifamily bonds, and those bonds financed over 54,000 units in 2006.

What Advocates Need to Know Now

The financial crisis has made it nearly impossible for HFAs to sell Housing Bonds at rates that allow them to lend the proceeds affordably. The current lack of liquidity in the financial markets has caused most investors to exit the bond market and the remaining investors to demand high interest rates. Fannie Mae and Freddie Mac are also out of the market. Without buyers for their bonds, many HFAs have had to significantly curtail lending and some have had to suspend lending altogether.

HFAs must be able to sell their bonds at reasonable rates to continue making homeownership and rental housing possible and sustainable for working families. Treasury can do this by purchasing or facilitating Fannie and Freddie's purchases of housing bonds at interest rates that allow state HFAs to lend the bond proceeds at below-market rates, while covering their issuance costs.

The Administration's Homeowner Affordability and Stability Plan states that the Administration will work with Fannie Mae and Freddie Mac to support state housing finance agencies in serving homebuyers.

Using MRBs, Housing Finance Agencies have made homeownership possible for more than 3.7 million low and moderate income families. They help another approximately 100,000 families buy their first homes each year with MRB mortgages. The average income of an MRB borrower in 2006 was just $44,841, 59% of the national average income.

HFAs have financed an additional 1 million affordable rental apartments with Housing Bonds. More than 40% of all Housing Credit apartments are financed with Housing Bonds. HFAs have produced approximately 2 million rental apartments for families earning 60% of area median income or less with the Housing Credit. They add another 140,000 Housing Credit apartments every year.

What to Say to Legislators

Advocates should speak with the persons in their Members' offices responsible for housing and/or tax policy with the message that support is needed for the Housing Bond market to get affordable mortgage money flowing again to first-time homebuyers, to aid distressed homeowners, and to spur rental housing production.

The Representative or Senator should continue to work with the Administration to encourage its support for Housing Bond programs through Treasury, Fannie Mae, and Freddie Mac:

- Require Treasury to use Financial Stability Plan funds or other resources available to it to purchase long-term fixed-rate Housing Bonds at reasonable rates, which will establish the market and draw in other investors;
- Encourage Treasury and the Federal Reserve to establish liquidity facilities for HFAs to attract Housing Bond investors;
- Utilize the HFA delivery system to ensure that any forthcoming low-interest rate mortgage initiative reaches the lower income families HFAs so successfully serve and to provide a further interest rate advantage to those families;
- Allow Housing Bond issuers to carry forward unused bond authority from one year to another without designating how they will use that authority; and
- Extend the Housing and Economic Recovery Act's (HERA) Alternative Minimum Tax (AMT) exemption to prior-year Housing Bond authority carried forward to 2009 or future years and to bonds issued to refund prior-year Housing Bond.

For More Information

National Council of State Housing Agencies · 202-624-7710 · www.ncsha.org

Housing Choice Vouchers

By Linda Couch, Deputy Director, National Low Income Housing Coalition

The Housing Choice Voucher program is HUD's largest rental assistance program; it also serves the lowest income people because of deep income targeting guidelines. In FY10, advocates will seek sufficient resources to renew all vouchers in use as well as funds for at least 200,000 new vouchers.

History

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.

The program grew incrementally between 1974 and 2002, the first year when no new, incremental vouchers were appropriated. In FY08, about 15,000 new vouchers were appropriated for special populations but only after the nation lost 150,000 vouchers between FY04 and FY07 due to HUD mismanagement of the program. These new vouchers were the first new vouchers since FY02. About 13,000 new vouchers were provided for in the FY09 HUD budget.

Program Summary

Today, about 2 million households have HUD rental assistance vouchers, also called Section 8 tenant-based assistance and formally referred to as Housing Choice Vouchers.

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 and people on limited fixed incomes. 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.

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.

Approximately 2,500 local and state housing agencies administer housing vouchers. Public housing agencies (PHAs) 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 PHA's inspection of the unit must also demonstrate that the unit meets HUD's housing quality standards.

Generally, voucher-holding tenants pay 30% of their income toward rent. The value of the voucher then makes up the difference between the tenant's rent payment and the housing agency's rent payment standard.

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 cost constraints of the overall voucher program.

Beginning in 2004, the program went through almost three years of upheaval and poor federal management, which resulted in the loss of more than 150,000 vouchers nationwide. The 110th Congress, in its fiscal year 2007 (FY07) funding resolution for HUD, turned HUD's voucher mismanagement around and began to restabilize the program.

Funding

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. The success of the existing voucher program

and any expansion of the voucher program because of new vouchers depend on sufficient annual appropriations.

For FY09, the housing choice voucher program is funded at $16.817 billion. In FY10, advocates will continue to seek adequate funds for the renewal of all vouchers in use. As the improvements made to the program in 2007 and 2008 are implemented, the rate at which vouchers are actually leased up, ‘the utilization rate,’ is increasing. Increased utilization rates, rising rents and decreasing tenant incomes could all result in increased funding needs for the voucher program.

In addition to sufficient funds to ensure PHAs can renew all vouchers currently in use, advocates are calling for a significant infusion of new, incremental vouchers into the housing assistance pool. Advocates are requesting 200,000 new, incremental vouchers in FY10.

What Advocates Need to Know Now

Section 8 Voucher Reform Act (SEVRA). In 2009, the House and Senate are expected to reintroduce Section 8 Voucher Reform Act (SEVRA) bills from the 110th Congress. The House passed its 110th Congress bill but the Senate did not take action on its bill. The bills were similar but not identical, addressing distribution of voucher funds to administering agencies, simplification of rents, voucher portability, replacement vouchers for lost project-based assistance, project-based vouchers, fair market rents, rent burdens, inspections, authorization of funds for 20,000 new, incremental vouchers each year for FY08-FY12, and the family self-sufficiency program, among other voucher issues. The House bill also included an expansion of the moving to work/housing innovation program.

Incremental Vouchers. For many years, the primary source of increased federal housing assistance for very poor people was new annual appropriations for additional vouchers, called ‘incremental’ vouchers. Between FY95 and FY98, however, no incremental vouchers were funded. Congress then approved the following incremental vouchers from FY99 through FY02: 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. In FY08, Congress appropriated funding for 15,000 incremental vouchers; in FY09, funding for 13,000 new vouchers. For FY10, advocates will urge Congress to appropriate funds for 200,000 new, incremental vouchers with the goal of securing 2 million new vouchers over the next 10 years.

Project-Basing Vouchers. Since January 2001, PHAs have been permitted to attach up to 20% of their vouchers to particular units of housing through project-basing of vouchers. In other words, the subsidy attached to these vouchers stays with the unit, as opposed to the household. In October 2005, HUD issued a final rule providing the specific guidelines for project-basing vouchers. No more than 25% of the total units in a property may receive project-based voucher assistance, with certain exceptions. The decision about where to project-base vouchers must be consistent with the goal of deconcentrating poverty and expanding housing opportunities. The final rule grants preferences to families with disabilities who require the services offered at a particular project.

If the PHA is interested in establishing project-based units, it enters into a contract with the owner of the property for a specified term. The initial contract for the project-basing of vouchers can be for up to five years, subject to appropriations.

The House and Senate SEVRA bills from the 110th Congress would have made many improvements to the project-basing of vouchers. Project-basing vouchers allows families with extremely low incomes to afford to live in otherwise unaffordable housing, like low income housing tax credit units.

Fair Market Rent and the Payment Standard. Voucher holders are limited to housing that meets HUD housing quality standards and is owned by landlords willing to enter into a Housing Assistance Payment (HAP) contract with the PHA. Under the voucher program, the subsidy covers the difference between 30% of the tenant’s income and the ‘payment standard,’ which is the total rent and utility costs that the PHA will cover. The PHA has the authority to modify the payment standard to as low as 90% of the Fair Market Rent (FMR) and as high as 110%. Subject to certain limitations, a qualified tenant can rent a unit for any amount of money so long as the PHA finds the rent to be reasonable. A tenant new to the voucher program or moving to a new unit may not rent a unit that would require him or her to pay more than 40% of adjusted monthly income for rent and utilities.

Originally, FMRs were set at the median rent. FMRs were then ratcheted down to the 45th percentile of rents and are now set at the 40th percentile of the value of rental housing in most jurisdictions as determined by HUD. Starting in January 2001, HUD increased the FMRs in some metropolitan areas to the 50th percentile rent due to concerns about the concentration of poverty and low income housing in these areas.

The level at which the FMR is set by HUD is important because the determination of the PHA's payment standard relies on the FMR, so the higher the FMR, the higher the rents that can be covered by a voucher. To set its payment standard outside of the range of 90% to 110% of FMR, the PHA must receive a waiver from HUD to use 'exception payment standards.' A PHA may set payment standards at different percentages of the FMR in different neighborhoods or for units of different bedroom sizes.

The PHA's determination of the payment standard for the voucher program has important implications for housing affordability. As 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), a higher payment standard would mean that fewer families would pay more than 30% of their income. The payment standard proposed by the PHA for the voucher program is subject to tenant and community review as part of the PHA planning process.

The House and Senate SEVRA bills from the 110th Congress would have required HUD to set FMRs for smaller geographic areas with the goal of allowing vouchers to be used in as wide a range of communities as possible, including low-poverty communities.

Rent simplification. Calculating rents can be a complicated process, for both PHA staff and residents. There is general agreement that the rent-setting process can be simplified. While some would like the entire system to be reformed, the overwhelming policy thrust has been to maintain the historic policy of keeping rents tied to incomes and retaining the 'Brooke Amendment,' which caps rents of public and assisted housing residents at generally 30% of adjusted gross income. That said, some simplifications are included in the House's SEVRA bill. These provisions would apply to voucher holders, public housing residents and project-based Section 8 residents.

Among these rent simplification proposals, for example, is that the recertification of incomes would only be required at least every three years (instead of the current annual recertification) for elderly and disabled families on fixed incomes (at least 90% of their incomes from Social Security, Supplemental Security Income (SSI) or some similar source). And, interim income recertifications would be required, at the tenant's request, for annual income decreases of $1,500. Interim income recertifications for earnings increases would not be required. The bill would also increase the standard deduction for elderly and disabled households to $725 from the current $400, while narrowing medical individual deductions to those expenses exceeding 10% of income from the current 3% of income. The bill would also allow 10% of all employment earnings to be deducted from income.

The House's SEVRA bill from the 110th Congress included a provision to allow PHAs to set 'alternative rent structures' for the voucher and public housing program (for non-elderly and non-disabled tenants) as long as the amount paid toward rent stayed within the Brooke requirements of tenants paying no more than 30% of their adjusted income toward rent.

Moving to Work. Moving to Work (MTW) is a PHA demonstration program that provides flexibility from most statutory and regulatory rules. Its provisions impact everything a participating PHA does, including administration of its voucher program. Under MTW, a PHA may combine its public housing operating, capital and voucher funds to assist substantially the same total number of families as otherwise would have been served. Current MTW sites can serve higher income people, impose time limits and work requirements, and change their rent policies (for example, rents may no longer be income based but must merely be 'reasonable'). Because many of the original 30 MTW demonstration sites are still running their initial demonstrations, adequate evaluation of the MTW has not occurred, and, critically, because the potential for harm to residents and the long-term health of the PHAs are at stake, NLIHC believes the MTW program is not ready for expansion or permanent authorization. Various legislative vehicles seek to maintain and expand the current MTW program (for more information see the chapter on the Moving to Work program).

What to Say to Legislators

- Enact Section 8 Voucher Reform Act (SEVRA) legislation that brings reliability to voucher funding and improvements the program without expanding or expanding the Moving to Work program or allowing alternative rent structures.
- Fully fund all vouchers currently in use.
- Appropriate additional funds to provide 200,000 new, incremental vouchers in FY10.

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 · 510-251-9400 · www.nhlp.org

Housing Choice Vouchers:

Family Self-Sufficiency

By Jeffrey Lubell, Executive Director, Center for Housing Policy

Family Self-Sufficiency (FSS) is a HUD program that helps low income families in public housing and the housing voucher program build assets and make progress toward self-sufficiency and homeownership.

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

FSS helps voucher holders and public housing residents to build assets, increase their earnings, and achieve homeownership and other individual goals.

The FSS program is administered through public housing agencies, which apply to HUD for FSS funding as part of an annual competitive grant process. As of November 2007, there were about 64,860 individuals participating in FSS. Most of these – some 56,280 – were enrolled in Housing Choice Voucher (HCV) FSS programs. Approximately 8,580 public housing residents also were participating in FSS. A HUD evaluation found that more than 1,000 housing agencies had FSS programs.

FSS supplements stable, affordable housing (in the form of a housing voucher or public housing) in two ways: with case management to help families overcome barriers to work and develop self-sufficiency plans, and with escrow accounts that grow as families' earnings rise.

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 resume building, job search, job counseling and education and training. The nature of the services varies by program.

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 also may make an interim withdrawal when needed to meet work-related expenses. A participant who fails to successfully complete the FSS program loses the funds in his or her escrow account.

Funding

FSS has four separate funding streams, two each for its voucher and 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 Notice of Funding Availability (NOFA).

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 is provided through an annual NOFA included within the Resident Opportunities for Self-Sufficiency (ROSS) program (for more information see chapter on Resident Participation).

Congress regularly appropriates $46 million to $50 million for FSS coordinators, working with families with housing choice vouchers and another $12 million for FSS coordinators working with public housing residents as part of ROSS.

What Advocates Need to Know Now

- The key federal advocacy issue related to FSS is funding stability – principally for FSS coordinators. HUD should renew and hopefully expand this funding for the FSS program. The American Association of Service Coordinators is advocating for an increase in funding for housing choice voucher FSS coordinators to $85 million and for restoration of ROSS funding to its prior level of $55 million, which would allow for expanded funding for public housing FSS coordinators.

- 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.

- The Section 8 Voucher Reform Act (SEVRA), as introduced into the prior Congress, included several provisions that would help the FSS program. One provision would change the housing choice voucher FSS coordinator funding from an annual competition to an administrative fee. In addition to simplifying the process of receiving funds, this would open up funding to additional agencies that wanted to start or expand their FSS programs. The Act would also help to stabilize funding for the Housing Choice Voucher program generally, which would reassure housing agencies that they have sufficient funding to continue or expand their FSS programs.

- Shortfalls in public housing funding also hurt FSS by making it more difficult for housing agencies to rely on HUD funding to cover the costs of escrow deposits for public housing FSS participants.

What to Say to Legislators

Advocates should speak to the person in their Member of Congress's office 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, possibly, homeownership.
- To better support FSS, Congress should increase funding for voucher FSS service coordinators to $85 million and restore funding for the ROSS program to its prior level of $55 million.
- Congress should further pass the Section 8 Voucher Reform Act, which would improve the stability of funding for both the voucher program generally and FSS specifically.

Housing Choice Vouchers:

Family Unification Program

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

HUD's Family Unification Program (FUP) is the only national housing program aimed at preventing family separation due to homelessness and easing the transition to adulthood for aging-out youth. In July 2009, HUD will award $20 million in new funding for Section 8 vouchers to public housing authorities who have applied for funds in partnership with their local public child welfare agencies.

The program is administered by HUD's office of Public and Indian Housing.

History

FUP was signed into law in 1990 by President George H. W. Bush. The more than 39,000 FUP vouchers that HUD has awarded since the program's inception have enabled over 200,000 children to reunite with their families from foster care or avoid foster care placement altogether.

Program Summary

Over a half million children live apart from their families in America's foster care system. A third of these children are separated from their families because their parents lack access to safe, decent, affordable housing. Equally troubling are the housing challenges faced by the 20,000 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.

FUP aims to provide the child welfare system with the resources necessary to prevent family separation due to homelessness and to prevent homelessness among aging-out youth. Eligible families include those who are in imminent danger of losing their children to foster care or unable to regain custody of their children, primarily due to housing problems. Eligible youth include those who were in foster care anytime after the age of 16 who are currently between the ages of 18 and 21 (have not reached their 22 birthday) and are homelessness or at risk of homelessness.

FUP is administered through local level partnerships between public housing authorities (PHAs) and public child welfare agencies. PHAs apply for FUP vouchers from HUD in response to a Notice of Funding Availability (NOFA). PHAs then administer FUP vouchers to families and youth who have been certified as eligible for FUP by the local public child welfare agency. The child welfare agency is required to assist FUP clients to gather the necessary Section 8 paperwork, find suitable housing, and provide aftercare services to maintain their housing.

Funding

Each year between 1992 and 2001, HUD awarded an average of 3,560 vouchers to public housing authorities. In fact, even during years when new regular Section 8 vouchers were not awarded, HUD kept its commitment to provide vouchers for FUP.

Unfortunately, from 2002 through 2007, 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.

As a result of FUP, more than 500 young people aging out of foster care have received the resources they needed to avoid homelessness and make successful transitions to adulthood. Additionally, a $20 million investment in FUP means that more than 9,000 children will avoid foster care placement or be reunited with their parents. This investment in affordable housing will result in a savings of nearly $135 million in foster care costs annually.

HUD's decision not to fund FUP came at a time when child welfare agencies were facing a growing need for the housing and services FUP provides.

Thanks to the efforts of Senators Patty Murray (D-WA) and Christopher Bond (R-MO), $20 million in new funding was set-aside for FUP, and HUD was directed to spend this money in FY08. As instructed, HUD issued a NOFA inviting PHAs to apply for new FUP vouchers in November 2008. HUD will rate these applications and announce the awardees in July 2009. Additionally, $20 million for another round of new FUP vouchers is included in the FY09 HUD appropriations bill.

What Advocates Need to Know Now

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.
In the absence of an adequate supply of FUP vouchers 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. Nationally, the average family involved in the child welfare system has 2.7 children. The cost of keeping the children of one family of this size in foster care is $47,608 annually. The average cost for a FUP voucher and supportive services for a family of this size for one year would be a fraction of this cost at approximately $13,412. In fact, recent research has demonstrated that a federal investment to address the housing and social services needs of the families who are separated due to homelessness would save the United States $1.94 billion annually.

What to Say to Legislators

Advocates interested in keeping families together and safe and those interested in ensuring that youth aging out of foster care have access to safe, decent, affordable housing options should express their appreciation to Congress for including FUP in the HUD budget. Also, advocates should encourage Congress to continue to provide no less than $20 million annually for new FUP vouchers to prevent family separation and homelessness among aging-out youth.

For More Information

National Center for Housing and Child Welfare · 301-699-0151 · www.nchcw.org

Housing Opportunities for Persons with AIDS

By 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.

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

HOPWA was created in the AIDS Housing Opportunities Act, a part of the Cranston-Gonzales national Affordable Housing Act of 1990.

Program Summary

The purpose of the HOPWA program is to provide housing assistance and related supportive services for low income persons living with HIV/AIDS and their families, and support 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 have access to and can adhere to necessary medical care and other services.

There remains the perception that the HIV/AIDS epidemic in America is under control, but in reality, AIDS is still an active crisis. In August of 2008, the Centers for Disease Control and Prevention (CDC) presented new information regarding annual HIV infections in the United States. 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 1.2 million people living with HIV/AIDS in the United States, with one-fourth of those unaware they have the virus. Maintaining health and stability is essential when managing HIV. For people struggling with the disabling and impoverishing effects of HIV/AIDS, housing is the cornerstone of health and stability. 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 of those, 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.

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 healthcare. Preliminary data from 40 HOPWA grantees reported under a new performance measurement format on client outcomes demonstrates that 90% of clients receiving rental assistance have stabilized their housing.

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, 133 formula grantees receive funding based on AIDS surveillance data for their metropolitan areas and areas of states outside of eligible metropolitan areas for three quarters of available formula funds. In addition, one quarter of the formula allocation is awarded to metropolitan areas that have a higher than average per capital incidence of AIDS.

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 the current fiscal year, 105 competitive grants are operating. This funding supports projects which these projects 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.

Funding

The highest level at which HOPWA has been funded is $310 million, in FY09, but this permits service to only around 62,000 households. HOPWA grantees report meeting only 27% of need with current funding.

What Advocates Need to Know Now

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. A funding level of $360 million in FY10 would permit housing assistance and housing–related supportive services to an additional 12,000 households. (HUD was able to extend assistance to an additional 3,000 households with a $14 million increase received in FY08). The Senate Appropriations Committee noted the absence of additional funding for higher rents and other costs associated with inflation in approving a $15 million increase over the FY08 funding level (S. Rept. 110-418, July 10, 2008), though ultimately a $10 million increase was enacted.

What to Say to Legislators

For FY10, the National AIDS Housing coalition (NAHC) requests $360 million for HOPWA, an increase of $50 million above the FY09 appropriation. This recommended funding level, while only meeting a fraction of need, would sustain existing programs, permit small program expansions at the local level and support newly added jurisdictions. Four new jurisdictions become eligible for formula funding during 2009, and HUD anticipates up to three additional jurisdictions may become eligible during FY10. HOPWA remains sorely underfunded relative to the need. HOPWA would need $3.2 billion to serve all those living with HIV/AIDS in need of housing assistance.

For More Information

National AIDS Housing Coalition · 202-377-0333 · www.nationalaidshousing.org

Individual Development Accounts

By Camille Palacio, Policy Associate, Corporation for Enterprise Development

Individual Development Accounts (IDAs) are matched savings accounts that enable low income American families to enter the financial mainstream, save and build assets. IDAs are proven tools for enabling hardworking, low income Americans to move up the economic ladder and achieve financial security.

Program Summary

While anti-poverty policy makers have traditionally focused on issues of income and consumption, an expanded vision of poverty alleviation has emerged in recent years - one that encourages savings, investment and asset accumulation in conjunction with, not instead of, traditional anti-poverty programs. Assets play a vital role in poverty alleviation by providing not only economic security but also a psychological orientation that encourages low income families to save and plan for the future.

IDAs supplement the savings of low income households with matching funds drawn from a variety of private and public sources. Matched savings accounts are typically restricted to three uses: (1) purchasing a first home; (2) pursuing post-secondary education; or (3) starting or expanding a small business. Individual and matching deposits are never co-mingled; all matching dollars are kept in a separate, parallel account. When the IDA accountholder has accumulated enough savings and matching funds to purchase the asset (usually over two to four years) and has completed a required financial education course, payments from the IDA are made directly to the asset provider to complete the asset purchase.

IDAs are incorporated into the following proposed and enacted policies:

Savings for Working Families Act (SWFA). If enacted, SWFA will expand IDAs by providing a tax credit to financial institutions matching the savings of low income families (dollar-for-dollar up to $500 a year for four years for a total of $2,000) who are saving to buy a home, start a business or go to college. SWFA is the only savings legislation to include a small business component and a role for nonprofits to provide financial education.

Assets for Independence Act (AFI). In 1998, AFI (P.L. 105-285) authorized the Department of Health and Human Services to establish and administer a five-year, $125 million demonstration of IDAs. Congress authorized $10 million per year for FY99 and FY00 and roughly $25 million for each subsequent year. More than 60,000 savers have opened an IDA through AFI. CFED is working with the new Administration and the 111th Congress to reauthorize and improve this legislation.

Nationally, more than 1,100 sites provide IDAs to more than 83,000 savers. Since 1999, IDA savers have made more than 35,000 asset purchases, including 9,400 new home purchases, 7,200 educational purchases and 6,400 small business start-ups or expansions. Research on the outcomes and impact of asset-building IDA programs has revealed:

- IDA savers are 35% more likely to own a home, nearly twice as likely to attend college, and 84% more likely to own a business than demographically similar non-IDA participants.
- More than half of program graduates who previously received public assistance no longer receive assistance after completing the program.
- Accountholders have saved $72.3 million and leveraged an estimated $550 million in their communities.
- Children of parents in IDA programs also developed and maintained savings patterns.
- Nearly a half dozen program evaluations published in 2008 note the low incidence of foreclosure and delinquencies of IDA savers who purchased homes.

The Office of Refugee Resettlement IDA. In 2008 the Office of Refugee Resettlement (ORR) awarded 22 grants in 19 states totaling $4.6 million to help refugees build wealth, attain financial self-reliance and ease their integration into American Society. The grants range from $180,000 to $280,000 over a 60-month project period. Up to $2,000 per individual refugee and $4,000 per refugee household is available with no more than a $1 to $1 match. As this is a program funded at the discretion of the Director of ORR, the Corporation for Enterprise Development (CFED) has met with ORR directors and worked with Congress to increase funding levels over the years.

Beginning Farmer and Rancher Individual Development Accounts (BFRIDA). The BFRIDA program was authorized in the 2008 Farm Bill (P.L. 110-234) to provide savings incentives and financial education to 4,000 agricultural entrepreneurs. BFRIDA provides IDA Savers with a 2:1 match ratio, up to $6,000, to be used for the purchase of farming or ranching equipment, supplies, training, livestock, land, building, etc. Funding is yet to be appropriated.

What Advocates Need to Know Now

Public policy influences levels of household wealth. *Return on Investment?: Getting More from Federal Asset-Building Policies*, a 2007 CFED study, concluded that "Federal asset policies cost at least $367 billion" annually. Federal policies disproportionately benefit those that already have assets; analysis of the three largest spending categories – the mortgage interest deduction, the property tax deduction and preferential rates on capital gains and dividends -- finds that 45% of the benefits go to the wealthiest 1% of Americans – those who typically earn over $1.25 million per year. In contrast, the lowest 60% of households get a bit less than 3% of the benefits.

CFED is urging Congress to enact SWFA, reauthorize AFIA, adequately fund the ORR IDA program, and provide appropriate funding for BFRIDA. These changes would increase the resources for matched savings tied to asset accumulation and assist low income households to build assets and to become financially self-reliant.

CFED also supporters other support for savings incentives including an expanded Saver's Credit and Children's Savings Accounts.

What to Say to Legislators

When calling members of Congress, advocates should speak to the staff member who handles tax or appropriations issues to communicate the importance of federal savings incentives to all American families, including low income families.

Note how your IDA program is funded and the interest among residents for participation. Explain how IDAs work and how they have helped individuals from your state/district achieve financial security and stability.

Ask your legislator to support a reauthorization of the Assets for Independence Act, funding for the BFRIDA program. Ask him or her to cosponsor the SWFA. Share information about SWFA and how it will expand IDAs.

For More Information

CFED · 202.408.9788 · www.cfed.org · www.cfed.org/go/advocacy · www.cfed.org/go/swfa · www.idanetwork.org

Interagency Council on Homelessness

By Norm Suchar, Senior Policy Analyst, National Alliance to End Homelessness

The U.S. Interagency Council on Homelessness (ICH) is comprised of 20 cabinet secretaries and agency heads whose policies and programs have some responsibility for homeless services, including HUD, the Department of Health and Human Services (HHS), the Department of Labor (DOL), and the Department of Veterans Affairs (VA). ICH promotes the 10-Year Plans to End Homelessness at the state and local levels, while coordinating efforts at the federal level.

History

The Interagency Council on Homelessness (ICH) was created in 1987 in the Stewart B. McKinney Homeless Assistance Act. After a long period of inactivity, ICH was reactivated in 2002, with a full-time executive director for the first time in many years.

About the Council

The Council's mission is to develop a comprehensive federal approach to ending homelessness. The federal government allocates over $2 billion per year to programs specifically for people experiencing homelessness, plus additional billions for programs that address poverty more generally. This federal response, while financially significant, often lacks coordination, both between different agencies in the federal government and between federal, state, and local governments and private sector entities that work on homelessness.

ICH has identified several themes for an emerging federal strategy on homelessness, including eliminating long-term (chronic) homelessness and better facilitating access to mainstream resources (those not specifically targeted to people experiencing homelessness). The council has encouraged cities across the country to design and implement 10-year plans to end long-term homelessness and has encouraged states to create interagency councils on homelessness.

The chair of the council rotates among the secretaries of HUD, HHS, DOL and VA. It is currently held by the VA Secretary. ICH has up to 10 regional coordinators to coordinate the federal response at the regional level and to promote the creation of state-level interagency mechanisms.

Funding

Appropriations legislation for FY09 included $2.3 million in administrative funding for ICH. This would provide the means for ICH to continue its activities to coordinate the national response to homelessness.

What Advocates Need to Know Now

While the revived ICH has substantial achievements around ending homelessness, including the implementation of 10-year homelessness plans and trying to eradicate chronic homelessness throughout the nation, there remains a great deal to be done. Advocates should focus on identifying the availability of supportive services, particularly through HHS programs, which could be an issue ICH addresses. Implementing an explicit federal government plan for ending homelessness is a mission that proponents continue to advocate.

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
Interagency Council on Homelessness · 202-708-4663 · www.ich.gov

Intermediary Organizations

By Dvora Lovinger, Senior Director of Government Affairs, Enterprise Community Partners

Intermediary organizations play a vital role in resource delivery, system building and public policy advocacy to support affordable housing, community development and other social priorities. According to one analyst, "By definition, intermediation makes productive exchanges possible where they would not otherwise take place." Affordable housing benefits from the activities of several strong national intermediary organizations, as well as roughly two dozen intermediaries at the state and local level.

About Intermediaries

Intermediaries primarily support community development corporations (CDCs). While CDCs remain a primary constituency of most intermediaries, many intermediaries now form partnerships with other organizations on the ground, including self-help housing groups, faith-based organizations, funding collaboratives, housing partnership organizations, Community Development Financial Institutions (CDFIs), social service providers and for-profit entities.

Intermediary organizations have several primary functions. They marshal resources from financial institutions, philanthropic organizations, government and individuals and direct it to community-based organizations for operating support and project financing. They also provide training, technical assistance, information and networking opportunities, such as conferences, for practitioners. Finally, they advocate for policies that advance affordable housing as well as other priorities at all levels of government and raise awareness of housing and related issues among the general public.

Several well known national intermediaries include: Corporation for Supportive Housing (which has a homeless housing and services focus); Enterprise Community Partners (formerly known as The Enterprise Foundation); Habitat for Humanity International; Housing Assistance Council (which has an explicitly rural focus); Housing Partnership Network (which generally serves larger partnership groups); Local Initiatives Support Corporation; National Community Capital Association (which assists CDFIs); Neighborhood Reinvestment Corporation (doing business as NeighborWorks America and mainly funded by the federal government).

Funding

Most of the resources that intermediaries raise come from the private sector. However, many national intermediaries receive HUD funding as well.

What Advocates Need to Know Now

Independent evaluations have found that intermediary support has strengthened community-based groups and enabled them to become more productive. Evaluators also have found that intermediaries have generated substantial increased funding for housing and community development from both the public and private sectors, in large part by lowering transaction costs and mitigating risks for all parties involved. In addition, intermediaries have built local funding systems to support housing and community development in many cities. Finally, intermediaries have developed credible and widely used performance standards, outcome measures and evaluation criteria for community-based organizations.

Research has shown that intermediaries have been highly effective in locations with relatively strong local capacity to meet housing and community development needs, and have made progress in areas with less advanced systems and sources of support, including many rural communities. Intermediaries have helped groups expand from housing into economic development and other activities to meet the needs of low income families and create mixed-income communities of choice.

For More Information

Corporation for Supportive Housing · 212-986-2966 · www.csh.org
Enterprise Community Partners · 202-842-9190· www.enterprisecommunity.org
Habitat for Humanity · 202-628-9171 · www.habitat.org
Housing Assistance Council · 202-842-8600 · www.ruralhome.org
Housing Partnership Network · 617-720-1999 · www.housingpartnership.net
Local Initiatives Support Corporation · 212-455-9800 · www.liscnet.org
NeighborWorks America · 202-220-2300 · www.nw.org

Lead Control Programs

By Jane Malone, Housing Policy Director, Alliance for Healthy Homes

Three programs, Lead Hazard Control Grants program, Operation LEAP, and Lead Hazard Reduction Demonstration Grants comprise the federal government's efforts to lessen the effects of lead-based paint on children's health.

All three programs are housed in the HUD Office of Healthy Homes and Lead Hazard Control.

History

The Residential Lead-Based Paint Hazard Reduction Act, or Title X of the Housing and Community Development Act of 1992, was enacted to move the nation beyond preoccupation with the presence of lead-based paint. Its purpose was to focus on short- and long-term strategies to make housing safe for children by addressing paint that has deteriorated due to maintenance issues and invisible lead dust caused by work that disturbs lead-based paint. The law established the Lead Hazard Control Grants Program to provide grants to state and local governments to control lead-based paint hazards in privately owned, low income owner-occupied and rental housing. In 2002, Congress added the Operation Lead Elimination Action Program (LEAP) to support projects that use federal funds to leverage private sector investments to prevent lead poisoning. In 2003, Congress added the Lead Hazard Reduction Demonstration Grants to target additional lead hazard control grants to the nation's highest-risk cities.

Program Summary

Some 220,000 U.S. children have an 'elevated blood level,' which causes many harmful lasting health and developmental problems, and hundreds of thousands of other children have enough lead to impair learning and permanently decrease their IQ. While consumer products with lead have attracted deserved attention and policy change, paint that has deteriorated due to maintenance issues and invisible lead dust caused by work that disturbs lead-based paint remain the dual dangers in the home environment that are causing most lead poisoning. The vast reservoir of lead hazards that lingers in 28 million homes continues to need vigilant monitoring and targeted intervention.

More than 300,000 homes have been made lead-safe under the lead hazard control programs. While these represent just a fraction of the estimated 25 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.

All three programs' funds are issued by a competitive combined Notice of Fund Availability (NOFA).

Generally, the beneficiaries of the lead hazard control program must be low income households: at least 50% of the renters whose units are repaired must have income at or below 50% of area median income; the income of all other renters and any owner-occupants may not exceed 80% AMI. Rental units must be available on a priority basis for families with children under age six for at least three years; 90% of owner-occupied units must house or be regularly visited by a child under age six. Each grantee develops its local plan and is permitted, since the funds do not cover all housing eligible under federal policy, to target investment of grant funds based on factors such as the presence of a lead-poisoned child and location in high-risk neighborhood.

Lead Hazard Control. The typical award of $3 million addresses hazards in 300 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. The maximum amount that can be spent on repairing lead hazards in any dwelling unit is $8,000. Grantees are required to partner with community groups, typically by awarding sub-grants, and provide a match of 10% from local or CDBG funds. More than $1 billion has been awarded since the program started in 1993. For FY08, the program received $71 million; it also received $78 million in the 2009 economic recovery bill.

Lead Hazard Reduction Demonstration Grants. This five-year-old sub-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 for lead hazard control in private housing to states, counties and cities. 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 (and do) receive demo grants in addition to basic lead hazard control grants. For FY08, the program received $44 million; it also received $3 million in the 2009 economic recovery bill.

Operation LEAP (Lead Elimination Action Program). This grant program, begun in 2002, provides competitive grants to nonprofit and for-profit organizations and entities for projects that mobilize substantial private sector resources for addressing lead hazards in housing. Increasingly it functions like the lead hazard control grants, where results are measured only at the unit-by-unit level, as opposed to supporting community-wide results like policy change. For FY08, the program received $17.5 million.

In addition to these programs, Title X also directed HUD (and EPA) to overhaul regulations for lead-based paint; set standards for hazards, how to determine and eliminate hazards, and how to prevent their creation during renovation work; and require lead hazard disclosure to the potential renter or purchaser of every pre-1978 home. Among other results, 195,000 homes in multifamily rental properties have received ordered repairs as a result of disclosure enforcement actions, and at least 1 million federally subsidized homes have been made and kept safe under the Lead Safe Housing Rule.

What Advocates Need to Know Now

The most significant issue in lead poisoning prevention, in terms of how many homes get affected and children protected, is the new national regulation of repair, remodeling and painting work in pre-1978 homes and child-occupied facilities. This EPA rule requires that repair work be done safely without distributing lead paint or leaving lead dust behind, similar to HUD's lead-safe housing rule for federally subsidized housing. The rule takes effect in April 2010, and will affect more than 6 million renovation projects every year. EPA must be required, through statute or appropriations, to train contractors and workers so that everyone who needs to has the required training. Congressional leaders and lead poisoning prevention advocates have not yet decided whether a bill is needed.

What to Say to Legislators

Call Members of Congress with the message that funding is still needed to correct lead hazards and ensure that privately owned affordable housing is safe and healthy. Members should continue their support for reducing childhood lead poisoning and other health problems caused by housing-based hazards:

- Provide $225 million for Lead Hazard Control and Lead Hazard Reduction Demonstration Grants Programs through which local and state government and nonprofit organizations can fix both lead and other health hazards in 3,000 homes.
- Provide $25 million for outreach and leveraging to support community-wide strategies for lead-safe housing.
- Provide $25 million for Lead and Healthy Homes Technical Studies to identify and document effective methods of reducing hazards in the home environment.
- Provide $225 million for Healthy Homes Demonstration, Production, and Enhancement Grants, a new grant program proposed in Healthy Homes legislation, through which nonprofit organizations and local and state government will correct health hazards using a whole-house approach in privately owned affordable housing, matched by and leveraging other federal grant funds (for more information see chapter on Healthy Homes).

For More Information

Alliance for Healthy Homes · www.afhh.org

Low Income Home Energy Assistance Program (LIHEAP)

By Olivia Wein, Staff Attorney, National Consumer Law Center

The regular Low Income Home Energy Assistance Program (LIHEAP) is a federal block grant program to the states to help low income families meet the costs of heating and cooling their homes. The main challenge for this program is securing adequate funding, especially in light of the steady and dramatic rise in residential energy costs.

LIHEAP is administered by the Office of Community Services, under the Administration for Children and Families at the Department of Health and Human Services.

History

The LIHEAP program 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

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 income and highest energy needs (i.e., those who pay a large percentage of their income on home energy) and households with populations vulnerable to extreme heat or cold. These are households with very young children, individuals with disabilities and/or frail elderly. The LIHEAP program focuses on 'home energy' which is defined as a source of heating or cooling in residential dwellings.

In order for a state to receive LIHEAP funds, each state 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 of the 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 program 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 covers a range of fuels from natural gas and electricity (for heating or cooling) to home heating oil, propane, kerosene and wood. Assistance can be in the form of a vendor payment or a two-party check, or direct assistance to the LIHEAP households (for example to a tenant whose heat is covered in the rent).

States also have the flexibility to set their program's eligibility criteria in the annual state LIHEAP plan. States must set income eligibility above 110% of the poverty level, and the maximum eligibility for LIHEAP is 150% of poverty or 60% of state median income.[1] Low-income households are also eligible for LIHEAP through participation in the following programs: Temporary Assistance for Needy Families (TANF), Supplemental Security Income (SSI), Food Stamps (now called Supplemental Nutrition Assistance Program), and certain needs-tested veterans' benefits.

1 The Consolidated Security, Disaster Assistance, and Continuing Appropriations Act of 2009, P.L. 110-329, § 155(b) which provided $4.5 billion for the regular LIHEAP block grant and $590 million in LIHEAP Emergency Contingency, allows states to set eligibility up to 75% of state median income.

There are several components to LIHEAP:

Regular LIHEAP program. 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 emergency contingency fund. The LIHEAP emergency contingency fund is separately funded from the 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.

Crisis grants. Each fiscal year, states must reserve a reasonable amount of the 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 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 than 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.

Funding

The FY09 Continuing Resolution (PL 110-329) funded LIHEAP at a total of $5.1 billion ($4.509 billion through the regular formula and $590 million through the LIHEAP emergency contingency fund). All those funds have been released to the states and there is currently no available LIHEAP emergency contingency funding.

There were no increases for LIHEAP provided in the American Recovery and Reinvestment Act of 2009 (ARRA), as the program had reached its authorized limit of funding in FY09 in the FY09 Continuing Resolution.

What Advocates Need to Know Now

While the recent authorized funding level for LIHEAP is $5.1 billion for the regular block grant program and $600 million in LIHEAP emergency contingency funds, the President's FY10 budget blueprint would fund LIHEAP at $3.2 billion for the regular program.

The FY10 budget blueprint also proposes a new 'trigger' mechanism to provide automatic increases in LIHEAP whenever there is a spike in energy prices. For FY10, the budget blueprint would provide $329 million in mandatory funds for the trigger mechanism. The details on just what would trigger a release and how the release would be allocated are not available as of the printing of this Guide.

Advocates expect that there will be efforts throughout FY09 to secure additional LIHEAP funding, especially additional LIHEAP emergency contingency funding. The LIHEAP advocacy community will also be taking a close look at the Administration's new 'trigger' mechanism as details on the plan emerge.

Tips for Local Success

Become involved in the development of your state's annual LIHEAP program. Each year the state LIHEAP programs must submit to the Department of Health and Human Services their plans for the upcoming program year. These annual 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. States tend to prepare their annual LIHEAP plan in advance of the new fiscal year, which is usually sometime in the summer. The plans will set out eligibility criteria and benefit amounts, as well as other aspects of the program.

To find your state's LIHEAP office, visit www.acf.hhs.gov/programs/ocs/liheap/grantees/states.html. Please note that some tribes receive their LIHEAP grant directly through the federal agency (as opposed to the state).

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 www.liheap.ncat.org/Supplements/2007/supplement07.htm or contact the consumer protection division of your state utility commission). Some states also have charitable energy assistance funds called fuel funds; check with the National Fuel Funds Network at www.nationalfuelfunds.org.

Advocates should also become very familiar with certain utility rules. For utilities regulated by the state utility commission (generally, the private investor-owned utilities), the commission's 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). 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.

For longer-term measures to make homes more energy efficient, see the chapter on the Department of Energy's Weatherization Assistance Program.

What to Say to Legislators

- LIHEAP is a critical safety-net program to help households afford residential energy.
- There is significant need in my 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]
- For FY10, LIHEAP must be fully funded at $5.1 billion, which is the total amount that went to the states in FY09.

For More Information

For consumers seeking information on how to apply for LIHEAP.

- The LIHEAP Clearinghouse National Energy Assistance Referral (NEAR) is a free service for persons who want information on where to apply for LIHEAP. Please be prepared to provide your city, county and state. NEAR's toll-free number is 1-866-674-6327. You can also reach NEAR via the email at energyassistance@ncat.org.

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). www.liheap.ncat.org/

For advocates seeking information about advocacy regarding LIHEAP funding.

- The National Energy Assistance Directors' Association's (NEADA) website provides information on LIHEAP funding needs and current funding levels. 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. www.nationalfuelfunds.org/
- The Campaign for Home Energy Assistance is a group of organizations that advocate for adequate LIHEAP funding. www.liheap.org/members.html
- 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@nclcdc.org and in the subject please indicate that you would like to be added to the LIHEAP Coalition email alert list.

Low Income Housing Tax Credit

By Danna Fischer, Legislative Director and Counsel, National Low Income Housing Coalition

The Low Income Housing Tax Credit (LIHTC) program is designed to expand the supply of affordable housing by offering tax credits to investors and thereby encouraging private investment. Because the economic downturn has dampened demand for tax credits, many developments have stalled because of a lack of sufficient financing.

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 regulations governing the program can be found at 26 C.F.R. §1.42. The IRS provides additional guidance through revenue rulings, technical advice memorandums, notices, private letter rulings, and other means.

Program Summary

The LIHTC program is designed to expand the supply of affordable housing by encouraging private investment in affordable development. In 2007, just over $790 million in credits produced 74,663 units and as of 2005, the LIHTC program had created 1.382 million units. The encouragement comes in the form of a tax credit to the investors, who provide cash or 'equity' to the developer of a project and, in return, receive a dollar-for-dollar reduction in their federal income taxes. This infusion of equity reduces the amount of money a developer has to borrow, thereby lowering costs and allowing for lower rents. The LIHTC can be used to support a variety of projects including both multifamily and single-family housing, new construction, and rehabilitation, and housing for the elderly and disabled. Tax credit projects are found in all parts of the country, including rural areas.

Tax credits are allocated to states based on each state's population. The Housing and Economic Recovery Act of 2008 (HERA) increased each state's credit cap (as the state allocations are called) for 2009 to $2.20 multiplied by the state population, with a minimum of $2,557,500. In 2010 the cap will return to its pre-HERA level of $2.00 per capita (adjusted for inflation), with a minimum of $2,325,000 to each state.

In turn, states, through one or more agencies, including their Housing Finance Agency (HFA), allocate credits to specific projects according to the state's Qualified Allocation Plan (QAP; for more information see QAP article). Both for profit and nonprofit developers can apply for credits, but at least 10% of an HFA's total tax credits must be set aside for nonprofits.

Once awarded tax credits, a developer then sells them to investors, usually through a 'syndicator.' Most investors are corporations and many are financial institutions that receive Community Reinvestment Act credit for these investments. Syndicators act as a broker between the developer and the investor. Syndicators sometimes pool several tax credit projects together l and sell investors shares in the pool. The cash (equity) provided by the investors is used by the developer, along with other resources such as conventional mortgages, state loans and funds from federal programs such as HOME, to construct or substantially rehabilitate affordable housing

Tax credits are available only for qualified low income housing projects which are defined as housing where either (1) 20% or more of the units are rent restricted and occupied by persons at 50% of area median income or less (20/50 projects) or (2) 40% of the units are rent restricted and occupied by persons at 60% of area median or less (40/60 projects). Units are rent restricted when rent and utilities do not exceed 30% of the income limitation applicable to that unit, i.e. 50% or 60% of area median income.

The amount of the tax credit varies with the type of project. There are two levels of credit: 9% and 4%. (The 9% and 4% rates are designed to yield 70% or 30% 'net present value,' respectively. Thus, in the case of a 9% credit, the stream of tax credits over the 10-year credit period has a value today equal to 70% of the eligible development costs, and in a 4% project, the present value of the credits is equal to about 30% of the development costs. Consequently, these

projects are also called 70% and 30% projects, respectively.) The 9% tax credit is generally available for construction or rehabilitation projects that do not have other federal funds, and the 4% credit is for (1) acquisition of existing buildings for substantial rehabilitation; (2) new construction or substantial rehabilitation subsidized with other federal funds or (3) projects financed with tax-exempt bonds.

The figures 9% and 4% are only approximate rates. The IRS computes actual rates monthly based on Treasury interest rates. For any given project, the real tax credit rate is set, at the developer's option the month a project is ready for occupancy, or the month a binding commitment is made between an HFA and developer. This applicable percentage is applied to the project's 'qualified basis' to determine the investors' tax credit. These credits are taken over 10 years. Under HERA, non-federally assisted projects placed in service between July 30, 2008 and January 1, 2014, will receive credits worth at least 9% and projects with below market loans are eligible for 9% credits.

The 'qualified basis' is determined by applying the lower of (1) the ratio of lower income units to all units (the 'unit fraction') or (2) the ratio of square feet in the lower income units to the project's total square feet (the 'floor space fraction') to the total 'eligible basis.' Eligible basis includes building acquisition, construction, soil tests, engineering costs, and utility hookups. Land acquisition and permanent financing costs are not counted toward the eligible basis, and the eligible basis is usually reduced by the amount of any federal funds. The eligible basis of a project can get a 30% increase (a '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). The greater the proportion of rent-restricted lower income units in a project (the greater the applicable fraction), the more tax credits a project can receive. This is an incentive to create projects with more than the minimum number of required rent-restricted lower income units. HERA expanded the use of this basis boost to areas designated by a state as requiring an increase in the credit amount to be financially feasible.

Tax credit units are available to persons with incomes at the time of initial occupancy at or below 50% or 60% of area median income depending on the election made by the developer. Tax credits are available only for rental units that meet either the 20/50 or 40/60 test outlined above, but projects do not have to contain 100% tax credit units. Therefore, it is possible for LIHTC projects to have a mix of units occupied by lower income people and moderate and middle income people. Some HFAs choose to create deeper targeting in order to serve households with even lower incomes.

While rents on the tax credit units are restricted, tenants pay the fixed maximum tax credit rent, even if it is greater than 30% of their income. In other words, the rent a tenant pays is not based on the tenant's income; rather it is based on the applicable (50% or 60%) area median income. Consequently, lower income residents of tax credit projects might be 'rent burdened,' paying more than 30% of their income for rent and utilities. Conversely, 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 Housing Choice Vouchers or project-based Section 8 vouchers or U.S. Department of Agriculture (USDA) Rural Development Section 521 Rental Assistance (RA) are often needed to fill the gap between 30% of a resident's actual income and the tax credit rent.

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 (30 years all together). Some states require 'extended 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, during the 14th year of the 15-year compliance period, an owner can submit a request to the HFA to sell a project or convert it to market rate. The HFA has one year to find a buyer willing to maintain the rent restrictions for the balance of the 30-year period. If the property can't 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.

Although housing tax credits are federal, each state has an independent agency that decides how to allocate its share of federal housing tax credits. Each HFA must have a Qualified Allocation Plan (QAP), which sets out the state's priorities and eligibility criteria for awarding federal tax credits to housing projects. The QAP is subject to public comment and thus is a tool advocates can use to influence how their state's share of annual tax credits is allocated to affordable housing projects. For a more complete discussion, see the Qualified Allocation Plan chapter.

LIHTC credits can be, combined with funding from other federal and state programs. HOME, Community Development Block Grant (CDBG), HOPE VI funds, tax exempt and taxable bond-financing, Section 8 project-based assistance and the Federal Home Loan Banks (FHLB) affordable housing funds can all be combined with low income housing tax credits to support affordable housing. HERA made changes in the HUD and Department of Agriculture (USDA) programs to make them more compatible with the LIHTC program. Those changes include streamlining the approval process for use of LIHTCs in HUD and USDA projects, modifying the FHA insurance program so that they are more compatible with the LIHTC program and increasing the flexibility of the project-based Section 8 program, the McKinney-Vento Homeless Assistance Shelter Plus Care program and the Section 202 elderly housing program to enable them to coordinate better with the LIHTC program

Funding

This program is administered by the Treasury Department's Internal Revenue Service (IRS). The LIHTC is a tax expenditure, which does not require an appropriation. The Joint Committee on Taxation estimates that the program will cost $5.1 billion in tax expenditures in 2009.

What Advocates Need to Know Now

The economic downturn has adversely affected the tax credit program and caused many developments to stall for lack of sufficient financing. The American Recovery and Reinvestment Act (ARRA) contained two provisions that will help some of these stalled projects. The first provision allows states to trade in up to 40% of their 2009 LIHTC allocation authority and all of their unused 2008 authority for cash at $.85 on the dollar. ARRA also includes $2.25 billion in special HOME funds to address some of the financing gaps in projects that receive credits between October 1, 2006 and September 30, 2009.

While these changes are valuable, many believe they are insufficient to revive the market and attract new investors. Advocates should monitor the program carefully. Attempts to modify the program to attract new investors may provide opportunities to deepen the income targeting for the program or modify the rent structure to reduce potential rents burdens on very low income tenants.

For More Information

Opening Doors, Issue 26, April 2005, "Using the Low Income Housing Tax Credit Program to Create Affordable Housing for People with Disabilities." http://www.tacinc.org/Docs/HH/OpeningDoors/ODIssue26.pdf

HUD's HOME program web page has a good, basic tutorial at www.hud.gov/offices/cpd/affordablehousing/training/web/lihtc/.

A list of QCTs and DDAs are posted at www.huduser.org/datasets/qct.html.

The Housing Assistance Council (HAC) has three resources:

- A guidebook called *Utilizing the Low Income Housing Tax Credit for Rural Rental Projects*. Chapter III, "Tax Credit Basics," is a good overview at www.ruralhome.org/pubs/guides/lihtc/toc.htm .
- The Winter 2003-2004 edition of *Rural Voices* is devoted to "Tax Credits and Rural Housing" at www.ruralhome.org/manager/uploads/VoicesWinter0304.pdf.
- A short one-page overview is available at www.ruralhome.org/infoSheets.php?id=177.

The Enterprise Foundation has a tutorial at www.enterprisecommunity.com/products_and_services/downloads/lihtc_101_ppt_10-06.pdf.

Information about QAPs and HFAs

A capsule description of the preservation-oriented features of each state's QAP is available from the National Housing Trust at www.nhtinc.org/documents/Pres_Scan_May2006_final.pdf.

The National Housing Trust lists LIHTC projects on a state-by-state basis at www.nhtinc.org/data_map.asp.

HUD's data base of LIHTC projects, updated through 2007, is at www.huduser.org/datasets/lihtc.html.

McKinney-Vento Homeless Assistance Programs

By Greg White, Housing Policy Analyst, National Low Income Housing Coalition

The McKinney-Vento Act authorizes funds for a small set of federal homeless assistance programs, including four administered by HUD: Emergency Shelter Grants (ESG); Section 8 Moderate Rehabilitation for Single Room Occupancy Dwellings for Homeless Individuals (SRO); Shelter Plus Care (S+C); and the Supportive Housing Program (Supportive Housing). Collectively, these programs are known as HUD McKinney-Vento Homeless Assistance Programs. Legislation to reauthorize and streamline the programs was introduced in both the House of Representatives and the Senate in April of 2009. Both bills are similar to legislation that overwhelmingly passed the House in October of 2008.

HUD's Office of Community Planning and Development administers the HUD programs.

History

Congress enacted the Stewart B. McKinney Homeless Assistance Act in 1987 in response to the homelessness crisis that had emerged in the 1980s. President Clinton renamed it the McKinney-Vento Act in 2000.

Program Summary

HUD McKinney-Vento programs provide outreach, shelter, transitional housing, support services and, in some cases, permanent housing to people experiencing homelessness. Lack of affordable housing and extreme poverty are the chief underlying causes of homelessness in the United States, and the HUD McKinney-Vento programs were not designed to address these larger-scale problems. While providing enough supportive housing for those who are homeless the longest would be feasible if the program is significantly expanded, HUD McKinney-Vento will never be large enough to provide all the resources necessary to end homelessness for everyone. Expecting to end homelessness in the absence of new housing production and operating resources is unrealistic.

Emergency Shelter Grant (ESG) funds are granted on a formula basis to states and communities to fund emergency shelters for people experiencing homelessness, and for homelessness prevention. Typically, HUD allocates approximately 15% of Homeless Assistance Grant funds to ESG.

The three competitive programs, SRO, S+C, and Supportive Housing, are funded through the SuperNOFA-Continuum of Care Process, a consolidated process for awarding grants that stresses local coordinated plans and the development of comprehensive assistance. Eligible grantees under one or more of the programs include state and local government, public and Indian housing authorities, and nonprofit organizations.

The SRO program provides rental assistance for homeless persons in connection with the moderate rehabilitation of single-room occupancy dwellings. S+C is a long-term rental assistance program intended to aid hard-to-serve homeless populations with disabilities. Finally, the Supportive Housing program has been designed to help homeless individuals obtain more stability in their lives. This can fund projects including outreach, intake and assessment, transitional housing, and permanent housing for persons with disabilities.

When the McKinney Act was passed in 1987, the bill also established the Interagency Council on the Homeless (ICH) to perform a number of duties related to monitoring, evaluating, and recommending improvements in programs and activities to assist homeless individuals conducted by federal agencies, state and local governments, and private voluntary organizations (for more information see chapter on ICH).

In addition to the programs administered by HUD, several other agencies and departments have programs authorized by the McKinney-Vento Act. The Department of Health and Human Services (HHS) administers programs such as the Health Care for the Homeless program, a Community Mental Health Services block grant program, and the Emergency Community Services Homeless Grant Program. A number of McKinney-Vento programs were reauthorized with passage of the No Child Left Behind legislation in 2002. Among those programs are the Adult Education for the Homeless Program and the Education of Homeless Children and Youth Program.

Funding

The McKinney-Vento Homeless Assistance Programs were funded at $1.67 billion in FY09.

What Advocates Need to Know Now

Bills were introduced in both the House of Representatives and the Senate to reauthorize McKinney-Vento homeless programs during the 110th Congress. The House passed a modified version of the Homeless Emergency Assistance and Rapid Transition to Housing Act (HEARTH), H.R. 7221, on October 2, 2008. H.R. 7221 was a compromise between the language included in H.R. 840, the original HEARTH Act, and S. 1518, the Community Partnership to End Homelessness Act. The Senate bill faced a hurdle to final passage though, as Senator Tom Coburn (R-OK) placed a hold on the legislation preventing a vote before the full Senate prior to adjournment.

Because the measure failed to pass both chambers of Congress during the 110th Congress, bills to reauthorize and amend the McKinney-Vento Homeless Assistance Act were introduced in both the House and the Senate on April 2, 2009. H.R 1877 and S. 808, both titled the "Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act of 2009," were introduced in the House by Representative Gwen Moore (D-WI) and by Senator Jack Reed (D-RI) in the Senate. The bills are identical, and are very similar to legislation that passed the House overwhelmingly last October.

Among the bills' numerous provisions are:

- Consolidation of the separate McKinney-Vento homeless assistance programs (the Supportive Housing Program, Shelter Plus Care, Moderate Rehabilitation/Single Room Occupancy) into a single Continuum of Care Program and codifying the continuum of care planning process.
- Creation of Emergency Solutions Grants (formerly Emergency Shelter Grants) with new emphasis on prevention and rehousing similar to the Homelessness Prevention and Rapid Re-housing Program (HPRP) just enacted as part of the economic recovery package.
- Expansion of the definition of homelessness to include unaccompanied youth and homeless families with children who: have experienced a long-term period without living independently in permanent housing; have experienced persistent instability measured by frequent moves over a period of time; can be expected to continue in such a status for an extended period of time because of chronic disabilities, chronic physical health, or mental health conditions, substance addiction histories of domestic violence or childhood abuse, the presence of a child or youth with a disability, or multiple barriers to employment.
- Requirement that HUD provide incentives for strategies that are known to reduce homelessness.
- Establishment of specific criteria for programs in rural states that respond to the unique nature of rural homelessness.
- Establishment of a nationwide goal of ensuring that individuals and families who become homeless return to permanent housing within 30 days.
- Authorization of increased appropriations, calling for an additional $2.2 billion in funding for the programs over the next two years.

The House bill has six cosponsors in the House: Representatives Judy Biggert (R-IL); Shelley Moore Capito (R-WV), the Ranking Member of the Subcommittee on Housing and Community Opportunity; Andre Carson (D-IN); Geoff Davis (R-KY); House Financial Services Committee Chairman Barney Frank (D-MA); and Chairwoman of the Housing and Community Opportunity Subcommittee Maxine Waters (D-CA).

Cosponsors of the Senate companion bill are Senators Daniel Akaka (D-HI), Christopher "Kit" Bond (R-MO), Barbara Boxer (D-CA), Susan Collins (R-ME), Richard Durbin (D-IL), John Kerry (D-MA), Amy Klobuchar (D-MN), Mary Landrieu (D-LA), Frank Lautenberg (D-NJ), Joseph Lieberman (I-CT), Charles Schumer (D-NY), and Sheldon Whitehouse (D-RI).

Further consideration of the bills has not yet been scheduled as of press time.

H.R. 29. Also in the 111th Congress, Representative Judy Biggert (R-IL) introduced H.R. 29, the Homeless Children and Youth Act of 2009, which would expand the definition of a homeless person under the McKinney-Vento Homeless Assistance Act to include children and youths. The bill would include children who have been confirmed as homeless either by the family of the child or who are defined as homeless by other federal programs, including the Departments of Education, and Health and Human Services.

What to Say to Legislators

Advocates should ask their Members of Congress to support the HEARTH Act to help streamline the McKinney-Vento funding process and provide a critical increase in funding.

For More Information

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

Minimum Wage

By Kai Filion, Research Analyst, Economic Policy Institute

All workers in the United States, with a few exceptions, are now covered by the federal minimum wage. Over the past 30 years, however, its buying power has steadily declined as increases in the minimum wage have failed to keep up with the rate of inflation. Today, despite a recent increase, the minimum wage no longer offers a livable wage: a full-time worker being paid the federal minimum wage ($6.55 as of July 24, 2008) can expect to earn just $13,100 a year, below the official poverty line for a family of two. As a result, minimum wage workers struggle to afford the most basic needs, such as housing.

History

The federal minimum wage was established by the Fair Labor Standards Act of 1938 as a measure to prevent the exploitation of workers. Although the minimum wage was originally set at $0.25 an hour and applicable to a small subset of workers, Congress has gradually expanded coverage and increased its dollar value over time. The real value of the minimum wage – after taking inflation into account – has fluctuated. Between 1962 and 1981, the inflation-adjusted value of the minimum wage was consistently above $7.00 per hour (in 2007 dollars), with a peak in 1968 of $8.38.

Summary

Since then, however, Congress has not increased the minimum wage as quickly as costs have increased. By 2006, after 10 years of ignoring it, the inflation-adjusted value of the minimum wage reached a 50-year low of $5.30 per hour. The next year, Congress passed a three-step increase to the minimum wage, raising it to $5.85 in 2007, $6.55 in 2008, and $7.25 in July of 2009.

One way to compare the minimum wage over time periods is to look at how many hours a person would have to work to pay for an average home. This is a simple calculation using the median cost of a single family home in the United States and dividing it by the minimum wage at that time. Today, a minimum wage employee would have to work over 35,000 hours in order to buy a home. For a full-time employee, that is more than 17 years of labor without spending a cent on food, clothing, transportation, or anything else. Assuming that a worker is only able to spend one third of his or her income on housing, this number jumps up to 51 years, much more than the average work life. This is also a dramatic increase over historical rates: the minimum occurred in 1970, with seven years of full-time work required to buy a home. By failing to increase the minimum wage in line with housing prices it has become almost impossible for many workers to afford a home. And while buying a house is out of reach for workers, families also spend more than they can afford on rent: a full-time, minimum wage worker spends about 60% of his or her income on rent alone. This is well above the 30% of income considered affordable.

Although the purchasing power of the minimum wage has fallen over the past 30 years, it can be used in the future, as it was in the past, to help those with low incomes get by on their own. To understand who will be affected by a minimum wage increase, Economic Policy Institute (EPI) did a study on people who earn less than $7.25 an hour, the future value of the minimum wage. There are almost 5 million workers who fall into this category, and despite claims that only teenagers are minimum wage employees, more than 70% of this group is 20 years old or older. In addition, almost 25% of these workers have children.

What Advocates Need to Know Now

Working Americans should be duly compensated for their labor with a wage that will allow them to provide for their families. Advocates are working at the federal, state and local levels to enact stronger minimum wage laws.

National advocacy. Even after the latest increase in the minimum wage, its inflation-adjusted value will still be lower than historical levels, and it will still be at a level which makes it nearly impossible for these workers to afford their own home.

The way forward has two steps: first, increase the minimum wage to a livable level and second, index it to protect against inflation. At the national level, it would be best if the minimum wage were set at 50% of the national average wage for non-supervisory workers. This would be an improvement over the current system whereby Congress raises the minimum wage only when it is politically expedient, about once every six to 10 years. By indexing to inflation or average wages, we prevent the purchasing power of the minimum wage from eroding as prices increase, and ensure that workers are not left behind.

Advocates expect that a minimum wage bill that takes into account both an increase and an index will be introduced in the Senate during the current 111th Congress.

State and local campaigns. With the federal minimum wage at historic lows, several states began to take action by raising their own minimum wages. Where the state and federal minimum wages are different, the higher of the two is used. As of January 1, 2009, 25 states and the District of Columbia will have a higher minimum wage than 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 also removes control of the minimum wage from the whims of politicians and creates a predictable, annual increase that is easier for business owners to predict and adopt.

What to Say to Legislators

Should a minimum wage bill that takes into account both an increase and an index be introduced in the 111th Congress, advocates should ask their Members for support.

For More Information

Economic Policy Institute · 202-775-8810 · www.epi.org

Mortgage Interest Deduction

By Danilo Pelletiere, Research Director, National Low Income Housing Coalition

The Mortgage Interest Deduction (MID) is a provision of the U.S. tax code that allows homeowners to deduct the interest paid on mortgages on personal homes from their taxable income for the purposes of the determining the amount of federal income tax they owe each year. Current law allows interest on up to $1 million in total mortgages on first and second homes to be deducted. The MID is highly regressive tax policy, meaning that the wealthiest people with the biggest mortgages benefit the most.

Though few recipients of the MID consider it to be housing assistance, the Congressional Joint Committee on Taxation defines the MID as part of the nation's "social policy agenda" intended to encourage homeownership through a "tax subsidy." However, because it primarily benefits middle and upper income taxpayers, it is not effective at encouraging homeownership among low income households.

Though still considered a third rail political issue by some, increasing numbers of analysts and advocates are calling for reform. With the current housing crisis, these calls have grown stronger. In the 2008 presidential campaign, for example, candidate Barack Obama proposed creating a refundable tax credit that could reach lower income households who do not itemize. In President Obama's FY10 budget request, funds for healthcare would be made available by limiting the tax deductions, including the mortgage interest deduction, of high income individuals.

In FY08, the MID cost the U.S. Treasury $67 billion. In 2007, 36 million taxpayers claimed the deduction. This is roughly 70% of all homeowners with a mortgage, but just 23% of all taxpayers.

Summary

The MID is an exception in the tax code that allows home mortgage interest to be a tax-deductible expense for individuals and joint filers similar to other itemized deductions such as real estate property taxes, business and medical expenses, and charitable contributions. The amount of mortgage interest paid in a given tax year is deducted from the taxpayer's income for that year, reducing total tax liability.

Since the benefit is provided to every qualifying taxpayer and there is no statutory limit on the total annual cost, the MID is an entitlement, similar to Food Stamps, Unemployment Insurance, or Social Security. The MID is a "tax expenditure" with costs to the Treasury just like programs supported through appropriations or direct payments to individuals.

There are a number of reasons why the program does not assist all mortgage holders. First, not all mortgage interest qualifies for the MID. For example, interest on home equity loans of over $100,000 is not eligible.

Second, not every eligible mortgage holder receives the benefit of the deduction. A tax deduction differs from a refundable tax credit. A tax credit directly reduces the tax a filer owes dollar for dollar. With a refundable credit, any amount above the taxes owed is actually paid to the tax filer, with a check from the government. In contrast, a deduction reduces the income against which taxes are assessed and each dollar of deduction only reduces tax liability by some fraction of a dollar based on the applicable tax rate. To be assisted by the MID a household still must have a tax liability after any credits are claimed. Thus, the lowest income tax filers may receive no benefit from the MID at all.

Moreover, current law allows every taxpayer to take a "standard deduction," $5,450 for a single person and $10,900 for a married couple. But a household can forego the standard deduction and 'itemize" instead, further reducing its tax liability if the sum of its deductions, including the MID, exceeds the standard amount it can claim. For example, a married couple would need total deductions to exceed $10,900 to make itemizing, and claiming the MID, worthwhile.

The smaller a household's qualified mortgage interest payments and the higher its standard deduction, the less likely it will be to meet the threshold deduction amount necessary to benefit from the MID.

Furthermore, since larger interest payments are associated with larger loan balances and multiple homes, the taxpayers receiving the greatest benefit from the MID tend to be more recent and wealthier borrowers that have purchased more expensive houses and carry larger mortgage balances. Compounding the regressivity of the MID, higher income households also stand to benefit more from tax deductions in general because they pay a higher marginal tax rate and therefore receive a greater return from each dollar that is not taxed. Many lower and middle income households who do itemize and claim the MID receive startlingly little benefit relative to higher income households.

This is clearly illustrated by a 2008 study by James Poterba and Todd Sinai. Using 2004 data, these authors found that the average tax savings for a middle income household with an annual income between $75,000 and $125,000 ranged from $351 for those over 65 years old to $1,817 for those between 25 and 35. For those earning over $250,000, the corresponding range was from $5,459 to $7,077. For those earning less than $40,000, however, the average benefit was a mere $5 for seniors and $208 for those between 25 and 35 years old.

Table 1, using more recent estimates from the Joint Tax Committee, shows the regressive distribution of the benefits from the MID.

Distribution by Income Class of Mortgage Interest Deduction Tax Subsidies 2007

Income class (Adjusted Gross Income)	Total returns claiming MID (thousands)	Total Subsidy Amount (millions)	Average subsidy amount	Percent of total subsidy
Below $20,000	271	$73	$269	0.11%
$20,000 to $40,000	2302	$1,163	$505	1.75%
$40,000 to $75,000	9305	$8,575	$922	12.88%
$75,000 to $200,000	20331	$37,018	$1821	55.58%
$200,000 or more	4059	$19,771	$4871	29.69%
Total	36269	$66,600	$1836	100.00%

Source: NLIHC Calculations from Joint Tax Committee (2008). Estimates of Federal Tax Expenditures for Fiscal Years 2008-2012. Washington, D.C. US Government Printing Office. Table 6.

History

The MID has its origins in the first federal income tax established in 1913 by constitutional amendment. Interest was named as an allowable deduction; at the time, most interest was related to business borrowing. Until the mid 1980s, the MID was part of a broader deduction allowed for all consumer interest payments. In the tax reforms of 1986, however, the general deduction for personal interest payments, such as credit card interest, was discontinued. The MID, however, was used by a relatively large share of the population and it had strong support from powerful home builder and realtor interests. It also benefited rhetorically from its association with the popular goal of homeownership. President Reagan famously told the National Association of Realtors in 1984, "I want you to know that we will preserve the part of the American dream which the home-mortgage-interest deduction symbolizes." The MID remained part of the tax code.

The history of the MID shows that, contrary to popular opinion, the MID was not created to achieve the goal of encouraging homeownership. As it turns out, the MID is an inefficient and ineffective means of achieving this goal. Certainly, since most low income homeowners receive little benefit from the program, it does not support

low income homeownership. Theoretically, the MID may raise homeownership rates by increasing homeownership among higher income households, but higher income households would likely own their homes anyway. The most cited evidence of the lack of causality between the MID and the homeownership rate is that the homeownership rate in countries without similar tax policy, including Australia, Canada and the United Kingdom, is at least equal to or higher than in the United States.

The consensus within the economics profession is that the MID is best suited to encourage people to borrow more and pay more for homes. Encouraging Americans to put more money into housing, as opposed to other forms of consumption or investment, is mostly beneficial for the housing industry, but there are also significant negative effects. Money that goes into housing due to the MID is not available for investment in other sectors of the U.S. economy or for other public goods like education. Concerns have also emerged that the MID elevates home prices, affecting what people are willing to pay and the types of new housing that are constructed. The MID encourages homeowners to maximize the leverage on their own homes with an eye on their tax returns. Thus, the MID has been implicated in the housing price bubble and the large number of households without a significant equity cushion today. As a result of over-leverage and falling prices, one out of five homeowners today is “underwater,” i.e., owes more on the mortgage than the house is worth.

Funding

As a tax expenditure or subsidy, the cost of the MID is the difference between what the Treasury can expect to collect with the current MID exception in place and what it would collect if it were not. In FY08, the Joint Committee on Taxation calculated the cost of the subsidy to be $67 billion. Though developments in housing markets may put downward pressure on the trend, the cost of the MID is expected to increase to as much as $112 billion by 2012.

The MID is one of the most expensive federal programs. Some calls for reform focus on the inequity between the MID and low income housing assistance. Others look to the MID as a source of revenue for other federal priorities.

As a presidential candidate, Barack Obama proposed a mortgage tax credit to expand MID benefits to those who do not itemize. But in the FY10 budget proposal, President Obama would limit the value of all deductions, including the MID, for couples with incomes of more than $250,000 and individuals making more than $200,000. This proposal would generate an estimated $318 billion over 10 years by limiting the value of the deduction for these higher income households (in the 35% tax bracket) to what someone in the 28% bracket would receive. Thus, in essence, a household in the 35% tax bracket would only be able to deduct 80 cents for every dollar of mortgage interest paid.

The President’s budget proposal would make the MID somewhat less regressive. Not only does it cut benefits to the wealthy, but the money saved as a result would pay for healthcare reform to benefit lower income people.

The President’s Advisory Panel on Federal Tax Reform, which under President Bush issued its report in November 2005, would make the housing benefits offered through the tax code more equitable. First, the tax break could only be taken on one home. Second, the MID would be replaced with a refundable Home Credit equal to 15% of the mortgage interest paid, with mortgages limited to the average regional price of housing. In November 2005 that meant the upper limit on a mortgage eligible for the credit would be reduced from $1 million to between $227,000 and $412,000. These limitations would save money while providing a benefit to homeowners with mortgages who take the standard deduction, clearly increasing the equity of federal housing subsidies.

The Congressional Budget Office periodically publishes for Congress a compendium of “budget options” to increase revenue or cut spending. In its latest budget options analysis issued in February 2007, CBO estimates that if the upper limit on mortgages eligible for tax subsidies was lowered from $1 million to $400,000, it would have produced $4.2 billion in revenue in 2008 and $88.1 billion over 10 years. Such a change in 2008 would have raised taxes for just 1.2 million people, those with the largest mortgages, representing only 1% of all households in the United States. Alternatively, CBO estimates that if the current mortgage interest tax deduction were replaced with a 15% tax credit on mortgages up to $400,000 for primary residences, revenue of $21.7 billion would have been generated in 2008 alone, with $418.5 billion between 2008 and 2017.

What Advocates Need to Know Now

The annual cost of the MID is over twice as much as the federal government spends on low income housing assistance for the neediest people in the U.S. Advocates should be armed with the facts about the MID, so when policy makers tell you that the country cannot afford to provide more low income housing assistance, you can speak knowledgably about the inequities in housing subsidies in the United States.

In 1993, the National Low Income Housing Coalition proposed a national housing trust fund with revenue from reducing the benefits of the MID to higher income people. There was no political support for tampering with the MID at that time. Today, the National Housing Trust Fund Campaign is examining ways to redirect MID housing subsidies into the National Housing Trust Fund.

The political climate for reform of the MID is improving. The danger is that revenue gained from reforms will be directed away from housing for other uses. Low income housing advocates need to stake our claim to these funds before someone else does.

What to Say to Legislators

Advocates should inform policy makers about what is commonly understood by economists and others who have studied the MID.

- The MID is a social subsidy that cost the treasury $67 billion in FY2008 and does not help those most in need (the entire HUD budget that year was just $37.6 billion);
- The MID is an ineffective policy to encourage homeownership; and
- The MID distorts housing markets and encourages Americans to make over leveraged investments in personal housing.

For More Information

Congressional Budget Office · Budget Options · http://www.cbo.gov/doc.cfm?index=7821&type=0

Joint Committee on Taxation (Look for reports and data on “Federal Tax Expenditures) · 202-225-3621 · www.house.gov/jct/

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

Native American, Native Hawaiian and Alaska Native Housing Programs

By Wendy L. Helgemo, Director of Governmental Affairs, National American Indian Housing Council

The Native American Housing Assistance and Self-Determination Act (NAHASDA) is the main piece of federal legislation designed to address Native American housing issues, and comprises three major components:

- **the Native American Housing Block Grant,**
- **Title VIII, Housing Assistance for Native Hawaiians, which includes the Native Hawaiian Housing Block Grant Program (NHHBG) and the Section 184A Native Hawaiian Housing Loan Guarantee Program,**
- **Title VI Tribal Housing Activities Loan Guarantee Program**

Other housing programs that address Native American housing issues include the Indian Community Development Block Grant and the Indian Home Loan Guarantee Program (Section 184), which are part of Community Development Block Grant legislation.

History

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 begets creativity and unique leveraging of funding to address extraordinary housing needs. Overcrowding, poverty, unemployment, low household incomes, a rapidly-increasing population and a lack of infrastructure are just some of the challenges that vex American Indians, Alaska Natives and Native Hawaiians.

According to the 2000 Census, 14.7% of American Indian households in tribal areas are overcrowded, compared to 5.7% of homes in the general U.S. population. Furthermore, 11.7% of American Indian households in tribal areas are without complete plumbing, compared with 1.2% of the general U.S. population.

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 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 towards tribes as beneficiaries. The trust responsibility extends to areas of health care, education, natural resources and housing. Under the 1937 United States Housing Act, Congress addressed the housing needs of low income Americans and in 1961 Indian tribes became eligible for assistance under programs operated by HUD.

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.

Program Summary

NAHASDA radically 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, in Indian communities and Alaska Native Villages and on Hawaiian Home Lands.

NAHASDA enhances tribal capacity to address the substandard housing and infrastructure conditions in Indian communities by encouraging greater self-management of housing programs and private sector financing to complement scarce Native American Housing Block Grant (NAHBG) dollars. Activities eligible to be funded with NAHASDA assistance include new construction, rehabilitation, acquisition, infrastructure, and various support

Since 1997, NAHASDA has facilitated the construction, rehabilitation or development of more than 60,000 units but current estimates indicate an immediate need for at least another 200,000 units in Indian Country.

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 residents of affordable housing.

The NAHASDA reauthorization bill, which passed in 2008, had broad bi-partisan 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 need to go through Negotiated Rulemaking Process. The amendments set forth rigorous timelines for HUD to initiate and complete the final rule by 2010.

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 Program (NHHBG) and the Section 184A Native Hawaiian Housing Loan Guarantee Program. The NHHBG 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.

The Department of Hawaiian Home Lands (DHHL), the sole recipient of NHHBG, can uses funding 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 Hawaiian home lands. The program is designed to offer home ownership, property rehabilitation, and new construction opportunities for eligible Native Hawaiian individuals and families wanting to own a home on Hawaiian home lands.

Funding

For FY09, the Native American Housing Block Grant program was funded at $645 million and the Native Hawaiian Housing Block Grant program was funded at $10 million.

What to Say to Legislators

Advocates should be aware of tribal positions and support them in the rulemaking process.

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 2009 (H.R. 709 and S. 72). would reauthorize 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 for 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.

In addition, advocates should ask Congress and HUD to fully fund tribal housing and tribal housing related programs including the Indian Housing Block Grant, the Indian Community Development Block Grant, the Native Hawaiian Housing Block Grant and the Section 184 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 · http://www.hud.gov/offices/pih/ih/
Department of Hawaiian Home Lands · http://hawaii.gov/dhhl

Neighborhood Stabilization Program

By Sharon Price, Director of Policy, National Housing Conference

The Neighborhood Stabilization Program (NSP) provides emergency assistance to state and local governments to acquire and redevelop foreclosed properties that might otherwise become sources of abandonment and blight within their communities. There have been two separate allocations of funds to the NSP, and program details vary somewhat based on the funding allocation.

History

NSP was initially authorized and funded by Title III of the Housing and Economic Recovery Act of 2008 (HERA), passed in July 2008. As created in HERA, NSP is a grant program to state and local governments based on a modified Community Development Block Grant (CDBG) program. In February 2009, the American Recovery and Reinvestment Act (ARRA) provided additional funds for the program and required that those funds be allocated on the basis of a competition.

Program Summary

As the foreclosure crisis continues to expand, with approximately 2 million foreclosures in 2008 and as many as 5 million foreclosures expected by the end of 2010, communities are struggling with the consequences of this crisis on their communities. Neighborhoods—urban and suburban, rich and poor, new and old—are all being negatively impacted by large numbers of foreclosed homes. Foreclosures bring down the value of neighboring homes and lower tax receipts, affecting schools and other local services. Homes that sit vacant cause blight and crime, further lowering property values and affecting the overall quality of life in neighborhoods.

The NSP funds are intended to stabilize communities and stop home prices from declining in areas with large numbers of foreclosures by allowing the purchase of foreclosed or abandoned homes to rehabilitate, resell, or redevelop.

HERA NSP Formula Grant Program. HERA established a formula grant program to distribute NSP funds. The formula was outlined in the legislation and is based on the number and percentage of home foreclosures in each state or unit of general local government, the number and percentage of homes financed by a subprime mortgages in those areas, and the number and percentage of homes in default or delinquency in those areas.

The eligible activities for the use of NSP funds include establishing financing mechanisms for the purchase and redevelopment of foreclosed homes and residential properties, purchasing and rehabilitating homes and residential properties that have been abandoned or foreclosed, establishing land banks for homes that have been foreclosed, demolishing blighted structures, and redeveloping demolished or vacant properties.

HUD issued implementing regulations for the formula grant program October 6, 2008. These regulations required state and local grantees to post their amended CDBG plans describing their plans for the use of NSP funds for public comment by November 15, 2008 and submit their plans to HUD for review by December 1, 2008. HUD reviewed those plans and after approval (and revision where necessary), the funds were disbursed to the states and local governments. All funds must be used within 18 months of receipt.

States received a minimum of $19.6 million dollars. States are allowed to give funding to localities that received a direct allocation, but most state plans appear to give the funds to localities that did not receive their own allocation.

All of the funds made available must be used with respect to individuals and families whose incomes do not exceed 120% of area median income. Not less than 25% of these funds are to be used for the purchase and redevelopment of abandoned or foreclosed upon homes or residential properties that will be used to house individuals or families whose incomes do not exceed 50% of area median income.

There has been some confusion regarding eligible activities and questions about program implementation. HUD has provided a "Frequently Asked Questions" forum for answering these questions as they arise: http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/nspfaq.cfm

ARRA Competitive Program. ARRA provided additional funding to be distributed under a competitive program to state and local governments, and unlike the first round of funds, to nonprofit entities or consortia of nonprofit entities. The criteria for selecting grantees include ensuring that the grantees operate in areas with the greatest number and percentage of foreclosures and can expend the funds in a timely manner; have the capacity to execute projects and have the ability to use other resources in combination with leverage NSP funds to achieve neighborhood stabilization.

HUD must announce the competitive criteria within 75 days of enactment of ARRA (May 3, 2009), and applications are due 75 days later. HUD must obligate all funds by February 17, 2010, and grantees are required to expend at least 50% of their allocated funds within two years of receipt, and 100% within three years.

While most of the requirements for the ARRA competitive program are the same as the formula grant program, including the requirement that 25% of the funds be targeted to providing housing for those at or below 50% of AMI, there are differences: there is a specific prohibition against the use of the competitive funds for the demolition of public housing and no more than 10% of a jurisdiction's competitive funds can be used for demolition in general. In addition, 10% of the total program funds can be used for "capacity building" activities for grantees.

Tenant Protections. The ARRA also adopted tenant protection provisions applicable to both the formula grant program and the competitive program. Under these provisions, tenants in properties funded with any NSP funds must be provided with a 90 day notice prior to eviction. In addition, tenants with leases have a right to remain in the property for the remainder of their lease. Tenants with Section 8 housing choice voucher assistance will be able to remain in the property with their assistance intact and recipients of NSP funds may not discriminate against the holders of housing choice vouchers.

Public Participation. Under the HERA formula grant program grantees were required to post draft NSP plans for public comment online at least 15 days prior to submission to HUD. In general, for NSP plans to be successful, joint planning and participation of public, private and nonprofit entities is crucial.

Funding

$3.92 billion was appropriated for the NSP program under HERA and ARRA provided an additional $2 billion While obtaining this level of funding was a big success, it is not nearly enough to help all communities in need. Additional state, local, and private funds will need to be leveraged to make the NSP state and local plans successful. It is very likely that additional funding will be sought in the future.

What Advocates Need to Know Now: Tips for Local Success

National Community Stabilization Trust. In response to the growing numbers of abandoned and foreclosed properties, Enterprise Community Partners, Housing Partnership Network Local Initiatives Support Corporation, NeighborWorks America and the Urban League established the National Community Stabilization Trust. The Trust will assist communities and local housing organization to obtain foreclosed and abandoned properties from financial institutions and build local capacity to effectively acquire, manage, rehabilitate, and sell foreclosed property to ensure homeownership and rental housing are available to low and moderate income families. For more information go to http://stabilizationtrust.com/

Advocates should monitor the use of NSP funds in their communities, especially the use of the 25% of the funds targeted to people with very low incomes. It is important to ensure that these funds are used to provide housing affordable to this group for the long term, including supportive housing to prevent and end homelessness. See the National Alliance to End Homelessness information on using NSP funds at http://www.endhomelessness.org/section/policy/legislature/neighborhood.

While the NSP funds are intended to buy up properties that are foreclosed and abandoned, a larger plan for re-envisioning communities needs to be developed around these funds. Besides the very large challenge of buying, rehabilitating and renting or selling foreclosed properties, there are secondary consequences of foreclosures that must be addressed at the local level. How does a community help those who have lost their homes to foreclosure? How can localities help renters whose landlords have been foreclosed upon? How can localities pass ordinances that will stop properties from staying vacant too long? How can banks be held accountable for the maintenance of properties they own after a foreclosure? How can communities use these properties to address long standing affordable housing needs in their communities, including meeting the needs in their ten-year plans to end homelessness?

For information on how to answer these questions, go to www.stablecommunities.org, www.foreclosure-response.org, or www.hud.gov/nsp for a range of helpful resources.

New Markets Tax Credit Program

By Peter Lawrence, Senior Policy Director, Enterprise Community Partners

The New Markets Tax Credit (NMTC) Program stimulates investment and promotes economic and community development in low income urban neighborhoods and rural communities by offering a seven-year, 39% federal income tax credit for Qualified Equity Investments (QEI) made through investment vehicles known as Community Development Entities (CDE). CDEs use capital derived from the tax credits to make loans to or investments in businesses and projects in low income communities. Advocates will push for at least a five-year reauthorization of the program beginning in 2010, as opposed to the year-by-year extensions the program has received in recent years, and for at least $5 billion in annual allocation authority.

The NMTC is administered by the Community Development Financial Institutions Fund (CDFI Fund) within the U.S. Department of the Treasury.

History

The NMTC was enacted in December 2000 as part of the Community Renewal Tax Relief Act (PL 106-554). The original authorizing legislation provided $15 billion in New Markets Tax Credit authority between 2000 and 2007. In December 2005, Congress provided an additional $1 billion in NMTCs targeted to communities in the federally-designated Gulf Opportunity Zone devastated by hurricanes Katrina and Rita. In December 2006, Congress extended the NMTC through 2008 with an additional $3.5 billion in NMTC authority. In October 2008, Congress passed the Emergency Economic Stabilization Act of 2008, which extended the NMTC through 2009 with another $3.5 billion in NMTC authority. And most recently in the American Recovery and Reinvestment Act of 2009, Congress provided an additional $1.5 billion in NMTC authority available for 2008 applicants, and increased the total 2009 NMTC authority available by another $1.5 billion, for a total of $5 billion available annually in 2008 and 2009.

Program Summary

In order to be eligible to apply for and receive a NMTC allocation, an organization must be certified as a CDE by the CDFI Fund. The CDFI Fund accepts CDE Certification Applications on a rolling basis. It issues NMTC allocation applications annually, typically very early in the year, and the deadline for submitting such applications is generally March or April.

The application process is very competitive and the demand for NMTC allocation is very high, as allocation requests in qualified applications typically exceed the annual authority available by 10-1. After review of the applications, the CDFI Fund awards allocations to CDEs in the fall, typically in October. CDEs receiving allocations are then required to execute an Allocation Agreement with the CDFI Fund before selling the allocations to investors and deploying the capital in qualified businesses and investments.

Funding

Under current law, $5 billion in NMTC allocations will be awarded by the CDFI Fund in 2009.

NMTC investments have been made in more than 2,000 businesses and real estate developments, helping to develop or rehabilitate over 68 million square feet of real estate, create 210,000 construction jobs, and create or maintain 45,000 full time equivalent jobs at businesses in low income communities.

What Advocates Need to Know Now

A record of success. The NMTC is the largest federal economic development initiative for low income communities to be launched in 20 years, with $23 billion in NMTC investments being generated by 2009, and it has a proven track record of success. NMTC investments in low income communities, which are often the same communities most heavily affected by the foreclosure crisis, total over $14 billion. Nearly 300 CDEs are utilizing the NMTC to stimulate investment in those low income communities.

The NMTC is supporting a wide variety of business, economic, and community development initiatives including investing in a charter school as part of a green HOPE VI public housing redevelopment in Portland, OR; financing a child care center located in an affordable rental housing community in Washington, DC; establishing a new aerospace facility in rural Oklahoma; helping a community-based affordable housing organization in Columbus, OH, purchase and redevelop foreclosed housing; and making a venture capital investment in a growing furniture manufacturer in Chattanooga, TN.

The *New Markets Tax Credit: Progress Report 2008* finds that CDEs are continuing to raise capital and deploy funds faster than required by law and regulation. The report also demonstrates that CDEs are targeting communities with poverty rates higher than 30%, incomes less than 60% of area or statewide median income, and unemployment rates greater than 1.5 times the national average, far beyond what is required by law.

A 2007 GAO report on the NMTC from the investor perspective, *New Markets Tax Credit Appears to Increase Investment by Investors in Low-Income Communities, but Opportunities Exist to Better Monitor Compliance*, also affirms the effectiveness of the program. An estimated 88% of investors said they would not have made the same investments in low income communities without the NMTC.

In addition, the report showed that the total dollar amount of investments and number of investors participating in the NMTC program are increasing. At the same time, returns on the NMTC are decreasing, illustrating greater efficiency and more bang for each dollar of government subsidy. Other research demonstrates that 58% of NMTC allocatees deploy their capital within 30 days of receiving a QEI and 80% get the money out within 90 days.

Current demand. While it is true that financial institutions in general have less taxable income these days and therefore have less of an appetite overall for tax credits, the NMTC program has not been affected as significantly as the Low Income Housing Tax Credit has been (for more information see chapter on LIHTC). This is due in large part to the fact that Fannie Mae and Freddie Mac are not major investors in the NMTC, as they have historically been in the LIHTC.

Reauthorization. As it stands, the NMTC is slated to expire on December 31, 2009, before which the CDFI Fund will make allocations for the seventh allocation round. If it is not extended, the program will come to an abrupt halt, adversely impacting economic and community development and job creation initiatives in low income communities across the country.

Advocates expect that reauthorization legislation will be introduced in the 111th Congress, and are pushing to have that legislation extend the program for five years, as opposed to the year-by-year extension the program has received in recent years.

What to Say to Legislators

Advocates should urge Members to reauthorize the New Markets Tax Credit Program for at least a five-year period beginning in 2010, and it should be provided with at least $5 billion in annual allocation authority.

For More Information

The New Markets Tax Credit Coalition · 202-393-5225 · www.newmarketstaxcreditcoalition.org
Enterprise Community Partners · 202-842-9190 · www.enterprisecommunity.org
Local Initiatives Support Corporation · 202-785-2908 · www.lisc.org

Project-Based Rental Assistance

By Todd Nedwick, Assistant Director, National Preservation Initiative, National Housing Trust

The federal government provides assistance to make privately owned multifamily housing affordable to low income families and seniors through a federal subsidy of the mortgage, rental assistance, or a combination of the two. The term 'project-based assistance' applies to rental subsidy programs in which the federal government has a contract with the landlord, and is distinguished from tenant-based rental assistance.

Today, the challenge is preserving and improving these affordable homes to ensure they are not permanently lost through deterioration or when the contracts and use agreements associated with their subsidized mortgages and rents expire. Another challenge is ensuring that current tenants are protected when their apartments lose their rent restrictions, and that existing affordable apartments receive rent increases when justified by local market rents and needed to fund property maintenance and repairs.

Project-based programs are administered by HUD's Office of Housing.

Program Summary

From 1965 to the mid-1980s, HUD played an essential role in creating affordable rental homes. The federal government partnered with the private sector by providing financial incentives, including below-market interest rate loans (Section 221(d)(3) below market interest rate (BMIR) loan program), interest rate subsidies (Section 236), or project-based Housing Assistance Payment (HAP) contracts to owners who agreed to keep the apartments affordable to low income households. The largest of these programs, the project-based Section 8 rental assistance program, provides affordable homes to 1.25 million households. Along with the Section 202 Supportive Housing for the Elderly program, this was the first time the private sector was invited to participate in producing low and moderate income housing, previously the sole domain of public housing authorities.

Currently, no additional units are being produced under these programs. In 1968, the Section 221(d)(3) BMIR program was replaced by the Section 236 program, which was discontinued in 1973 by President Nixon's moratorium on all subsidized housing programs. Authorization for project-based Section 8 new construction was repealed in 1983.

Federal programs that are considered project-based include HUD project-based Section 8, Section 202 Supportive Housing for the Elderly, Section 811 Supportive Housing for Persons with Disabilities Program, and the Rural Development Rental Assistance program in the U.S. Department of Agriculture. HUD Section 236 and Section 221(d)(3) Below Market Interest Rate loans and the Rural Development Section 515 loan are mortgage subsidy programs, which reduce the cost of providing rental housing and come with low income use restrictions, but do not provide direct rental assistance needed to serve the poorest households. Some, but not all, mortgage subsidized properties also have project-based rental assistance.

Today, more than 1.5 million households live in homes with project-based assistance. Seventy-five percent of these households are headed by a disabled or elderly person.

New residents of Section 221(d)(3) BMIR properties can have incomes up to 95% of area median income (AMI), while those in 236 properties can have incomes up to 80% of AMI, though the median annual household income for residents of these properties is below $11,000. New residents in units receiving project-based Section 8 assistance can have incomes of no more than 80% of AMI, with 40% of new admissions required to have incomes below 30% of AMI, regardless of whether the property is also financed by a HUD-subsidized mortgage.

In exchange for participating in project-based programs, building owners are required to make the units available to low and moderate income households at HUD-approved rents throughout the mortgage or Section 8 contract term. Built into these rents was a modest, limited dividend return on the owner's investment.

Original Section 8 project-based assistance contracts were entered into between HUD and property owners for terms as long as 40 years. Under the project-based Section 8 program, tenants pay 30% of monthly adjusted income in rent. The property owner has a Housing Assistance Payments (HAP) contract with HUD, under which HUD pays the owner the difference between the contract rent and the tenant's portion.

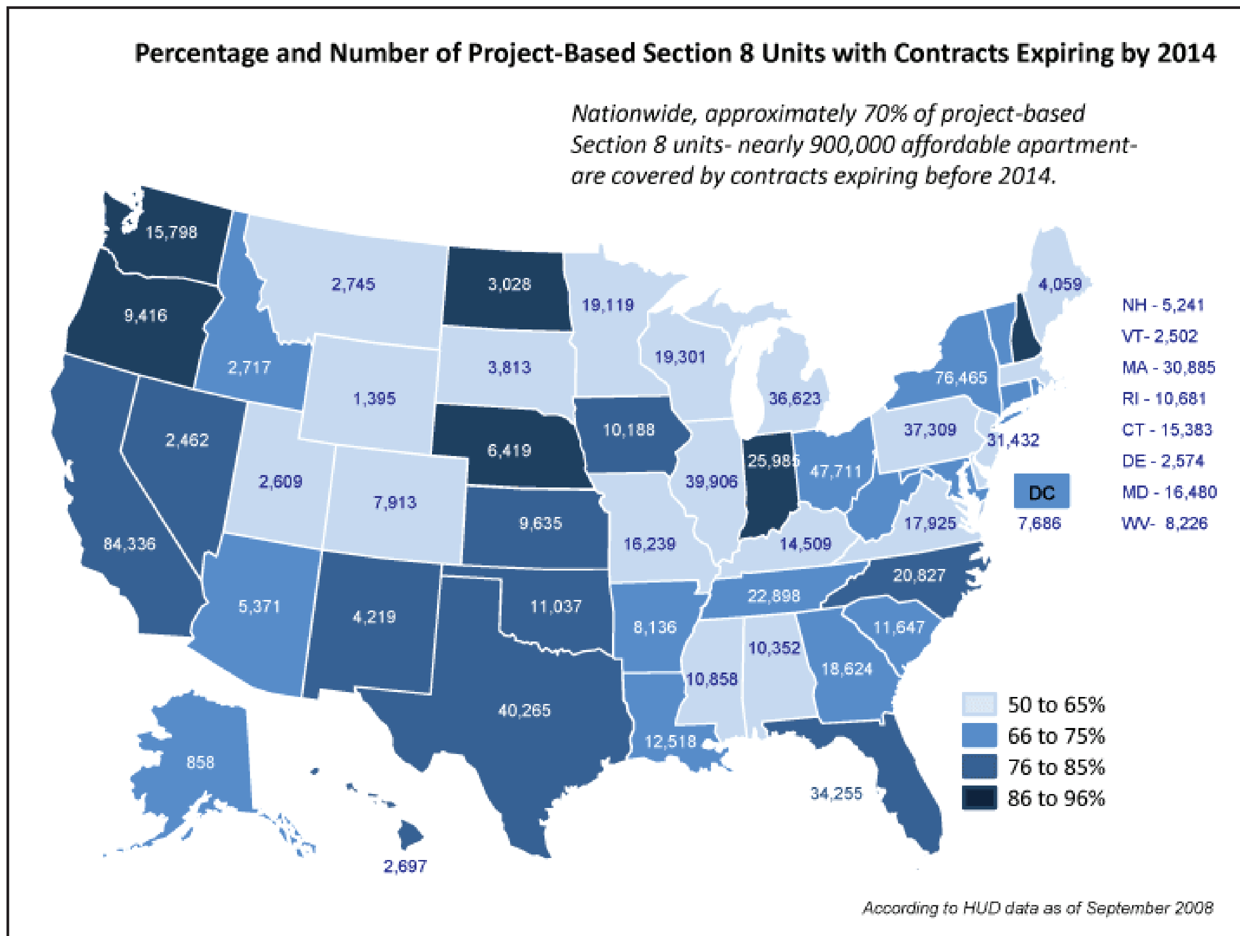
The purpose of these production programs was to provide a supply of decent homes, with restricted rents, affordable to low and moderate income households. Mortgage subsidy programs with use restrictions keep rents relatively affordable even if surrounding land values and rents rise. Project-based subsidies ensure that apartments are affordable to lower income households even though it may be impossible to build new affordable housing in the same community. In tight housing markets with low vacancy rates, project-based assistance may be the only way to provide affordable housing, since landlords may be unwilling to accept tenant-based vouchers.

Funding

The estimated need for project-based section 8 appropriations in FY10 is $8 billion.

What Advocates Need to Know Now

Preservation. Preserving existing affordable housing is the obvious first step to meeting our country's rental supply needs. Our nation builds approximately 100,000 affordable apartments each year. But for every new affordable apartment created, two are lost due to deterioration, abandonment or conversion to more expensive housing. Without preserving existing affordable housing, we fall two steps back for every step we take forward. Preserving affordable rental housing occurs when an existing or new owner takes the initiative to ensure the continued long-term availability of existing property with affordable rental homes. Both subsidized and unsubsidized affordable rental housing can be preserved. When a privately owned subsidized apartment is preserved, action is taken to ensure the federal subsidy and low income restrictions remain in place, preserving long-term affordability. Because of the need to keep the property in good physical condition, this is usually combined



with raising new capital to repair the property. Often these actions occur while transferring the property to a new owner who is committed to the long-term affordability of the property.

While there are some tools to help "preserve" this housing stock as affordable, properties continue to leave the project-based rental stock every year. If an owner prepays the mortgage or does not renew the project-based Section 8 assistance, he is free to increase the rents on the formerly assisted units. HUD is required to provide housing vouchers to tenants who face dislocation, but the long-term affordability of the unit itself is lost and the community permanently loses affordable housing.

Many of these contracts between the federal government and private owners are expiring or soon to expire, allowing the owner the option to exit the government program and convert the property to a non-affordable use (See the map below for a summary of expiring project-based Section 8 apartments in each state). Escalating demand to live in cities is driving rents up and giving rental owners the incentive to upgrade affordable units to luxury housing and opt out of federal assistance programs.

Prepayment and opt-outs. Although Section 236 and 221(d)(3)BMIR mortgages had 40-year terms, program regulations allowed most for-profit owners to prepay their mortgages after 20 years. By pre-paying, owners can generally terminate the rent and income restrictions and any Section 8 rent subsidy if they choose.
Upon expiration, owners may choose to discontinue (or "opt out") of their contracts or to renew them on a year-to-year basis. Longer-term contracts are also possible, though they are also subject to annual appropriations.

Mark to Market. A substantial number of project-based Section 8 units have rents that exceed market rents. Upon contract renewal, HUD is required to reduce rents paid to owners to market level, creating a cash crunch for many owners and potentially putting their FHA-insured mortgages at risk of default. To address this problem, Congress enacted the Mark-to-Market program in 1997, under which properties with above-market rents that have both FHA-insured mortgages and expiring Section 8 contracts have their rents reduced (marked) to market and, in many cases, have their mortgages restructured and a capital improvement program put in place to support the reduced rents. Conversely, HUD is also able to raise contract rents to market levels upon renewal for properties in high-cost areas through the Mark Up to Market program. This provides a needed incentive for owners to renew their participation in the Section 8 program when private-sector rents are high, and provide a source of repayment for needed capital improvements.

Energy efficiency. A major challenge facing the owners of project-based rental housing is high energy costs. Energy costs have resulted in increasing operating expenses. These properties often operate on tight budgets and rising energy costs can undermine the financial stability of the property.

In response, the 2009 American Recovery and Reinvestment Act (ARRA) included $250 million for energy efficiency improvements in Section 8 and Section 202/811 properties. Owners can compete for grants or low cost loans to make the energy efficiency improvements. In exchange, owners must commit to maintaining the property as affordable for another 15 years.

Preservation legislation in the 111th Congress. Comprehensive legislation is needed to strengthen and expand tools and incentives for the preservation of the project-based Section 8 apartments. Congressman Barney Frank (D-MA), Chairman of the House Committee on Financial Services, has drafted legislation toward this end. The Preservation Working Group, a coalition of nonprofits dedicated to preserving the affordability of federally assisted properties, has developed detailed recommendations for this legislation. The PWG proposals address current impediments to preserving existing affordable rental property and urges the enactment of such legislation. In particular, new rental assistance should be provided to residents of apartments that are currently subject to affordable use restrictions but who have no protections when the property is sold, refinanced, or the original mortgage matures. This legislation should also include a first right of purchase for HUD-assisted buildings in which the owners are opting out of continued federal rental assistance.

What to Say to Legislators

Call your Members of Congress and ask to speak to the person who deals with housing policy with the message that preserving the existing project-based contracts is critical, as is supporting new programs to build new, affordable units.

- It is incumbent upon the federal government to support affordable rental housing as part of a balanced federal housing policy. A balanced federal housing policy must recognize the urgent need to safeguard our nation's limited supply of affordable rental homes. As a complement to public housing and tenant-based vouchers, privately-owned, project-based housing is essential to preserving existing affordable rental opportunities.
- Support comprehensive legislation to strengthen and expand tools and incentives to preserve project-based rental housing that will be introduced in the 111th Congress.
- Support full funding for renewal of all the project-based Section 8 contracts in HUD's FY10 appropriation.

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 · 510-251-9400 · www.nhlp.org

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

Public Housing

By Linda Couch, Deputy Director, National Low Income Housing Coalition

Public housing, home to more than 2 million people, is administered by a network of more than 3,000 local pubic housing agencies with funding from HUD and resident rents.

Today's public housing is characterized by: generally well-run public housing agencies facing significant federal funding shortfalls; policies like demolition, disposition and HOPE VI that have resulted in the nationwide loss of public housing units; and calls for deregulation of public housing, through the expansion of the Moving to Work demonstration program that come at the expense of affordability, deep income targeting, resident participation and programmatic accountability.

History

Public housing was established by the Housing Act of 1937. A moratorium on public housing was declared in 1974 by President Nixon as the nation shifted its housing assistance vehicle to the new (at the time) Section 8 rental assistance voucher program and the engagement of the private sector in meeting the nation's housing needs. Federal funds specifically 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 reformed various other aspects of public housing, including public housing's two main funding streams, the operating and capital subsidies. And, federal law capped the number of public housing units at the number each PHA operated on October 1, 1999.

Today, units are being lost through PHA demolition and disposition of units, the HOPE VI program, the mandatory and voluntary conversion of public housing to voucher assistance and the cumulative impact of decades of underfunding on once-viable public housing units.

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 income groups higher than the displaced households.

Program Summary

There are more than 1.1 million public housing units in the United States. About 41% of the units are occupied by families with children, 31% are elderly households and 32% are households headed by people with disabilities. The demand for public housing far exceeds the supply. In many large cities, waiting list times can be up 10 years or longer.

Access to public housing is means-tested. All public housing households must be low income (income less than 80% of area median) and at least 40% of new admissions in any year must be extremely low income (income less than 30% of area median). PHAs can also establish local preferences for certain populations, such as the elderly, people with disabilities, veterans, full-time workers, domestic violence victims and people who are homeless or who are at risk of becoming homeless, etc.

Like 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.

Most PHAs are required to complete annual and five-year Public Housing Agency Plans, which detail many aspects of their housing programs, including waiting list preferences, grievance procedures, plans for capital improvements,

and implementation of HUD's community service and minimum rent requirements (for more information see chapter on Public Housing Agency Plans). These plans are submitted to HUD and represent a key way for public housing residents, voucher holders and community stakeholders to participate in the planning process of the public housing agency.

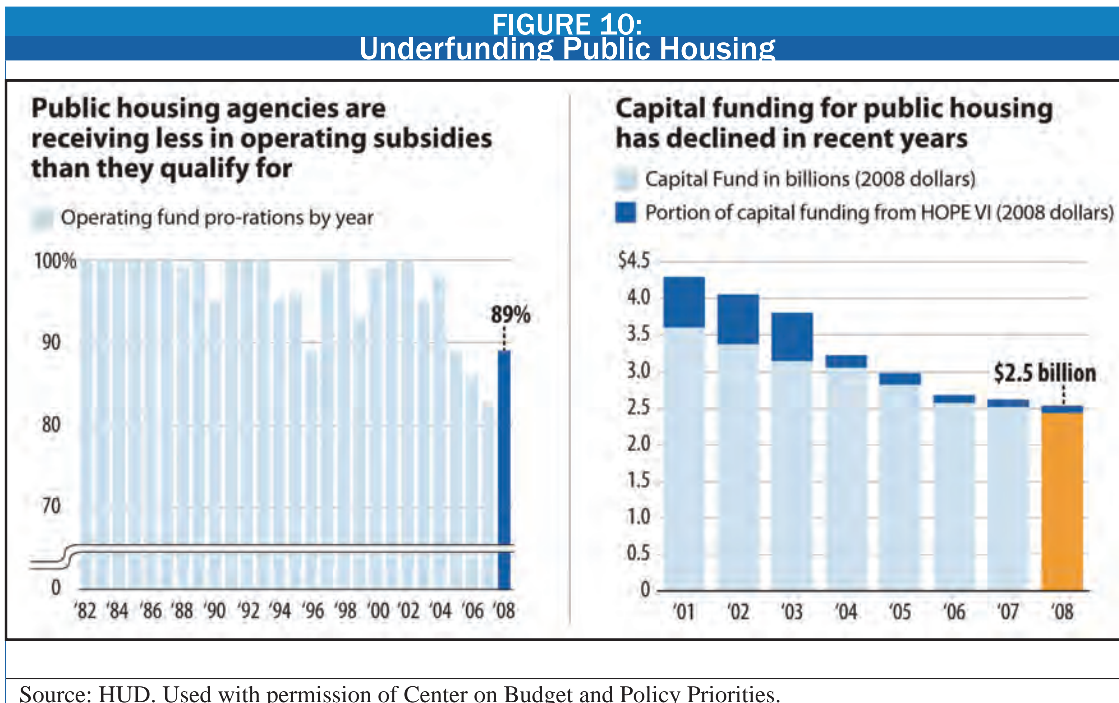
The Operating and Capital Funds. PHAs receive two annual grants from HUD – operating and capital subsidies. The public housing operating subsidy theoretically would make up the balance between what residents pay in rent and what it actually costs to operate the public housing. Major operating costs include building maintenance, utilities, services for residents and PHA employee salaries and benefits. The FY08 operating subsidy appropriation was $4.2 billion, about 89% of what it actually cost to operate public housing in that fiscal year. Such continual and historic underfunding will continue to undermine the viability of these homes.

HUD's new operating formula system, referred to as Asset Management, will base an agency's operating subsidy on a property-by-property basis, rather than the current PHA-by-PHA basis. If, compared to the current formula, a PHA gains operating subsidy with the new formula, the addition will be phased in over two years. Conversely, if a PHA loses subsidy under the new formula compared to the old, then the loss can only be tempered (and potentially arrested) by that PHA's conversion to asset-based management. After a gradual implementation of losses, all will be imposed by October 1, 2011.

The capital fund is also appropriated annually by Congress and is distributed by HUD to PHAs based on a formula. The capital fund can be used for modernization, including developing, rehabilitating and demolishing units, replacement housing and management improvements. The capital fund was funded at $2.4 billion in FY08, level with FY07 funding but still insufficient to cover even existing capital repair needs. In addition to repair needs accumulated during the current fiscal year, there is a more than $22 billion backlog for capital fund repairs in public housing. HUD is expected to report to Congress in 2009 on its latest capital needs projection. The last capital needs assessment was done in 2000.

Moving to Work. Another key public housing issue is the Moving to Work (MTW) demonstration program that provides a limited number of housing agencies flexibility from most statutory and regulatory rules. Because this demonstration program has not been evaluated and the potential for harm to residents and the long-term health

FIGURE 10:
Underfunding Public Housing



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of the PHAs are at stake, NLIHC believes the MTW program is not ready for expansion or permanent authorization. Various legislative vehicles have sought to maintain and expand the current MTW program. (for more information see the chapter on the Moving to Work program.)

Funding

For FY09, the public housing capital fund is funded at $2.45 billion, and the operating fund at $4.46 billion.

What Advocates Need to Know Now

Current issues for public housing include new tools to preserve the existing public housing stock, adequate operating and capital funding ($5.5 billion and $5 billion, respectively, for FY10), improved HOPE VI and demolition/disposition programs that include a one-for-one replacement requirement and the right of former residents to return to the improved units (see chapter on HOPE VI), rent simplification for residents and housing agencies and a halt to the expansion of the Moving to Work demonstration program.

What to Say to Legislators

Authorizing. Advocates should ask Members of Congress to enact additional public housing preservation tools that maintain at least the existing number of public housing units while protecting residents' rights, affordability and income targeting.

Appropriations. Advocates should ask Members of Congress to:

- Fund the public housing capital fund at least at $5 billion in FY10
- Fund the public housing operating fund at least at $5.3 billion in FY10

For More Information

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

National Housing Law Project · 510-251-9400 · www.nhlp.org

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Public Housing:

Asset Management

By Danna Fischer, Legislative Director and Counsel, National Low Income Housing Coalition

Asset management is a term encompassing two distinctive aspects of public housing: operating subsidies and public housing management. Generally, the term reflects the desire by Congress to have public housing funded and managed like other multifamily housing. Full compliance by public housing authorities is required by 2011. Advocates should continue to monitor the implementation of asset management to ensure that public housing residents can continue to be engaged in the management of their housing, and to protect against the use of asset management as a tool for unnecessarily demolishing public housing projects.

History

In 1998, Congress directed HUD to begin the process of developing a new funding formula for public housing operating subsidies. At that time public housing was funded using the Performance Funding System (PFS). Under the PFS, a public housing authority (PHA) would receive an 'operating subsidy' equal to the difference between its operating costs (a formula-determined 'allowable expense level') and what it charged in rents. This allowable expense level was supposed to represent what a well-run housing authority would spend on operations, based on the experience of a small sample of agencies in the early 1970s and updated annually for inflation.

Congress, uncomfortable with the accuracy of this model, adopted legislation in 1996 to update the funding system. This direction resulted in a study by Harvard University's Graduate School of Design of the costs to operate well-run public housing. This study recommended a cost-based model for funding public housing operating subsidies and a management structure based on multifamily housing.

Program Summary

A 2005 regulation published by HUD reflected the recommendations made by the Harvard Study and adopted both a new formula for determining the way operating subsidies (the Operating Formula) would be funded and new requirements for the management of public housing (Asset Management). This rule was the product of negotiated rulemaking between HUD, the public housing authorities, and other interested parties.

Operating Formula

The old system funded PHAs as a whole. Under the new operating formula, the operating subsidies provided to a PHA are formula driven and based on the difference between the expenses and income for a given project. Large PHAs have multiple projects, and if, for example, a PHA has 10 projects, then it will get funds for each of the 10 projects individually. A project can be either a single building or a set of buildings grouped together for management purposes. Up to 250 scattered site buildings can be considered a single project.

Once the new formula is fully operational, funds assigned by the formula to a specific project generally can only be used by that project.

The project level expenses (PLE), the utility expense level (UEL) and additional expenses are totaled to arrive at the formula expense for each project. The PLE is based on aggregate information as to the costs associated with the project, including administration, management fees, maintenance, protective services, leasing, occupancy, staffing, and project insurance. The UEL is based on actual project expense information. Other expenses include $25 for occupied unit per year for resident participation activities, asset management fees that differ with the size of the PHA, fees to cover technology costs, payments in lieu of taxes to local governments, HUD self-sufficiency program expenses, and energy conservation costs. Formula income is based on the rents received from tenants and was frozen in the regulation at the amount received in 2004.

New formula phase-in. If the new formula results in a PHA getting less operating subsidy than it would have received with the old formula, then the difference (the reduction) is applied gradually over six years. Starting on October 1, 2007, a PHA losing subsidy under the new formula will see its operating subsidy amount reduced by 5% of the difference between the old and new formula amounts. The next year, on October 1, 2008, the subsidy was reduced by 24% of the difference. The figures for the remaining years are 43% for 2009, 62% for 2010, and 81% for 2011.

By October 1, 2012 a 'decliner' PHA will have experienced 100% of the reduction of its operating subsidy – it will be getting an amount fully determined by the new formula. For PHAs that gain operating subsidy as a result of the new formula, the additional subsidy will be phased in over two years.

'Stop-Loss.' A PHA that will get less operating subsidy because of the new formula can have the loss 'stopped' (limited) if it converts to asset management before 2011. A PHA that converted before October 15, 2007, had its loss limited to 5% of the difference between the old formula amount and the new formula. In other words, a 'stop-loss' PHA that switched to asset management by October 15, 2007 will still get 99.5% of its old operating subsidy amount every year in the future.

If a PHA could not convert to asset management before October 15, 2007, it could still limit the amount of the reduction in operating subsidy by converting before 2011. For example, if a PHA did make the conversion in year two of the transition (by April 15, 2008) its 'stop-loss' percentage would be 24% of the difference, meaning the PHA would get 97.6% of its old operating subsidy every year in the future. The stop-loss percentages for years three, four, and five are 43%, 62%, and 81%, respectively, but are pegged to achieving asset management by October 15 of the previous year.

Asset Management
Asset Management requires that PHAs deal with each of their projects individually. This means that PHAs must implement project-based management, project-based budgeting, and project-based accounting.

Project-based budgeting and accounting. Every year, PHAs will prepare a budget and year-end financial statement for each project. These documents must be written in a clear way so the public can analyze each project's proposed and actual revenues and expenses. Project budgets and financial statements must be available for public review.

Project-based management. Day-to-day management activities, such as rent collection, inspections, and routine maintenance will be handled by specific PHA staff assigned to, and usually based at, a project. There are exceptions for specialized maintenance staff (such as electricians) that can be based at a central PHA facility. HUD will allow some services (for example, landscaping, exterminating and turnover painting) to be contracted out to private companies. PHAs will have to provide property management activities in a way that serves "the best interests of each project."

What Advocates Need to Know Now

HUD's requirement that PHAs switch to asset management is not intended to adversely affect residents. Residents need to monitor the situation in their project and with their PHA. Tenants may benefit from more project-level management, but they will need to continue to monitor their PHA and participate in resident management activities to ensure that management changes work for the benefit of tenants. To the extent that changes to the operating formula result in increased funding for public housing, residents should benefit.

Project-based Performance Assessment System. On August 21, 2008, HUD issued proposed changes to the Public Housing Assessment System regulations and later extended the comment period until January 8, 2009; no final regulations have been issued as the Advocates' Guide goes to the printers. Under the proposed rule, PHAs would shift from an overall assessment to an assessment based on the physical, financial, and management performance of individual projects. Of concern to many is the extent to which any financial performance assessment leading to poor scores for some projects, might unnecessarily force PHAs to demolish or sell these projects.

Current legislation. Representative Albio Sires (D-NJ), introduced H.R. 1048, the Asset Management Improvement Act of 2009, February 12, 2009. The bill would prohibit HUD from restricting or limiting the amount of management and related fees for public housing if the public housing agency (PHA) deems them reasonable. H.R. 1048 also allows PHAs with fewer than 500 units of public housing to be exempt from any asset management requirement, if they elect to do so. Importantly, the legislation also clearly states that none of the requirements, regulations, guidelines, or actions of the Act can repeal or waive tenant protections established in Part 964 of the title 24 of the Code of Federal Regulations, which provides for resident participation in PHA operations. HUD must ensure PHAs encourage tenant participation and opportunities. For PHAs in receivership, HUD cannot abrogate, waive, repeal, or modify any provision outlined in Part 964. This bill is cosponsored by Representative Barney Frank (D-MA) and others, and a similar bill was passed by the full House of Representatives in 2008.

For More Information

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

HUD's Asset Management webpage, http://www.hud.gov/offices/pih/programs/ph/am/.

The September 19, 2005 "final rule" http://www.hud.gov/offices/pih/programs/ph/am/of/18624.pdf

HUD's *Preparing for Asset Management: A Planning Document* http://www.hud.gov/offices/pih/programs/ph/am/docs/pham.pdf

HUD's *Supplement to HUD Handbook 7475.1 Rev., CHG-1 Financial Management Handbook* http://www.hud.gov/offices/pih/publications/notices/07/pih2007-9suppl.pdf

Public Housing:

HOPE VI

By Linda Couch, Deputy Director, National Low Income Housing Coalition

The HOPE VI public housing program provides 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. Legislation to reauthorize the HOPE VI program could bring much-needed reforms to HOPE VI, which has resulted in the demolition of more than 155,000 public housing units but the rebuilding of only 50,000 of these public housing units.

HOPE VI grants are awarded through HUD's Office of Public and Indian Housing.

History

In 1993, Congress created the HOPE VI program through the Veterans' Affairs, Housing and Urban Development, and Independent Agencies (VA-HUD-IA) Appropriations Act to revitalize dilapidated public housing units. Funds allocated to the HOPE VI program are used for eligible activities under the program, including demolishing public housing units, rehabilitating units and relocating residents. For five consecutive fiscal years, the Bush Administration had proposed the elimination of funding for the 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. The commission submitted its findings to Congress in 1992. The commission found that 6% of public housing units, or 86,000 units, were severely distressed and recommended that Congress create a revitalization plan; as a result, Congress created the HOPE VI program. Advocates have been troubled that under the HOPE VI program, public housing agencies (PHAs) have demolished viable units and displaced families.

In 2003, Congress reauthorized the program through 2006. At that time, protections were added for tenants, such as requiring the HUD Secretary to involve affected public housing residents at the beginning and during 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 tenants of the existing developments to return to the revitalized development. Since 2003, the program has been reauthorized annually in the HUD appropriations bill.

Program Summary

The HOPE VI program is intended to benefit the current residents of severely distressed public housing, residents of the revitalized units and communities surrounding the revitalized sites. The program is supposed to improve families' quality of life by moving them closer to jobs and better quality schools, which has occurred for some families. But the HOPE VI program has not been beneficial to everyone. Approximately 30% of residents surveyed continue to live in high-poverty and high-crime neighborhoods.

HOPE VI grants are awarded annually on a competitive basis. HUD evaluates grants based on four factors: demonstrated need for revitalization assistance, capacity of applicants to use grants effectively, quality of proposed revitalization plans and potential for applicants to use grants to leverage funds from other sources.

Any PHA that operates public housing units is eligible for a HOPE VI grant. HOPE VI grants are 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 funding had been at $100 million a year for several years. For FY09, the program received $120 million. As public housing agencies continue to receive greatly insufficient annual funding for capital repair needs, the competition for funds from a program like HOPE VI is great. The Center on Budget and Policy Priorities estimates that at least several hundred public housing developments, out of about 14,000 developments, would qualify for the "severely distressed" status required by the HOPE VI program.

What Advocates Need to Know Now

In a victory for low income housing tenants and advocates, the House passed a bill in 2008 (H.R. 3524) that would make major improvements to the HOPE VI program, including requiring the one-for-one replacement of units revitalized through HOPE VI (with a limited waiver) and providing that residents of the original housing can live in the revitalized housing without having additional screening or eligibility requirements imposed on them.

The bill would have also established "mandatory core components" of any proposed revitalization plan in order to be considered by the HUD Secretary for HOPE VI funding. The mandatory core components are: evidence of severe distress, resident involvement and services, a temporary relocation plan, resident right to expanded housing opportunities, one-for-one replacement, fair housing and green developments.

The bill would have also required PHAs to provide comprehensive relocation assistance to each household living at the site until two years after the development period under the HOPE VI plan or the date on which all funding for community and supportive services has been expended, whichever comes first.

Senate-sponsored legislation, which would not have improved the HOPE VI program in these key areas, did not move in the 110th Congress.

HOPE VI reauthorizing legislation is likely in the 111th Congress. At least the reforms included in the House's 110th Congress bill (H.R. 3524) should be included.

The goals of such positive reforms, such as preserving viable units, protecting residents' rights and providing affordable housing to extremely poor people, should be applied to all public housing, including those going through demolition and disposition.

Tips for Local Success

At the local level, advocates should keep an eye on local HOPE VI plans and object to elements that place public housing residents at a disadvantage. Insist that residents be involved in decision-making. Advocates should request an objective assessment of the viability of any public housing that is threatened with demolition and should also demand one-for-one replacement of the public housing units that are lost.

What to Say to Legislators

Authorizing. Support the reauthorization of the HOPE VI program with a one-for-one replacement of units, the right of residents to return to a revitalized unit and other reforms included in the House-passed bill of 2008.

Appropriations. Do not fund the HOPE VI program until reforms are enacted to ensure a one-for-one replacement of units, increased residents rights to return and other pieces of H.R. 3524 from the 110th Congress.

For More Information

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NLIHC's Public Housing Principles

1. **There is an intrinsic value of public housing being publicly owned.** Public housing has a critical place among a community's array of housing choices. Public housing serves extremely low and very low income households, groups that most state and local housing resources do not reach.

2. **Full resident participation is critical to successful public housing.** Involved tenants share responsibility for maintaining their community, have a vested interest in the future of their homes and have a first-hand understanding of how their housing is managed. There must be regular opportunities for meaningful resident input into the operations of public housing. In order for resident participation to be meaningful, residents must be equipped to organize and participate in decision-making processes.

3. **At a minimum, current income targeting requirements must be met.** At least 40% of new annual admissions must have incomes below 30% of area median income. This is significant because this below 30% AMI population has the nation's most significant housing cost burdens. Nationally, 71% of renters and 64% of owners in this income group pay more than half of their incomes toward housing costs. Public housing serves our nation's most critical housing needs. In 2006, 73% of households in residence had incomes at or below 30% of area median income.

4. **Tenant contributions for rents must be affordable.** Tenant contributions for rents must be tied to individual household incomes and must be affordable to each household.

5. **The need to raise private capital should not drive other decisions that are contrary to the interests of residents and others in need of affordable housing.** Where there is private funding of public housing redevelopment, the ongoing federal subsidies must be adequate to ensure that these interests, including the need to serve extremely low income households, the necessity that tenant contributions for rents be affordable to each household and the right of residents and others to participate in the decisions impacting public housing, can be met.

6. **Admission criteria should be directly related to an applicant's ability to fulfill the obligations of an assisted lease and individual circumstances must be considered for each applicant who is not categorically excluded.**

7. **Every revitalization, demolition, and replacement plan must take into account the extent to which public housing in that housing market area has operated to create and perpetuate racial and economic segregation of low income families.** Public housing redevelopment, where units are demolished and replaced, must endorse a policy of expansion of public housing opportunities - sufficient to provide realistic public housing opportunities both throughout non-minority communities within the same or other jurisdictions, while at the same time offering newly developed housing in minority, low income communities. Redevelopment of severely distressed public housing, demolition and disposition must provide for the one-for-one replacement of all hard units lost with waivers for extraordinary circumstances. Residents impacted by redevelopment must have the right to choose to return to a redeveloped on-site unit, or to choose to move to an assisted unit in a low poverty, racially integrated neighborhood. Existing residents should fully benefit from any redevelopment, whether on-site or off-site, and must not be subject to admission screening criteria.

Public Housing:

Moving to Work/Housing Innovation Program

By Linda Couch, Deputy Director, 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, from key programmatic underpinnings like rent affordability and income targeting requirements, can impact both the public housing and housing choice voucher programs. MTW agencies can also comingle their public housing and housing choice voucher funds; this fungibility is otherwise prohibited. Authorized in 1996, the 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 programs' guidelines are key to their ability to affordably meet the housing needs of the nation's lowest income households.

History

The demonstration program was authorized by the Omnibus Consolidated Rescissions and Appropriations Act of 1996 in Section 204. The 1996 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 program. Meanwhile, some demonstrations ran their course and ended. By the beginning of 2009, 30 PHAs had MTW status and three more were authorized in the FY09 HUD spending bill to participate in the program.

In 2009, Section 8 voucher reform legislation, known as SEVRA, is expected to be introduced. This legislation is expected to include further expansion of the Moving to Work program.

Program Summary

As stated in Section 204 of the authorizing statute, the purpose of the MTW demonstration 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; and
3) increase housing choices for low income families.

To achieve these goals, PHAs selected for MTW demonstration sites could receive waivers from most of the existing statutes and regulations governing the public housing and Section 8 voucher programs and gain the ability to combine public housing capital and operating funds with voucher funds.

Today, there are 30 PHAs still performing their demonstrations. At HUD's urging, 24 agencies extended their demonstration contracts for 10 years in 2008.

What Advocates Need to Know Now

Unfortunately, the MTW program was never set up to be the kind of innovation demonstration that HUD, PHAs, and housing advocates could learn from. According to an April 2005 HUD inspector general report, *Design and Implementation of Public Housing / Section 8 MTW Demonstration Program*, HUD did not design the MTW program itself to collect any data – instead, HUD relied on its existing system to collect data. But, according to the report, "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 impacts on costs, family self-sufficiency, and housing choices as planned."

HUD's initial MTW evaluation plan relied on the Multifamily Tenant Characteristics System (MTCS) but HUD was unable to manipulate the MTCS to make it collect the types of information necessary. In the end, the audit 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."

Other HUD inspector general reports related to MTW have been very critical of the demonstration. Reports on the administration of MTW by HUD and by the housing agencies of Pittsburgh, Baltimore and Philadelphia found management problems related to the administration of housing benefits, the management and upkeep of public housing and the use of funding to maximize housing benefits for low income people.

The most comprehensive report on the demonstration was commissioned by HUD and was done by The Urban Institute as a subcontractor to the Quadel Consulting Corporation. The July 2004 report, *Housing Agency Responses to Federal Deregulation: An Assessment of HUD's "Moving to Work" Demonstration*, was limited:

"However, three key aspects of the demonstration limit what can be learned from it. First, the MTW legislation constrained the scope of deregulation in important respects, preventing or discouraging HAs from experimenting, with some reforms that might be implemented if federal housing programs were more fully or permanently deregulated. Second, MTW was not designed as a rigorous research demonstration with clearly defined changes to be evaluated or a set of controls for the comparison of outcomes. And, finally, because HUD's standard tenant information system was not adapted to incorporate the unique, non-standard rent and income policies established by each MTW HA, critical data on the characteristics of public housing residents and Section 8 households have not been collected in a consistent and uniform fashion for the demonstration sites."

The full report can be found here: www.hud.gov/offices/pih/programs/ph/mtw/evalreport.pdf

While some PHAs have used the flexibilities afforded them by MTW to bring in more supportive services or to increase efficiencies in their public housing and voucher programs, residents in other MTW sites have faced unaffordable rents, strict work requirements, the elimination of portability of their vouchers and time limits to their housing assistance.

Funding. The serious lack of sufficient funding for public housing is likely one of the reasons some PHAs advocate for the MTW program. HUD's public housing operating fund is entering its fifth consecutive year of receiving less than 90% of what PHAs need to fully meet their operating expenses. Further, there is a public housing capital fund backlog of more than $30 billion.

NLIHC is 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 program will not save these units for the lowest income groups in a way that is affordable for them.

MTW in SEVRA. The Senate's Section 8 Voucher Reform Act (SEVRA) from the 110th Congress did not include Moving to Work provisions, while the House version of the bill did. When the bills are introduced in the 111th Congress in 2009, both the House and Senate bills are expected to include expansion of the MTW program to additional agencies, requirements for how existing MTW agencies can remain in the program and new program requirements.

The House's SEVRA bill in the 110th Congress would have significantly expanded the number of PHAs eligible to participate in MTW from the current 30 that participating agencies to 60, plus an additional 20 with somewhat more limited flexibilities from statutory and regulator requirements.

The House bill would have authorized the MTW program for 10 years and renamed the program the Housing Innovation Program (HIP). The 20 agencies with more limited flexibilities would be in the Housing Innovation Program-Lite (or, HIP-lite) program. HIP agencies could still change rent structures but would no longer be able to

alter income targeting requirements of the existing public housing and voucher programs (agencies in the current MTW program have a single income targeting requirement for both the public housing and voucher programs of 75% of annual admissions must have incomes below 50 percent of area median; there is no requirement under MTW for serving households below 30% of area median, where the greatest housing affordability challenges exist).

HIP-lite agencies, unlike their HIP counterparts, could not impose time limits, work requirements or adjust the rent structures.

NLIHC's position on the MTW program is that there should not be any extension of current MTW demonstrations unless and until:

- additional resident protections are incorporated
- the current MTW programs are evaluated; and
- the lessons learned are incorporated into any proposal for expanding the demonstration program. NLIHC strongly opposes flexibility from existing rent affordability structures and income targeting guidelines.

In addition to MTW being expanded by SEVRA, the annual HUD appropriations bills have also proved a popular way to expand the number of MTW sites, one PHA at a time.

What to Say to Legislators

Advocates should urge Members of Congress to support increased funding for public housing and vouchers in FY10 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 program because the program has not been evaluated on a broad basis, and because sufficient protections for current and future residents are not in place. Anecdotal evidence, and numerous HUD Inspector General reports, suggest that the program has caused harm to the lowest income residents and potential resident and to the physical and financial futures of the PHAs.

For More Information

National Low Income Housing Coalition · 202-662-1530 · www.nlihc.org
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Public Housing Primary Care Program

By Deborah Murphy, Program Director, Health Care for Public Housing Residents, North American Management

Residents living in public housing are faced with unique social, environmental and health challenges. The Public Housing Primary Care Program (PHPC) is a federal grant program designed to address the disparities in the health of public housing residents relative to non-residents by providing public housing residents increased access to health and health-related services.

PHPC is administered through the Department of Health and Human Service's (HHS) Health Resources and Services Administration (HRSA). The Bureau of Primary Health Care, Office of Minority and Special Populations has day-to-day responsibility for the PHPC Program. HRSA provides resources to support the PHPC program through a cooperative agreement to provide technical assistance to PHPC health centers and health centers wishing to provide services to public housing residents.

History

The Public Housing Primary Care Program was created under the Disadvantaged Minority Health Improvement Act of 1990. The need for the Act was stated in its legislative history, which found that "[r]esidents of public housing tend to be in poor health relative to other populations, yet often do not have access to needed preventative and primary care. The Committee heard testimony that in Washington, DC, for example, not only is the health status of minorities lower than that of whites, the health status of residents of public housing units was substantially lower than that of other black city residents."

According to the report, one in 14 black women in the District of Columbia at the time reported having diabetes, as compared to one in four black women in public housing. One in five black men and women reported suffering from hypertension, while one in two black public housing residents reported the disease.

Program Summary

PHPC-funded health centers are located on the premises of public housing developments or at nearby locations accessible to residents. By providing comprehensive primary health care, health promotion and disease prevention, PHPC health center grantees strive to improve the overall health, self-sufficiency and well being of public housing residents and of those individuals living in areas surrounding public housing.

Currently, there are 45 PHPC health centers located in 21 states in both urban and rural settings across the nation. Various public housing health center models exist including: centers located within public housing properties; free standing clinics in close proximity to residents of public housing and serving primarily residents of public housing; established community health centers, which serve public housing residents as well as others; and programs with mobile vans which go out into the community where public housing residents live.

PHPC programs have established highly effective partnerships with public housing agencies (PHAs) and resident/tenant organizations to facilitate the delivery of services. These partnerships also involve collaboration with state and local managed care systems. Residents are actively involved in the design of services and program governance, and are routinely trained or employed as outreach workers and case managers. As a result, HRSA expects improved health outcomes and increased behavioral self-management skills in disease prevention and maintenance as compared with patients with similar barriers seeking health care elsewhere.

Service delivery design of the PHPC centers are modeled after and utilize the Care Model © (formally known as the Chronic Care Model) as a framework for building on organizational and community strengths and resources to improve the quality of care and health outcomes. PHPC health centers consistently provide primary health care services, including medical, dental, nutritional, behavioral health services screening, health education, outreach, prenatal and perinatal, preventive health, diagnostic and laboratory services and case management, and hospital and home visits. In addition, they refer residents to qualified facilities and practitioners for other necessary services,

including substance abuse and mental health services. Some PHPC health centers train and employ residents of public housing as 'health coaches' to assist in provide health screenings, health education services and outreach services.

According to recent HHS data, more than 129,280 public housing resident patients were served by PHPC health centers in 2006. Communities of color represented over 90% of those served by PHPC in 2006 (44.3% of the patients were Black/African American, 41.5% were Hispanic/Latino, 4.7% were Asian/Hawaiian/Pacific Islander, 0.2% were American Indian/Alaska Native). Twenty-eight percent of the patients were children ages 0-12 years old, and 43% were children ages 0-19 years old. The most frequent medical encounters reported by PHPC programs were for vaccinations, health supervision of an infant or child (ages 0 through 11), hypertension, diabetes, contraceptive management and oral health.

For More Information

Health Care for Public Housing Residents, North American Management · 703-812-8822 · www.healthandpublichousing.org/healthcenterprofiles.html

Rural Housing And Economic Development

By Leslie R. Strauss, Senior Policy Analyst, Housing Assistance Council

The Rural Housing and Economic Development (RHED) program provides funding and information resources to support innovative affordable housing and economic development activities in rural communities. The Bush Administration's annual budgets repeatedly proposed to zero out the program, arguing that it duplicated USDA's rural housing programs. Congressional support has kept the program alive.

The Office of Rural Housing and Economic Development (ORHED) is administered by HUD's Community Planning and Development office in consultation with the U.S. Department of Agriculture (USDA).

History

RHED was authorized by the VA-HUD appropriations act for FY99 and has continued to be funded in appropriations bills.

Program Summary

RHED is a competitive grant program that provides resources to support comprehensive community development efforts that will address the unique housing and economic development needs of rural communities. Grantees may use the funds to support capacity-building activities (e.g., training, staff costs, etc.) or programs that will result in complementary affordable housing and economic development projects.

Residents of economically distressed rural communities receive the benefits of the RHED program. Fund allocation is based on community need, measured by poverty and unemployment rates, as well as by other indicators such as substandard housing or housing affordability problems. Emphasis is placed on certain regions and populations: Central Appalachia, the Lower Mississippi Delta, the Border Colonias, farmworkers and Native Americans. RHED also targets areas with populations of 2,500 or fewer by giving extra weight to applications that propose to serve these communities.

RHED provides two categories of funding. The first is Capacity Building, which includes hiring and training staff, purchasing software and other tools, developing an accounting system, conducting asset inventories, developing strategic plans and seeking technical assistance. The second is Support for Innovative Housing and Economic Development Activities, which funds the preparation of plans, architectural drawings, provision of infrastructure, purchase of materials, construction, use of local labor markets, job training and the acquisition of land and building demolition. Grantee organizations must demonstrate the ability to provide integrated housing and economic development activities.

In addition to the funding provided through the RHED program, technical assistance, training and other resources are also offered through the RHED Gateway. The RHED Gateway can be accessed at www.hud.gov/offices/cpd/economicdevelopment/programs/rhed/gateway/ or by calling 1-877-RURAL-26 or emailing rhed@hud.gov.

RHED funding is awarded annually on a competitive basis through a selection process conducted by HUD in consultation with the USDA. Eligible applicants include local rural nonprofit organizations, community development corporations, federally recognized Indian Tribes, state housing finance agencies and state economic development and/or community development agencies. Applicants respond to an annual Notice of Funding Availability (NOFA) by submitting specific information about a proposed project or activities in their application.

This kind of flexible capacity building funding, awarded directly to local organizations in rural places, is not available from any of USDA's rural housing programs.

Funding

For FY09, RHED funding includes $5 million specifically for tribal economic development and entrepreneurship. Overall, ORHED is funded at $26 million for FY09.

What Advocates Need to Know Now

RHED is vulnerable to attack in the federal appropriations process every year because it has never been legislatively authorized. As noted above, the Bush Administration considered the program dispensable. In its FY10 budget outline released in late February 2009, the Obama Administration pledged to 'reform' RHED "so that it is not duplicative of similar USDA programs."

What to Say to Legislators

Members of Congress should be urged to:

- Support legislation to authorize RHED, similar to H.R. 1982, passed by the House of Representatives in July 2007 but never acted upon by the Senate.
- Support continued funding for RHED at a level of at least $20 million per year.

For More Information

HUD's Office of Rural Housing and Economic Development · 202-708-2290 · www.hud.gov/offices/cpd/economicdevelopment/programs/rhed/

Housing Assistance Council · 202-842-8600 · www.ruralhome.org

Rural Housing and Economic Development Gateway · 877-RURAL-26 · www.hud.gov/offices/cpd/economicdevelopment/programs/rhed/gateway/

Second Chance Act

By Norm Suchar, Senior Policy Analyst, National Alliance to End Homelessness

The Second Chance Act was enacted in April 2008 and creates several new programs administered by the Department of Justice. It is the first legislation designed to address the comprehensive needs, including the housing needs, of people reentering communities from prison.

Program Summary

Each year, nearly 670,000 people leave state and federal prisons, and 9 million leave local jails. Some people remain under corrections supervision, while others have served their entire sentences and are without further supports from the corrections system. Housing problems are common among this group. Their incomes tend to be low, they often do not have social supports, and they experience difficult barriers to obtaining housing through the channels that are open to other low income people. One result is that one in five people who leave prison become homeless soon thereafter, if not immediately. Preliminary studies also indicate that those who leave prison and become homeless are substantially more likely than those with stable housing to commit a new crime and return to prison.

Five years ago, prior to the passage of the Second Chance Act, the U.S. Department of Justice distributed $2 million to each state through the Serious and Violent Offenders Re-entry Program (SVORA). Rather than placing stringent restrictions on what the money could be used for, the federal government encouraged states to experiment, and the Justice Department monitored what states were doing, the problems they encountered, and to some extent the results they achieved. One striking finding was that housing was a very difficult issue for people leaving corrections facilities and for the states trying to achieve better results.

The Second Chance Act authorizes $165 million for federal grants from the Department of Justice to government agencies and community and faith-based organizations to provide employment assistance, substance abuse treatment, housing, and other services. Specific programs include:

- **Demonstration Grants.** Provides grants to states and local governments that may be used to promote the safe and successful reintegration into the community of individuals who have been incarcerated.
- **Mentoring Grants.** Provides grants to nonprofit organizations that may be used for mentoring adult offenders or offering transitional services for reintegration into the community.
- **Offender Reentry Substance Abuse Treatment.** Creates grants to improve the availability of drug treatment to offenders in prisons, jails and juvenile facilities.
- **Family Drug Treatment Programs.** Authorizes grants to states, local governments, and Indian tribes to develop and implement family-based treatment programs for incarcerated parents who have minor children.
- **Federal Reentry Initiative.** Provides guidance to the Bureau of Prisons for enhanced reentry planning procedures. Specific information on health, employment, personal finance, release requirements and community resources shall be provided to each inmate released.
- **Reentry Research.** Authorizes the U.S. Justice Department's National Institute of Justice and the Bureau of Justice Statistics to conduct reentry-related research.
- **National Adult and Juvenile Offender Reentry Resource Center.** Establishes a national resource center to collect and disseminate best practices and to provide training on and support for reentry efforts.

Funding

The Omnibus Appropriations Act of 2009 included $25 million to start up programs under the Second Chance Act in FY09, including $15 million for state and local demonstration grants and $10 million for nonprofit grants. President Obama's FY10 budget outline calls for $75 million to expand grant programs under the Second Chance Act.

What to Say to Legislators

Advocates should ask their Members of Congress to support the Administration's proposal for $75 million in FY10.

For More Information

National Alliance to End Homelessness · 202-638-1526 · www.endhomelessness.org
Reentry Policy Council · 212-482-2320 · www.reentrypolicy.org

Section 3: Job Training, Employment and Business Opportunities Related to HUD Funding

By Catherine M. Bishop, Staff Attorney, National Housing Law Project

Section 3, "economic opportunities for low and very low income persons," requires recipients of certain HUD funding to provide job training, employment, and contracting opportunities for low and very low income residents and eligible businesses. Recipients of such funding, such as public housing authorities (PHAs) or local contractors, must provide these opportunities "to the greatest extent feasible." The Section 3 obligation is too often underutilized by local groups, and too often not enforced by program administrators such as HUD or in some situations PHAs.

The Section 3 obligation was created as part of the Housing and Urban Development Act of 1968.

Program Summary

How Section 3 works. 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 funding for the operating fund, capital fund, Resident Opportunity and Self-Sufficiency (ROSS) grants, Family Self-Sufficiency (FSS) and HOPE VI. Section 3 also applies to housing and community development funding including Community Development Block Grant (CDBG), HOME, Emergency Shelter Grants (ESG), Housing Opportunities for Persons with AIDS (HOPWA) and Neighborhood Stabilization Program (NSP) funds.

Low and very low income individuals as well as certain Section 3-eligible businesses can benefit from the obligation. HUD's regulations set numerical goals for all entities subject to Section 3. Low and very low income individuals should be provided with a preference for 30% of all new hires that arise from the HUD funding. And 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 contracts at least 25% of the dollars awarded with a Section 3 obligation 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, 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 business or individual meets the eligibility or bid requirements, the individual should be hired or the business concern 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 whether the funding subject to the Section 3 obligation is sufficient for the entire project. 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 jobs and contracting opportunities that arise in administration, management, service, maintenance and construction. For the housing and community development funding, the jobs include building trades, the contracting for construction and rehabilitation and non-construction jobs such as administrative or office jobs, so long as the jobs arise in connection with construction or rehabilitation. Examples of eligible types of 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.

Enforcement of the Section 3 goals. The potential for jobs for low income residents under Section 3 is extensive. In the past, when funding for public housing construction and rehabilitation, including HOPE VI, was nearly $3 billion, some estimated that there should be in excess of 16,000 jobs annually for public housing residents.

However, a 2003 HUD Inspector General (IG) report found that HUD had not implemented sufficient controls over the past 37 years to ensure that Section 3 program goals are met. Although HUD requires that recipients of HUD financial assistance subject to Section 3 requirements submit an annual performance report, HUD does not track agencies/localities subject to Section 3 requirements and does not adequately check compliance with the reporting requirements. HUD promised to correct the problem, but missed several compliance dates with no adverse consequences.

There is a HUD established complaint procedure for individuals and businesses to use for violations of Section 3. Complaints are filed with HUD's Office of Fair Housing and Equal Opportunity. HUD has responded favorably to complaints which have been filed. But there is no publicly available data on the number of complaints that have been filed or their resolution.

One HUD administrative decision is of special note. In April 2004, HUD issued a decision that the city of Long Beach, CA violated Section 3 because 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. 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.'

What Advocates Need to Know Now

Congresswoman Nydia Velazquez (D-NY) continues to be very interested in improving Section 3. In 2007 she introduced H.R. 3310, and she anticipates reintroducing a similar bill in 2009. This bill is a good start at addressing some of the weaknesses of Section 3, in that it changes the scope of Section 3 to cover a percentage of hours worked by all employees on Section 3 eligible projects, not just a percentage of new hires; allows residents to retain their Section 3 designation for five years, so as to assist with the creation of long-term job opportunities; and makes Section 3 applicable to all permanent jobs created as a result of HUD funding. It also increases monitoring and compliance by requiring that Section 3 committees be created within each PHA and that contractors submit a plan as to how they will comply with Section 3 and increases the obligation of recipients of HUD funds and HUD to report on compliance with Section 3. H.R. 3310 could be improved by strengthening the compliance provisions to allow individuals to enforce Section 3. Advocates should encourage their Member of Congress to support the bill when introduced.

The number of jobs created or contracts provided to Section 3 individuals or businesses depends upon the level of funding for the applicable housing program. Therefore, it is important to support full funding of housing programs for FY10, because of the benefits of jobs and economic opportunities as well as the housing benefits.

Advocacy with HUD. HUD should be urged to enforce Section 3 with respect to all the stimulus funds, which are subject to Section 3 (e.g., NSP funds, capital funds and HOME funds) and to revise the Section 3 regulations (24 C.F.R. Part135) in line with the decision it issued regarding the city of Long Beach.

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 housing and community development, including PHAs.

Finally, low income persons and/or businesses with a complaint about recipients of HUD funds or contractors failure to meet Section 3 goals or preferences should consider filing a complaint with HUD. More information and complaint forms are at www.hud.gov/offices/fheo/section3/section3.cfm and at www.nhlp.org/lalshac/hjn2002_conference_materials.htm.

Tips for Local Success

The successes with Section 3 are almost exclusively attributed to local staff implementing the goals and/or oversight and monitoring 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/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 funds and NSP funds. Locally, advocates should seek information on the number of low and very low income individuals trained and hired in accordance with Section 3 and the dollar amounts contracted with Section 3 businesses and to create or improve upon a local plan to fully implement Section 3.

Compliance with Section 3 could be address in the annual PHA plan process and/or the ConPlan process. In addition, reviewing the quarterly NSP reports could also provide an opportunity to address Section 3 compliance and issues.

For More Information

See the NHLP publication An Advocate's Guide to the HUD Section 3 Program: *Creating Jobs and Economic Opportunity*. www.nhlp.org.

The National Housing Law Project · 510-251-9400 · www.nhlp.org

Section 202 Supportive Housing for the Elderly

By Nancy Libson, Director of Housing Policy, American Association of Homes and Services for the Aging.

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. According to HUD, senior households with very low incomes are the likeliest to pay more than they can afford for their housing. As the U.S. population ages, both the creation of new Section 202 units and the preservation of existing units will be increasingly important.

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

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. Between 1974 and 1990, Section 202 funds were provided as loans and subsidized by project-based Section 8 contracts. 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.

Until the creation of the Section 811 program in 1990, the Section 202 program funded housing for both seniors and people with disabilities.

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 NOFA (notice of funding availability).

Capital Funding. The first component 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 provides rental assistance in the form of Project Rental Assistance Contracts (PRACs) to subsidize the operating expenses of the developments. Residents pay rent equal to 30% of their adjusted income, and PRAC makes up the difference between rental income and operating expenses.

In addition to the core components of the Section 202 program, HUD administers three relatively new companion programs:

- Predevelopment grants to help nonprofits use Section 202 funds effectively;
- Assisted living conversion program to help meet the great need for affordable assisted living options for low income seniors; and
- Emergency capital repair grants for federally-assisted senior properties.

All of these accounts have been established by Congress to help meet the needs of seniors aging in place.

About a third of Section 202 properties also 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.

There are more than 300,000 Section 202 units serving very low income seniors. Section 202 tenants must generally be at least 62 years old and have incomes less than 50% of their area median income (AMI) (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. According to HUD, senior households with very low incomes are the likeliest to pay more than they can afford for their housing. The number of senior rental households with worst-case housing needs is 22%, or 1.13 million, of the estimated 5.18 million households with worst-case housing needs.

Funding

In FY09, Congress appropriated $626.4 million for new Section 202 construction and project rental assistance. In addition, the FY09 appropriation included $20 million for Section 202 predevelopment grants, about $90 million for service coordinators and $25 million for assisted living conversion and emergency capital repair grants.

Section 202 projects will also have access to $250 million in 2009 economic recovery funds (American Recovery and Reinvestment Act; ARRA) for energy retrofit grants and loans.

What Advocates Need to Know Now

There are three main issues confronting the Section 202 program:

A 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 has 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 meet 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, $775 million is needed in FY10 for construction and project rental assistance contracts (PRACs) alone. Although insufficient to meet the needs of the growing elderly population, this will allow construction of approximately 7,500 new units. In addition, in FY10, $20 million will be needed for grants to nonprofits to cover costs of architectural and engineering work, site control and other planning relating to the development of Section 202 housing. Federal assistance with these costs can ensure the timely development of quality housing.

Preservation of existing units. Those currently residing in assisted senior housing are aging in place. And just as the residents are aging in place, the buildings 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. Some mortgages have been refinanced and some properties have already been sold out of the inventory. New tools are needed to help preserve these units as well as the second cohort of Section 202/8 properties that can be refinanced 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 that existing for-profit owners have in selling properties to not-for-profits 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.

Although typically the capital required to rehabilitate and preserve senior housing is raised through refinancing older, higher interest loans that many Section 202 properties built between 1974 and 1992 hold, there is one federal grant program available to convert existing senior housing to assisted living for the frail elderly. Funded as part of the Section 202 account, the Assisted Living Conversion Program provides grants to convert existing senior housing to licensed assisted living. In FY10, $50 million should be provided for the Assisted Living Conversion Program (ALCP), $20 million to increase the number of affordable housing units with supportive services and $30 million for capital repairs. Finally, in order to provide supportive housing so that seniors can age in place, at least $100 million should be provided to fund service coordinators.

Section 202 programmatic reform. Under the current Section 202 program, the development and preservation of existing communities can be time-consuming, bureaucratic and often require duplicative waivers from HUD. In 2007, the House passed Section 202 reform legislation that would streamline and simplify the Section 202 new construction and refinancing or preservation program, but the Senate's companion legislation was never acted on.

In the 111th Congress, on the first day of the session, Senators Herb Kohl (D-WI) and Charles Schumer (D-NY) reintroduced the Section 202 Supportive Housing for the Elderly Act of 2009 (S.118), with eight additional cosponsors. The House companion legislation is expected to be included as a separate title in the larger preservation legislation that House Financial Services Committee Chair Barney Frank (D-MA) is expected to introduce to further the preservation of all affordable housing.

Specifically, the legislation would provide new construction reforms, including:

- permitting a preference for homeless elderly and establishing a new non-metro allocation system to facilitate viable rural projects and refinancing and preservation reforms including permitting the refinancing for the oldest Section 202 properties (1959-1974) to address the physical needs of the project and promote long-term affordability;
- allowing the refinancing proceeds not used for rehabilitation to be used for other affordable senior housing and related supportive services;
- allowing use of residual receipts for supportive services;
- creating a new Senior Preservation Contract to provide project based rental subsidies for older, unassisted Section 202 seniors in order to prevent displacement of residents;
- and other technical changes.

The legislation also eliminates the licensure requirement for the Assisted Living Conversion Program where sponsors make supportive services available either directly or through licensed or certified service providers; and creates a national clearinghouse of affordable, supportive senior housing including Section 202 properties, Section 8 properties, low income housing tax credit properties, assisted living properties insured under section 232 of the National Housing Act, assisted living conversion properties, and any other federally assisted or subsidized housing for the elderly.

What to Say to Legislators

Advocates concerned with senior housing issues should encourage their Members of Congress to take the following actions:

- Increase Section 202 funding.
- Increase funding for service coordinators.
- Appropriate sufficient renewal funding for 12 month funding, as opposed to the shorter term renewals funded in 2007 and 2008, for all expiring PRACS and Section 8 contracts in FY10 to preserve affordable senior housing.
- Enact Section 202 reform legislation to streamline and simplify both the Section 202 new construction and Section 202 refinancing programs.
- Enact preservation legislation to protect affordable senior housing and its residents in the future.
- Enact preservation legislation to address the unique issues of senior housing with mortgages that will soon mature.

For More Information

American Association of Homes and Services for the Aging · 202-508-9476 · www.aahsa.org

Section 514/516 Farm Labor Housing

By Leslie R. Strauss, Senior Policy Analyst, Housing Assistance Council

Farmworkers and their families experience high rates of housing problems. Yet the U.S. Department of Agriculture's Section 514/516 loan and grant program, which finances housing for farm laborers, has been underfunded for many years, and has suffered from the lack of funding for new USDA Rental Assistance as well as the erroneous impression that these units house people without legal residency status.

History

Congress created USDA's Section 514 Farm Labor Housing loan program in 1961, and in 1964 added the complementary Section 516 grant program.

Program Summary

Farmworkers, both migrants and those who live in one place year-round, receive low wages and often lack full-time work. Given their high poverty levels, it is not surprising that farmworkers and their families often cannot find decent, affordable housing. They face a wide range of housing problems, including substandard housing quality, crowding, affordability issues, and low homeownership rates. These conditions are commonplace among migrant farmworkers who travel to different states and regions, following crop seasons and labor demand, as well as those farmworkers who reside in the same community year-round.

USDA provides both loans (Section 514) and grants (Section 516) to buy, build, improve, or repair farmworker housing. Funds can be used to purchase a site or a leasehold interest in a site; to construct or repair housing, day care facilities, or community rooms; to pay fees to purchase durable household furnishings; and to pay construction loan interest.

Section 514 loans are made to farmers, associations of farmers, family farm corporations, Indian tribes, nonprofit organizations, public agencies, associations of farmworkers, and limited partnerships in which the general partner is a nonprofit entity. Section 516 grants are made to farmworker associations, nonprofit organizations, Indian tribes, and public agencies. Funds may be used in urban areas for nearby farm labor, an exception to USDA's usual strictly rural service area.

To be eligible to live in Section 514/516 housing, tenants must be domestic farm laborers who receive a substantial portion of their income from farm labor and are citizens or legally admitted for permanent residence. Legally admitted temporary laborers ("H-2A" workers) are not eligible. Retired or disabled farm laborers may remain as tenants if initially eligible.

Farm laborers include not only field workers, but also those whose income is earned in aquaculture (fish and oyster farms). The 2008 Farm Bill expanded eligibility to include workers who process agricultural or aquacultural commodities, whether on or off farms. USDA is developing regulations to implement this change.

Developers of Section 514/516 housing report that, because of their tenants' low incomes, it is usually essential for these units to obtain rental assistance, available through Section 521 Rental Assistance (RA). The RA program provides project-based subsidies, available only to USDA-funded rental developments.

From their inception through FY08, the Section 514/516 programs together have committed over $1.1 billion to create over 37,000 rental units for farmworkers and their families.

Funding

The Section 514/516 program has financed between 268 and 818 new units each year from 2000 through 2008 – not nearly enough to meet the need. Funding for Section 514 dropped from $27.7 million in FY 2008 to $20 million in FY 2009, while Section 516 grant funding fell from $10 to $9.1 million.

What Advocates Need to Know Now

It is important to note that Section 514/516 farmworker housing units comprise a relatively small percentage of all housing occupied by farm laborers. Still, as the only federal program specifically targeting the housing needs of farmworker households, Section 514/516 plays a significant role. Given the high program demand and the poor condition of farmworker-occupied housing in general, the current funding levels for these programs are not nearly adequate to address the tremendous need for decent, affordable farmworker housing.

Funding is an issue for the related Section 521 Rental Assistance (RA) program as well. As housing costs have risen in the recent past, RA costs have risen as well, and most of the 521 program's funding is used to renew expiring RA contracts. Very few new contracts have been available.

Some members of Congress have expressed concern about Section 514/516 units harboring illegal residents. The laws governing USDA's housing programs, however, make illegal residents ineligible for all USDA housing aid.

What to Say to Legislators

Members of Congress should be urged to:

- Support funding levels of $50 million for Section 514 and $50 million for Section 516 in FY 2010.
- Support funding for new Section 521 Rental Assistance units sufficient to provide RA for every newly constructed Section 514/516 unit.

For More Information

Housing Assistance Council · 202-842-8600 · www.ruralhome.org/infoReports.php#F

Farmworker Justice · 202-293-5420 · www.fwjustice.org

U.S. Department of Agriculture Rural Development · www.rurdev.usda.gov/rhs/mfh/brief_mfh_flh.htm

Section 515 Rural Rental Housing

By Leslie R. Strauss, Senior Policy Analyst, Housing Assistance Council

Under the Section 515 program, the U.S. Department of Agriculture's (USDA) Rural Development arm (RD) makes direct loans to developers of affordable multifamily rental housing. Since it began operating in 1963, Section 515 has provided more than half a million decent rental homes affordable for the lowest income rural residents. 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. To address preservation issues, new demonstration programs have been created.

History

Section 515's history created serious current challenges for the program. In the 1970s, because the program had no use restrictions, owners were able to prepay their low-cost mortgages and 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 FY 1994 to $183 million in 1995. As a result of USDA policies and operating fund shortages that encouraged property owners to defer maintenance, a study conducted for USDA in 2004 found that 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 in FY08 and FY09. Section 515, which financed over 38,000 units at its peak in 1979, produced 2,800 units in 1995 and 800 in 2008.

Program Intent

By helping to produce affordable rental units, the Section 515 program provides essential, decent housing for the lowest income rural residents. While dramatic improvements have been made in rural housing quality over the last few decades, problems persist. Many of rural America's 55.4 million residents experience acute housing problems that are often overlooked while public attention is focused on big city housing issues.

Nearly 30% of nonmetropolitan households experience at least one major housing problem: 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 colonias along the U.S.-Mexico border and Central Appalachia, and among farm workers and Native Americans.

More than one-third of rural renters, about 1.9 million households, are cost burdened, paying more than 30% of their income for their housing. One in every 10 rural rental households lives in either severely or moderately inadequate housing.

Approximately 7.8 million persons in nonmetropolitan areas in the U.S. are poor. Rural poverty is especially prevalent among women-headed households and minorities. Nonmetropolitan African Americans have a 33% poverty rate, three times the rate for rural whites. Nonmetropolitan Native Americans have a poverty rate of 30%, and 27% of rural Hispanics are poor. Approximately one-third of nonmetropolitan female-headed households, the vast majority of which include children, live in poverty. Approximately 19% of all rural children in the U.S. are poor.

Program Summary

Under the Section 515 program, USDA RD makes direct loans to finance affordable multifamily rental housing for very low, low, and moderate income families, elderly people and persons with disabilities.

Section 515 provides direct loans at an interest rate of 1%, amortized over 50 years, to finance modest rental or cooperatively-owned housing. Funds may be used to construct new housing or to purchase and rehabilitate existing

structures for rental purposes. A substantial share of recent appropriations is used to maintain existing properties with Section 515 mortgages. 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.

When USDA rental assistance is available, 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 have incomes less than 50% of area median income and more than half of the tenants are elderly or disabled.

Section 515 loans are made available on a competitive basis each year, using a national Notice of Funding Availability (NOFA).

What Advocates Need to Know Now

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. These incentives 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 incentive(s) 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 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.

At the same time, as noted, new affordable rental units are still needed in rural places.

What to Say to Legislators

- Support $250 million in funding for the Section 515 program in FY 2010, as well as $100 million for USDA's Multifamily Rental Preservation Demonstration (MPR), Section 542 preservation vouchers, and the Rental Preservation Revolving Loan Fund (PRLF), to be allocated among those three programs by USDA. USDA should allocate at least $10 million for the PRLF.
- Support legislation similar to H.R. 4002, introduced in 2007, to authorize MPR and improve USDA's preservation voucher program.
- Oppose any legislative efforts to repeal restrictions on owner prepayments of Section 515 mortgages

For More Information

Housing Assistance Council · 202-842-8600 · www.ruralhome.org/issues/preservation

National Housing Law Project · 510-251-9400 · www.nhlp.org/html/rhs/index.htm

U.S. Department of Agriculture Rural Development · www.rurdev.usda.gov/rhs/mfh/MPR/MPRHome.htm

Section 811 Supportive Housing for Persons with Disabilities

By Ann O'Hara, Associate Director, Technical Assistance Collaborative

The Section 811 program provides communities with funding for housing and rental assistance for people with disabilities. Despite significant changes in disability policy over the past 16 years, the program has changed very little since it was first authorized. A Section 811 reform bill (H.R. 1675) was reintroduced in the House on March 23, 2009.

The Section 811 Program is administered by HUD's Office of Housing.

History

The Section 811 Supportive Housing for Persons with Disabilities program was authorized by the National Affordable Housing Act of 1990. For more than 30 years, Section 811 – and its pre-cursor, the Section 202 Supportive Housing for Persons with Disabilities Program – has provided funding to mission-driven nonprofit housing developers seeking to build and operate supportive housing for low income households with the most severe disabilities.

Program Summary

A home of one's own, whether rented or owned, is the cornerstone of independence for people with disabilities, including people with serious and long-term disabilities who can also benefit from in-home or community-based supports. Section 811 provides supportive housing for people with serious and long-term disabilities, including physical or developmental disabilities as well as serious mental illness. Participants must be 18 years of age or older and have very low incomes at or below 50% of median income. By law, community-based services and supports must be offered and available to tenants living in Section 811-funded housing. However, the supportive services must be voluntary and cannot be mandated as a condition of participation in the program.

Section 811 is one of the few remaining HUD program that ensures housing affordability for people with disabilities with extremely low incomes, such as people who rely on Supplemental Security Income (SSI) payments. Nationally, SSI payments equal only 18% of the average area median income. Many people who receive SSI and do not benefit from the Section 811 program are unnecessarily residing in restrictive settings such as nursing homes and public institutions or continue to live at home with aging parents.

There are two separate program components authorized in the Section 811 program: the Capital Advance/Project Rental Assistance Contract (PRAC) component and a tenant-based rental assistance component. These components allow for the building and operation of housing for people with disabilities.

Capital Advance/PRAC Funding. New Section 811 Capital Advance/ (PRAC) funding is announced each year through HUD's SuperNOFA published in the spring. Applications for capital advance/PRAC funding must include a supportive services plan 'well designed' to meet the needs of people with disabilities and approved by the appropriate local or state agency. Examples of supportive services offered in conjunction with Section 811 projects include case management, assistance with housing or residential skills such as landlord/tenant obligations, housekeeping assistance, assistance with skills of daily living and others. However, residents cannot be required to accept any supportive services as a condition of tenancy.

The Section 811 Capital Advance/PRAC component provides interest-free capital advances to nonprofit sponsors to help finance the development of 'single purpose' permanent supportive rental properties, including independent living projects and group homes. The purchase of condominiums and cooperative units is permitted but bureaucratically difficult. The Capital Advance does not have to be repaid as long as the housing remains available for very low income people with disabilities for at least 40 years. A three-year renewable PRAC is awarded with the capital advance and covers the difference between the HUD-approved cost of operating the housing (maintenance and

repairs, utilities, insurance, etc.) and tenant rents which are set at 30% of income. New 811-funded group homes may not assist more than 8 people and each person must have his/her own bedroom. New independent living projects may not exceed 24 units although the HUD Secretary can waive both size limits on a case-by-case basis.

Tenant-based rental assistance. The tenant-based voucher program funded by Section 811 is officially known as the Section 8 Mainstream Housing Opportunities for Persons with Disabilities program and is administered by an estimated 145 public housing authorities (PHAs) and 40 nonprofit organizations. PHAs are required to track so-called Mainstream vouchers separately from other Housing Choice Vouchers and issue/re-issue them only to people with disabilities. Disability advocates remain concerned that some number of these Section 811-funded vouchers may be assisting households without disabilities.

Funding

In FY09, Congress appropriated $250 million for the Section 811 program, a 5% increase from FY 2008. However, rising costs and difficulty leveraging other funding means that only 930 new Capital Advance/PRAC units were awarded in 2008. In addition, almost $100 million is 'taken off the top' of the appropriation each year to pay for the on-going cost of the Mainstream vouchers. No new Mainstream vouchers have been made available since 2003.

What Advocates Need to Know Now

Despite significant changes in disability policy over the past 16 years, the 811 program has changed very little since it was first authorized by the National Affordable Housing Act of 1990. Section 811's current program structure makes it virtually impossible to integrate 811-financed supportive housing units within a larger rental housing property – a housing approach that most people with disabilities prefer and one that is also strongly encouraged by most state disability policies. It is also difficult to 'blend' Section 811 funding with federal Low Income Housing Tax Credit financing – the nation's major source of financing for affordable rental housing development.

In March of 2009, Representatives Chris Murphy (D-CT) and Judy Biggert (R-IL) re-introduced legislation to reform the Section 811 Supportive Housing for People with Disabilities Program. The bill, known as the Frank Melville Supportive Housing Investment Act of 2009 (H.R. 1675), is designed to spur the creation of thousands of new Section 811 permanent housing units every year. An identical bill passed unanimously in the House of Representatives on September 17, 2008. Similar legislation in the Senate did not leave committee prior to the 110th Congress adjournment.

The Section 811 Permanent Supportive Housing Program for People with Disabilities is a critically important federal program that assists the lowest income people with serious and long-term disabilities to live independently in your local community by providing integrated affordable rental housing linked with voluntary services and supports. This essential and ground-breaking legislation will help address the enormous and unrelenting housing crisis faced by millions of extremely low income people with disabilities and will spur the creation of thousands of new Section 811 units every year. By authorizing a new and innovative Section 811 PRAC Demonstration program, the bill will enable communities to create thousands of new Section 811 units each year without a substantial increase of federal Section 811 appropriations levels. Communities will be able to do this by leveraging new set-asides of supportive housing units in federal Low Income Housing Tax Credit (LIHTC) properties and HOME-funded projects. The PRAC Demonstration program will provide the essential rental subsidy to reduce rents in these projects to affordable levels for over 4 million people with disabilities receiving federal Supplemental Security Income (SSI) benefits.

The legislation also reforms the existing Section 811 production program to better leverage other capital funding and reduce barriers to 'mixed-finance' Section 811 projects. These reforms will also increase the number of units created each year through the current Section 811 production program.

More than 30,000 units have been developed since the program's inception. A separate tenant based rental assistance component assists 14,000 households with disabilities in the private rental market.

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. It is virtually impossible for people with disabilities receiving Supplemental Security Income (SSI) to obtain decent, safe, affordable, and accessible housing in the community unless they receive housing assistance. Currently a person receiving SSI needs to pay 112.1% of their monthly income in order rent a modest one-bedroom unit.

By enacting the Frank Melville Supportive Housing Investment Act of 2009, Congress can address this housing crisis by enacting a reinvigorated Section 811 program that is ready to create thousands of new integrated permanent supportive housing opportunities for people with significant and long-term disabilities every year without needing to double or triple appropriation levels.

Advocates are encouraged to contact members of Congress with the message to:

- Support H.R. 1675 and identical legislation soon to be reintroduced in the Senate to reform and reinvigorate the Section 811 program
- Provide at least $250 million in Section 811 appropriations for FY10

For More Information

Consortium for Citizens with Disabilities Housing Task Force · 202-783-2229 · www.c-c-d.org/tf-housing.htm

The Technical Assistance Collaborative · www.tacinc.org

Self-Help Homeownership Opportunity Program

By Leslie R. Strauss, Senior Policy 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.

The SHOP program is run out of HUD's Office of Community Planning and Development.

History

Congress originally 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 house construction begins.

Program Summary

SHOP is a competitive grant program run by HUD that provides funds to national and regional nonprofits who 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 family receiving assistance through the SHOP program is required to invest at least 100 hours of work in building its home or 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 $26.5 million in both FY08 and FY09.

What Advocates Need to Know Now

SHOP has received steady support from Congress and the Clinton and Bush Administrations. SHOP has remained popular and has not experienced any problematic issues.

What to Say to Legislators

Members of the House and Senate should be asked to support continued SHOP funding at $26.5 million per year.

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 · http://www.hud.gov/offices/cpd/affordablehousing/programs/shop

Supplemental Security Income

By Laurel Weir, Policy Director, National Law Center on Homelessness & Poverty

The Supplemental Security Income (SSI) program is a cash-assistance, means-tested entitlement program for low income persons who are disabled, blind, or elderly. SSI is often confused with but is distinct from the Social Security retirement program and the Social Security Disability Insurance (SSDI) program.

The program is administered by the Social Security Administration (SSA).

History

SSI was enacted in 1972 to replace state means-tested, assistance programs for persons who were blind, elderly, or disabled.

Program Summary

The SSI program provides monthly cash assistance to persons who are unable to work due to age or medical conditions, and who have not worked long enough to qualify for other, means-tested benefit programs – such as Social Security retirement benefits or SSDI – for elderly persons or persons with disabilities.

SSI is distinct from the Social Security retirement program, which provides benefits paid upon retirement based on the amount of Social Security taxes a person has paid over a minimum number of quarters, and the Social Security Disability Insurance (SSDI), which provides disability benefits to people who have worked and paid Social Security taxes for a minimum number of quarters. Some people may be eligible for benefits under more than one of these programs.

Eligible beneficiaries are persons who are unable to work for a year or more due to age or disability. Most recipients are U.S. citizens – immigrants are eligible for SSI only under certain, limited circumstances. If an SSI recipient enters a medical institution or facility where Medicaid pays for more than half of the bill, the recipient's SSI is reduced to $30 per month.

To apply for SSI, claimants must submit an application by phone or through the SSA's network of field offices. Review of a claimant's application is a two-step process: SSA offices make determinations regarding claimants' financial qualifications and proof of identity, and state agencies, called Disability Determination Services (DDS), make determinations of disability. Rejections of a claim may initially be appealed to state DDS offices. If necessary, an additional appeal may be made to federal administrative law judges, and if necessary, claimants may seek final review from a federal district court judge.

In 2009, the monthly SSI benefit is $674 ($1,011 for couples) for persons without earned income. Additionally, some states provide a supplement to the federal SSI benefit. Although SSI benefit levels are small, they are critical to obtaining and maintaining housing for many recipients. SSI benefits have enabled homeless recipients to obtain housing by making the recipient eligible for supportive housing programs or subsidized housing vouchers or units prioritized for persons with disabilities. Additionally, in almost 40 states, receipt of SSI benefits automatically qualifies the recipient for Medicaid benefits, which provide access to health care services at low or no cost. Under certain circumstances, supportive housing providers may be eligible to receive Medicaid reimbursement for supportive services provided to clients who are Medicaid recipients.

Funding

As an entitlement program, SSI is available to anyone who meets eligibility requirements. According to the Social Security Administration, total federal SSI payments totaled approximately $36.88 billion in FY07.

Approximately 7.4 million people received SSI benefits in 2007.

What Advocates Need to Know Now

Although SSI benefits can provide critically needed resources to persons with disabilities, they can be difficult to obtain. Nationwide, approximately 37% of all initial claims for SSI are approved. The process can be even more difficult for persons who are homeless – only 10% to 15% of initial claims from homeless persons are approved and only 11% of the homeless population receive SSI benefits even though as many as 40% may be eligible. Barriers include difficulty obtaining medical documentation, as well as difficulty making appointments and collecting needed application documentation. SSA requires diagnosis of a disability to come from an "acceptable medical source" such as a physician or psychiatrist. The list of acceptable medical sources excludes such practitioners as nurse practitioners, physicians' assistants, and licensed clinical social workers.

The difficulty in obtaining initial approval has lead to a large number of appeals. Due to inadequate staffing, this has lead to large backlogs and the average waiting time for an appeal is just under 500 days.

Some programs have demonstrated success in increasing initial approvals for persons 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 assist homeless claimants. SOAR was funded jointly in its first three years by HUD and the Substance Abuse and Mental Health Services Administration (SAMHSA). As of July 2008, claimants assisted by SOAR-trained sites in 18 states had an average initial approval rate of 70%.

To further assist homeless and low income persons with disabilities to obtain the benefits for which they're eligible, Congress should continue funding for the SOAR program within SAMHSA's Programs of Regional and National Significance. Additionally, Congress should ensure ALJ and SSA services are adequately staffed. To address the difficulty that homeless and other low income clients may face in obtaining acceptable medical documentation, the list of acceptable medical sources should be expanded to include Nurse Practitioners, Physician's Assistants, and Licensed Clinical Social Workers.

Lastly, although SSI payments may allow recipients to obtain subsidized housing, they are insufficient for unsubsidized housing. In no county in the nation is the maximum SSI payment for an individual sufficient to afford the Fair Market Rent for even an efficiency unit. The payment should be increased to ensure that no one who is elderly or disabled is forced to live on the streets because they cannot afford housing.

For More Information

National Law Center on Homelessness & Poverty · www.nlchp.org

National Health Care for the Homeless Council · www.nhchc.org

National Policy and Advocacy Council on Homelessness · www.npach.org

Temporary Assistance for Needy Families

By Norm Suchar, Senior Policy Analyst, National Alliance to End Homelessness

Temporary Assistance for Needy Families (TANF) is a block grant program for states to provide assistance to low income families. TANF funds are used by the state to provide cash assistance to eligible families and to finance services and supports that help low income parents prepare for or transition into the workforce.

TANF is administered by the Office of Family Assistance in the Department of Health and Human Services (HHS).

History

TANF was created by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), which replaced Aid to Families with Dependent Children (AFDC). The introduction of the TANF block grant reflected a radical shift in the provision of assistance to poor families. In particular, it imposed time limits on receipt of cash assistance, work obligations on parents, and sanctions in the form of reductions in cash assistance when parents failed to meet work or other program requirements.

Program Summary

At the discretion of states, TANF funding can be used for cash assistance or other activities that promote self-sufficiency. TANF cash assistance is an important source of financial support for families without other options. Benefit levels are set by each state, and are typically well below what families require to afford adequate housing. In 2003, the average benefit for a family was $392 per month. Studies have found that many families who rely on TANF cash assistance face housing crises, such as falling behind in rent or utility payments, evictions, or doubling up with friends or family. Housing crises can be exacerbated when families' TANF benefits are ended due to time limits, or reduced for a failure to meet the required number of hours in work activities or other program requirements.

In general, states must limit TANF recipients to no more than 60 months of assistance and require that at least half of TANF recipients must participate in work activities for at least 30 hours per week. TANF is targeted to families with children, but beyond that, eligibility is largely determined by states.

Cash assistance comprises approximately 35% of how states use TANF funds. States typically commit substantial portions of their TANF dollars to work supports, in particular, meeting the child care needs of families who are leaving cash assistance to enter the workforce. Some states have used TANF funding to increase the income or earning potential of families transitioning into the workforce through earning disregards or supporting parents' participation in secondary education. A few states used the TANF program's flexible funds to meet the housing needs of the families they served through short-term rental assistance supports. Many TANF agencies also retained Emergency Assistance (EA) programs under the TANF program, dedicating resources to prevent homelessness among eligible families or to provide first month's rent and security deposits for those that have lost their homes.

Funding

TANF is a mandatory spending program and is funded at $16.5 billion each year.

What Advocates Need to Know Now

The TANF block grant program was reauthorized in 2005 after years of vigorous debate as part of the Deficit Reduction Act (DRA). Proposed regulations by the Department of Health and Human Services (HHS) issued in 2006 are now effective, and subject states to financial penalties for failure to meet requirements. The policy changes created new restrictions on how state dollars can be spent and what activities families can engage in to meet required work activities. Combined with the effective increase in the proportion of families that must engage in more narrowly defined work activities and limited child care resources, state flexibility to meet the needs of low income families under the TANF program has been greatly diminished. In November 2008, there were approximately 1.6 million families on TANF caseloads nationwide, 63% lower than when TANF was enacted in 1996.

Until recently, states had a lot of flexibility in how TANF block grant resources were used. States have always been expected to engage a significant proportion of the families on their caseload in a set number of work activities each week in order to avoid penalties. However, many states received credit toward their work participation rate through the 'caseload reduction credit.' With the sharp decline in TANF caseloads, states' effective participation rates were significantly lowered, which meant they were not wedded to engaging families in activities that were 'countable' toward the work participation rate. Several states used the additional flexibility to engage families in activities that would improve their long-term outcomes, including higher education and treatment services.

Changes to the TANF program under DRA significantly restrict state flexibility. With shifts in how the caseload reduction credit is calculated, a greater proportion of families remaining on TANF will be expected to meet work requirements or face sanctions. This includes families receiving assistance through state match funds (maintenance of effort funding, or MOE) and families in which only the children are receiving financial support. HHS has narrowly defined the activities parents may engage in to meet the federal work requirements. This has led to great concerns among advocates and state policymakers over states' ability to engage families in countable work activities and avoid financial penalties, as well as their capacity to adequately and appropriately serve families that include an adult or child with a disability under the new regulations.

Funding under ARRA. Up to $5 billion is available to states under the American Recovery and Reinvestment Act of 2009 (ARRA) for the TANF Emergency Contingency Fund. The total amount that a state can receive in contingency funds over the course of 2009 and 2010 is capped at 50% of one year's annual TANF allocation. The TANF Emergency Contingency Fund can be used to reimburse states for up to 80% of increased spending for providing any of the following:

- non-recurrent, short-term payments (e.g. four months of rental assistance for homeless families, security deposit and first month's rent, utility assistance);
- basic assistance (cash grants to low-income families); and
- subsidized employment.

HHS will need to issue guidance that will provide clarification about exactly what types of expenditures will be covered in these categories and what the procedures are for states to claim reimbursement for these increased costs.

What to Say to Legislators

Many of the families experiencing homelessness can benefit from these TANF programs. Advocacy will be needed to ensure that the TANF Emergency Contingency resources included in ARRA are maximized to benefit families experiencing or at-risk of homelessness within their state. Advocates should identify the key decision makers at both the state and local levels, including the state and local TANF director and elected officials. Educating key stakeholders about the prevalence and needs of families experiencing homelessness in the state may be necessary, including how collaboration between homeless service providers and TANF agencies can better serve vulnerable families.

TANF is scheduled to be reauthorized in 2010, with policy work anticipated to begin towards the end of 2009. Advocates will seek improvements in the program to protect families from loss of critical benefits and deepening poverty with additional state flexibility and incentives to provide families with the education, training and support to achieve greater economic self-sufficiency and improved family well-being.

For More Information

Center for Community Change · 202-342-0519 · www.communitychange.org

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

Center on Law and Social Policy · 202-906-8000 · www.clasp.org

Coalition on Human Needs · 202-223-2532 · www.chn.org

National Alliance to End Homelessness · 202-638-1526 · www.endhomelessness.org

Violence Against Women Act and the Family Violence Prevention and Services Act

By Monica McLaughlin, Public Policy Specialist, National Network to End Domestic Violence

The Violence Against Women Act (VAWA) and the Family Violence Prevention and Services Act (FVPSA) provide life-saving programs for victims of domestic violence, sexual assault, dating violence, and stalking. FVPSA and housing programs in VAWA respond to an array of victims' needs, from emergency shelter to permanent housing.

FVPSA (pronounced Fipsa) is administered by the Department of Health and Human Services (HHS). It funds approximately 2,000 emergency domestic violence shelters across the country, and is the only federal funding stream dedicated to emergency domestic violence shelters

VAWA includes housing programs, services to reduce and prevent homelessness, and federal statute to protect victims from unfair eviction or denial of public and subsidized housing. Most VAWA programs are administered by the Department of Justice (DOJ), Office of Violence Against Women (OVW).

History

FVPSA, originally passed in 1984, was the first federal funding stream for domestic violence programs and shelters. Reauthorized numerous times since then, its current authorization expired in 2008. FVPSA remains the core funding for domestic violence programs, which rely on this funding to remain open. In order to ensure the stability and viability of domestic violence programs across the nation, it is imperative that FVPSA is swiftly reauthorized.

VAWA, originally passed in 1994, was reauthorized in 2000 and 2005. VAWA 2005 addresses domestic violence, sexual assault, dating violence and stalking through a holistic approach. This reauthorization includes housing resources to prevent victims from becoming homeless and protections that ensure victims can access the criminal justice system without jeopardizing their current or future housing.

Programs Summary

Domestic violence is consistently identified as a primary cause of homelessness by the U.S. Conference of Mayors. A staggering 92% of homeless women experienced severe physical and/or sexual assault at some point in their lives, and between 22% and 57% of all homeless women report that domestic violence was the immediate cause of their homelessness. Advocates and survivors state that housing is one of the primary needs of victims and is critical to breaking the cycle of violence. In fact, victims of domestic violence often return to their abusers because they cannot find long-term housing.

Thousands of women and children are turned away from shelters and denied services every day due to lack of resources. When they are denied services, many women face a choice between returning to their abusers or becoming homeless. Demand for services rises every year as more victims learn about the resources available to them and seek to leave abusive relationships. The National Domestic Violence Census found that in just one 24-hour period in 2008, 4,872 requests for shelter and housing went unmet due to a lack of resources.

FVPSA. FVPSA funds approximately 2,000 emergency domestic violence shelters and programs in this country and is 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 FY09, FVPSA was funded at $127.7 million, almost $50 million below its funding authorization.

VAWA Transitional Housing Grant. The Department of Justice (DOJ), in consultation with HUD, administers the VAWA Transitional Housing Grant program, distributing small grants to a large number of organizations across the

country to provide a critical bridge from crisis to stability for victims of domestic and sexual violence. With VAWA Transitional Housing funding, organizations can provide victims with direct assistance for housing-related costs, operate transitional housing programs, and provide supportive services to clients in transitional housing facilities. This program is authorized at $40 million, and is currently funded at $18 million.

Grants to Combat Violence Against Women in Public and Assisted Housing. Another key VAWA program to be administered by DOJ is the Grants to Combat Violence Against Women in Public and Assisted Housing. This currently unfunded program will eventually fund collaborative efforts between housing providers and victim service providers and/or state domestic violence coalitions. When it is funded, all types of assisted housing programs, including rural housing administered by the Department of Agriculture and housing funded by Low Income Housing Tax Credits and the HOME program, will be able to apply for funding through this grant.

The Long-Term Stability/Housing for Victims. The Long-Term Stability/Housing for Victims program, authorized at $10 million but not currently funded, will be administered by HHS and will fund collaborative efforts to create permanent housing options for victims that help develop communities and leverage private dollars.

What Advocates Need to Know Now

To realize the benefits of FVPSA and these VAWA programs, which will help end violence against women and children, VAWA must be fully funded in the FY10 budget, with $60 million specifically for housing. Additionally, FVPSA must be reauthorized and fully funded at $175 million to ensure that victims in danger can flee to emergency domestic violence shelters.

FVPSA Reauthorization. FVPSA authorization expired in 2008 and it is imperative that Members of Congress work toward an expedient reauthorization of this critical legislation.

Funding for VAWA and FVPSA. Fully funding FVPSA and VAWA programs in the FY10 budget is critical to ending both domestic and sexual violence and homelessness. It is not only good social policy, but also good fiscal policy. By reducing incidents of domestic and sexual violence, the VAWA saved $14.8 billion in net averted social costs in its first six years alone.

What to Say to Legislators

Advocates should urge Members of Congress, specifically those on the House Education and Labor Committee and the Senate Health, Education, Labor and Pensions (HELP) Committee to reauthorize FVPSA as a matter of priority. Tell them how crucial emergency shelters are to victims in your communities.

Advocates should ask the House and Senate Appropriations Committees to fully fund all VAWA programs, including:
In the Labor, Health and Human Services Appropriation:

- $175 million for FVPSA programs/battered women's shelters
- $10 million for Long-term Stability/Housing for Victims

In the Commerce, Justice, Science Appropriation:

- $40 million and a distinct line item in the budget for Transitional Housing
- $10 million for Grants to Combat Violence Against Women in Public and Assisted Housing

Tell your Members of Congress why emergency shelter and housing are important for victims of domestic and sexual violence and ask for their support. If you are a housing provider, talk about the victims you serve and the struggles you face in meeting their needs. Give your Members of Congress the latest information about the lack of emergency, transitional and long-term housing in your community.

For More Information

National Network to End Domestic Violence · 202-543-5566 · www.nnedv.org

Weatherization Assistance Program

By Meg Power, Ph.D., Executive Director, Economic Opportunity Studies, Inc.

The Department of Energy (DOE) Weatherization Assistance Program (W.A.P.) serves low income people living in privately-owned existing homes by making improvements that reduce home energy consumption, and, therefore, their costs. In 2009, the top issue is scaling up the program from 175,000 units yearly (using all funding sources) to more than 300,000 yearly as a result of increased funding in the economic recovery bill.

History

The 1978 Energy Conservation and Production Act, as amended, establishes the Weatherization Assistance Program. The W.A.P. was a pilot program born in the Community Services Administration (CSA) and it moved to the newly-formed DOE in FY77. The CSA had funded local Community Action agencies to test home weatherization strategies since 1973; until 1981, the program continued to invest in short-lived improvements such as weatherstrip, caulk, and repairs installed by a mix of skilled workers, inexperienced trainees and even volunteers. Quality and production levels suffered from this approach, and in 1984 the program was changed to emphasize insulation, and air leakage reduction by well- trained crews using tools and procedures that ensure safety as well as efficiency. Following a 1993 evaluation of energy savings, further program changes required the use of approved computerized building audits, evaluation of the house as a 'system,' and prioritizing long-lasting investments.

Program Summary

The Weatherization Assistance Program is designed to ". . . increase the energy efficiency of dwellings owned or occupied by low income persons, reduce their total residential energy expenditures, and improve their health and safety, especially low income persons who are particularly vulnerable such as the elderly, the handicapped, and children."

Households income-eligible for LIHEAP (for more information see LIHEAP chapter) or with incomes at or below 200% federal policy guidelines, if higher, are eligible for Weatherization. Recipients have been disproportionately homeowners living in northern tier states; many elderly and disabled households are among those served.

The program is a formula-based state categorical program. About 700 Community Action Agencies and 200 other nonprofit organizations, including a number of non-profit housing developers, deliver the program services. The grantees are the same each year, and they have gradually developed consistent partnerships that expand their programs' resources and measures. They combine delivery of major energy retrofits, minor home repairs, appliance replacement, and customer education, using the DOE equipment and methodology.

There are three universal features of local Weatherization programs: 1) the homes treated are privately-owned, existing units, 2) participants have been predominantly recruited from the LIHEAP participant rolls, and 3) technical protocols approved by DOE are used to ensure quality, safety and the return on the federally-funded investment of federal funds. Each federal dollar spent must produce a dollar of energy savings over the life-cycle of the measures used. Expenditures are further limited by a statutory ceiling on average per-home expenditures, calculated over all homes in a state. In FY09, that amount has been raised to $6,500.

Local agencies use employee crews and/or private contractors supervised by a skilled agency technician. Most workers need W.A.P.-financed training in the 'green-collar' skills required to use the program techniques. They measure the systems that heat, ventilate, and cool the whole home. They pressurize the house to identify leaks in the building's shell using blower doors and infrared imaging; they check for blocked air movement or conflicting pressures, safety hazards, poor heating system performance including water heating, cooling equipment, and lighting fixtures. Most test the efficiency of major appliances and replace them where cost effective or otherwise necessary, funding permitting. States determine the level of federal spending allowed for minor home repairs and

health/safety improvements. DOE counts (and funds) only homes that are 'fully weatherized' using these protocols. Funding. The 2009 economic recovery bill (American Recovery and Reinvestment Act; ARRA) provided $5 billion for Weatherization, more than twice the authorized level for the same period. In addition, $450 million was appropriated for regular FY09 funding. (The only difference in the program requirements between 'regular' and ARRA funds is the application of Davis-Bacon Act prevailing wage requirements in ARRA.)

In FY08, the W.A.P. was funded at $227 million, down from its FY83 high point of $245 million ($538 million in 2008 dollars). While surviving occasional presidential efforts to terminate it entirely, the program fluctuated through the 1990s and enjoyed growth from 2000-2004 when it was a 'Presidential Priority'. President Obama has called for production growth to a level of 1 million homes per year, more than six-fold the FY08 level. The total annual cost of such a program would be about $8.5 billion in 2008 dollars.

DOE funding is only part of the total used for the W.A.P. services delivered by the Community Action Agencies. In FY08, DOE contributed about one-third of local Weatherization programs' resources. Thirty-nine states typically contribute a collective total of 10% of their LIHEAP funds, and utility programs for low-income efficiency investments usually add more than $250 million in 37 states. (Of that, $80 million was for California's Weatherization programs alone.) Many Weatherizers partner with affordable housing rehab projects; some assist in new construction using non-DOE funds.

Production. The total estimated 2008 production of the W.A.P. network is about 170,000 weatherized homes, of which between 90,000 and 105,000 received DOE funds. Far more funding, and also funding per eligible home, has been available to cold states than to the southern tier states. The homes weatherized to date are disproportionately in the northern tier, but the formula for the expanded program increases the warm state share dramatically.

What Advocates Need to Know Now

Advocates have identified several W.A.P. program issues to address in the 2009 energy policy legislation.

Coordination between DOE and HUD. On February 27, 2009, DOE and HUD announced a memorandum of understanding that there will be cooperation between the agencies to advance energy efficiency in low and moderate income housing. Details of the agreement have not been announced.

Substandard housing. Because very limited amounts of DOE or LIHEAP W.A.P. funds are set aside for 'minor' home repair, Weatherizers are not able to insulate homes with major leaks or to tighten air flow in homes with mechanical or other hazards. Major rehab funding and partnerships are rare. Weatherizers favor set-asides for simple repairs (costing up to $10,000) that do not include comprehensive rehab.

Eligibility. Eligibility is inconsistent with the HUD programs'. Weatherizers want the DOE statute changed to make the "low-income" definition of the Housing Act also the eligibility criterion for W.A.P. Entire buildings could more readily be qualified. Local housing departments can refer pre-qualified candidates.

Collaborating in new construction or assisted rental housing. Weatherizers have skills and tools not generally shared in the building trades; using the teams as subcontractors in assisted and new housing rehab/development requires fully funding all W.A.P. costs from the housing project.

Over the past 30 years, more than 6 million homes have been weatherized by the DOE local agencies using all their funding sources. However, about half were completed in its first 15 years.

The program reduces all fuel consumption in the average home by 30.5 mmbtu, or 21%; this means a 30% reduction in main fuel usage. Electric baseload savings have not been evaluated. Average savings, which persist for about 20 years, were estimated at $413 per year in 2008. Results vary by the amount of energy the home was using pre-treatment. Weatherization reduces the CO_2 emissions of the average natural gas heated homes by 1.8 tons.

Good jobs and living wages. Weatherization will pay contract workers more under ARRA and its energy benefits-to-cost ratio will drop accordingly. Weatherization advocates seek OMB recognition of the value of well-paid, green-collar workers when measuring program results, and also for federal requirements that all contracted programs favor employers who provide living wages, including benefits.

Future Directions
Greener. The ARRA allows DOE to fund $100 million of local renewable energy projects that would not be consistent with the DOE short W.A.P. payback requirement. The results will lead to expanding the uses of W.A.P. for carbon dioxide (CO2) emissions reduction.

More inclusive. A vastly expanded program offers value to potential private partners who want to achieve carbon reductions in a large share of the population. Weatherizers expect more partners to add value to the program benefits and help achieve more savings per home and more community-wide benefits.

For More Information

http://www.waptac.org/ Technical and program information site with links to all network partners.

http://www.waptac.org/sp.asp?id=9088 Videos demonstrate W.A.P. training and service delivery in the field

http://apps1.eere.energy.gov/weatherization/ The Department of Energy Weatherization gateway page

http://www.weatherizationplus.org/ Economic Opportunity Studies' pages on partnerships and expansion

http://weatherization.ornl.gov/ Studies and evaluations of the program.

White House Office of Faith-Based and Neighborhood Partnerships

By Thomas Shellabarger, Policy Advisor, Office of Domestic Social Development, United States Conference of Catholic Bishops

Faith-based organizations have been engaged in affordable housing and community development activities for many decades with the support of the federal government. President Barack Obama continues to recognize this effort and has signed an executive order establishing a White House Office of Faith-Based and Neighborhood Partnerships. This new office, similar to President George W. Bush's Office for Faith-Based and Community Initiatives, will work on behalf of Americans committed to improving their communities, no matter their religious or political belief. It is too early to tell how this new office will differ from faith-based efforts under the previous Administration.

The Issue

The Obama Administration is not the first to support the work of faith-based and community organizations. Earlier efforts at HUD were made by the Carter, Clinton and Bush II Administrations. The current HUD regulations were put in place by the George W. Bush Administration, and it is expected that the Obama Administration's new office will review the intent and implementation of these regulations and recommend changes if necessary.

The new Obama White House Office for Faith-Based and Neighborhood Partnerships will be a resource for nonprofits and community organizations, both secular and faith-based, looking for ways to make a bigger impact in their communities, learn their obligations under the law, cut through red tape, and make the most of what the federal government has to offer.

As the priorities of the office are carried out, they will insist that both existing programs and new proposals are consistent with American laws. The Executive Order creating the office in the Obama Administration also establishes a mechanism for the Executive Director, working through the White House Counsel, to seek the advice of the Attorney General on difficult legal and constitutional issues.

The status of the regulations promulgated by HUD under the George W. Bush administration regarding the participation of faith-based organizations in HUD programs remain in force (July 9, 2004. 24 CFR Parts 5 and 570 Equal Participation of Faith-Based Organizations; Final Rule). These HUD regulations apply to the following programs: HOME; Community Development Block Grants (CDBG); Housing Opportunities for Persons With AIDS (HOPWA); Emergency Shelter Grant; Shelter Plus Care; Supportive Housing; YouthBuild; Section 202 Elderly Housing; and, Section 811 Housing for Persons with Disabilities.

While the rules vary somewhat from program to program, they all include the following clarifications:

- Faith-based organizations are eligible to participate in HUD programs regardless of their religious character or affiliation.
- Organizations may not use HUD funds for "inherently religious activities, such as worship, religious instruction, or proselytization." If a HUD-funded organization uses its own funds for inherently religious activities, these activities must occur at a time or place that is separate from HUD-funded activities.
- Organizations using HUD funds may not discriminate against program beneficiaries on the basis of religion.
- HUD funds may not be used to build or improve sanctuaries, chapels, or other rooms that an organization uses as its "principal place of worship."
- HUD funds may be used for the acquisition, construction, or rehabilitation of "dual-use" structures to the extent that those structures are used for HUD-eligible activities.
- Faith-based organizations retain their independence including the right to maintain a religious mission, to control internal governance, and to make employment decisions on the basis of religion, unless prohibited by federal, state, or local law.
- The rules also provided clarification for the commingling of state, local, and federal funds.

Most advocates and Members of Congress recognize the important work that faith-based and community organizations do in low income communities to assist and support individuals and families. Many faith-based organizations are pleased with the attention to their work and appreciate efforts to clarify the conditions under which they may participate in federal assistance programs.

What Advocates Need to Know Now

Advocates should urge Members of Congress to support substantial new resources for affordable housing and community development activities. In addition, advocates should monitor the efforts of HUD's Center for Faith-Based and Community Initiatives as well as the effect of regulatory changes in HUD programs.

For More Information

HUD Center for Faith-Based Initiatives · 202-708-2404 · www.hud.gov/offices/fbci/index.cfm

Roundtable on Religious and Social Welfare Policy · 518-443-5014 · www.religionandsocialpolicy.org

Employer-Assisted Housing

By Megan Richardson, Policy Associate, National Housing Conference

Employer-assisted housing (EAH) programs engage the private sector to play a direct role in promoting housing affordability, while promoting workforce retention and recruitment. Advocates hope to see EAH legislation introduced in the 111th Congress.

History

EAH legislation was first introduced in 2005 during the 109th Congress. In 2007, legislation was reintroduced in the 110th Congress to provide a federal tax credit system for employer-provided employee housing assistance. Housing America's Workforce Act (HAWA), H.R. 1850, was sponsored in the House by Representative Nydia Velasquez (D-NY) and 13colleagues. In the Senate, Senator Hillary Rodham Clinton (D-NY) introduced S. 1078, which had seven additional cosponsors.

Proposal

The HAWA proposal is comprised of three primary sections:

Employer Tax Credit. Federal tax laws and corporate accounting rules do not currently provide incentives for employers to offer housing assistance to their employees. The creation of this new business tax credit would provide employers with the incentive to partially offset the cost of providing a housing benefit for their workers. The HAWA tax credit would be available to any for-profit or nonprofit employer. Employers would receive a $0.50 tax credit for every eligible dollar of housing benefit made available to their employees. Employers would receive this tax credit on housing contributions up to $10,000 or 6% of the purchase price of a home (whichever is less), or up to $2,000 for rental assistance. Employers would only receive the tax credit for housing contributions made to employees with a household income that does not exceed 120% of the area median income. The housing benefit received by the eligible employees would be excluded from their income and therefore not subject to income tax. Demonstration grant funds would be available to nonprofit housing organizations that have a proven track record in the field of housing and community development.

Housing Benefit Exclusion. Some employer-provided benefits such as health, dental and life insurance result in no taxable income to employees. However, federal laws do not currently include housing as a tax-free employee benefit. HAWA would treat housing assistance as a non-taxable benefit by excluding from taxable income up to $10,000 in homeownership assistance and up to $2,000 of rental assistance received. This exclusion will ensure that employees receive the full value of the housing benefit.

Demonstration Employer-Assisted Housing Grants. EAH programs offer an innovative mechanism for leveraging public and private funds to address housing affordability challenges, regional jobs-housing imbalances, community revitalization, and recruitment and retention issues. Yet, many employers may lack the knowledge and expertise needed to undertake an EAH initiative. To help address this challenge, HAWA would establish a competitive grant program available to nonprofit housing organizations that provide technical assistance, program administration, and/or education and outreach support to employers undertaking EAH initiatives.

Funding

Because HAWA is a tax bill, it would not require a direct appropriation from Congress except for $5 million requested for a demonstration grant.

What Advocates Need to Know Now

Many employers are realizing the benefits of EAH programs as trends in the housing market continue to show that low and moderate income families cannot find affordable housing options. Moreover, the rate of housing production

continues to be outpaced by job growth because fewer lower-cost housing units are being constructed. Thus, many working-class families have been unable to access affordable housing in neighborhoods located near their workplace.

Teachers, firefighters, police officers, and hotel and restaurant employees are critical to society, but in many parts of the country they are experiencing difficulty securing affordable housing in communities close to where they work. This has resulted in longer commutes for these employees, as well as increased traffic and pollution. For the employers of these workers, this trend has led to unstable retention, a loss in productivity and a decreased ability to attract new talent and ability to their businesses.

Although many employers across the country offer EAH programs to their employees, it is difficult to ascertain the exact number of these programs due to a lack of documentation. The public and private sectors realize that EAH is a smart strategy for addressing regional jobs-housing imbalances, community revitalization, and smart growth.

EAH continues to serve as a promising tool among an array of affordable housing solutions. Furthermore, EAH presents an opportunity to engage other sectors affected by the lack of affordable housing by creating these vital partnerships.

What to Say to Legislators

Advocates should encourage Members of Congress to support EAH legislation in the 111th Congress.

For More Information

National Housing Conference · 202-466-2121 x225 · www.nhc.org

Green Housing and Climate Change

By Enterprise Community Partners

Green methods and materials are becoming more common in the development, rehabilitation and management of affordable housing across the country. Green homes have features that can benefit low income people and communities, by improving energy and water efficiency of the home, enhancing the health of its residents, and mitigating the property's environmental impacts in construction and operation. On the other hand, affordable housing advocates are concerned about the effects that any increase in utility costs resulting from climate change legislation will have on low income families' budgets.

In 2009, Congress will consider a number of bills designed to address the related concerns of climate change and energy efficiency. These bills provide opportunities to expand federal funding for energy efficiency improvements and to provide utility cost relief to lower income households.

The Issue

In the last few years, thousands of green homes have been built and rehabilitated for low income people across the United States. These include new construction and rehabilitation projects, rental as well as owner-occupied properties, large urban developments and small rural projects. There are many green developments with supportive services for residents with special needs and a growing number of green preservation projects. Increasingly green and affordable are becoming one and the same.

Green is a holistic concept, encompassing more than a single building feature, and includes both site and location features (such as compact development, walkability and transit access) as well as building elements (including energy efficient systems, water conserving fixtures, healthy and recycled materials and features to improve indoor air quality). There a several national programs and dozens more at the local level that provide criteria for defining green homes. Among the frameworks widely in use in affordable housing are the Green Communities Criteria, the U.S Green Building Council's LEED for Homes rating system, Green Point Rated, and Southface's EarthCraft House program. These and most other green frameworks have a great deal in common. Ultimately, going green is not about complying with a checklist of green items , but designing and integrating a set of improvements into a site and building that achieve the maximum desired green goals of a project.

Benefits to low income people and communities. An emerging body of research and experience on the ground suggests that green homes can create healthier living environments for low income families, who disproportionately suffer from asthma and other health problems exacerbated by poor indoor air quality.

Green affordable homes also can reduce operating expenses, cutting utility costs for residents and boosting building reserves for owners. For example, an Ohio program to create 150 Habitat for Humanity homes achieving Energy Star certification generated an average annual savings of $460.

For multifamily apartment owners, more energy-efficient buildings may generate more stable cash flow from rents. To the extent energy improvements were part of more holistic green building rehabilitations, rental properties may be more durable and higher performing and potentially more valuable assets to own over the long term.

In addition, studies of home weatherization and retrofit programs have catalogued broader benefits beyond energy savings, including greater comfort, convenience, health, safety and noise reduction. These 'non-energy benefits' have been broadly estimated to be worth 50% to 300% of annual household energy bill savings.

Green affordable housing at scale also can help fight climate change. Residential units consume 22% of the nation's energy and cause 20% of our greenhouse gas emissions.

One recent analysis suggests that the 34 million households eligible for federal home energy assistance generated 276 million tons of CO^2 emissions, 27.5% of total emissions from residential units overall. Another study found that weatherizing 12,000 homes in Ohio avoided more than 100,000 pounds of sulfur dioxide and 24,000 tons of CO2, while cutting average utility costs for low income homeowners by an average of several hundred dollars per year.

In addition, increasing energy efficiency in very low income homes attacks a significant contributor of greenhouse gas emission in the United States, residential homes, at the root of the problem: the buildings themselves. And it reduces emissions for the long term while reducing energy costs. Other approaches to ensuring equity in climate change policy, such as helping low income people afford higher energy costs, while critically important, do not deliver these enduring systemic benefits.

Energy efficiency and broader green home rehabilitation and new construction can be an especially promising basis for creating good 'green collar' jobs for very low income people. A recent study identified 22 different job sectors of the U.S economy that currently provide workers with green collar jobs, of which 11 were directly related to green home rehabilitation, including several specifically tied to energy efficiency. Increased investment in green very low income home rehabilitation could create these jobs at scale. The Department of Energy estimates that every $1 million invested in weatherization programs creates 52 low income community jobs.

Green jobs associated with very low income housing also can be created outside the construction trades in the areas of home energy audits, inspections and building performance testing. And as innovation and public policies accelerate market penetration of renewable energy technologies, additional opportunities should emerge to create more green jobs and deliver the energy and environmental benefits of clean energy to low income people through energy-efficient home construction and rehabilitation.

Costs to low income people and communities. Some of the proposals included in proposed climate change legislation to reduce greenhouse gas emissions would increase the costs of energy by charging polluters for the right to pollute. There are a variety of alternative mechanisms for achieving this goal – including a carbon tax and a carbon offset market – but ultimately, they would have the same disproportionate impact on families with low incomes through higher energy, food and transportation costs. To address this problem, some are advocating for the inclusion of additional funds for Low Income Home Energy Assistance Program (LIHEAP) or other comparable programs, as well as reductions in the taxes charged to low income families.

Cost effectiveness of green affordable housing. An analysis of 16 green affordable housing projects completed in 2005 found an average cost increase as a result of the green features of 2.4%. Forthcoming research by Enterprise Community Partners analyzing more than 40 green affordable developments built more recently to the Green Communities Criteria contains similar findings: marginally higher developments costs – as well as significant energy and water savings and reduced carbon emissions.

In very general terms, it is safe to say that many kinds of green methods and materials cost nothing additional to implement. Upfront design and building analysis and measures to make buildings significantly more energy efficient, such as through more effective building envelopes, right-sized systems and newer technologies, may have higher costs for affordable housing developers and owners, especially in rehabilitation developments. In less urban communities, density and walkability measures may lead to higher costs.

Research in other building sectors and anecdotal experience in affordable housing suggests that green development costs decrease as developers gain education, assistance and experience.

Federal Legislation

In the 111th Congress, there are several bills affecting climate change and other green/affordable housing issues of which advocates should be aware.

The GREEN Act. In 2008 the House of Representatives passed the Green Resources for Energy Efficient Neighborhoods Act (H.R. 6899), sponsored by Representative Ed Perlmutter.

The GREEN Act's major provisions would:
1) Increase green building and energy efficiency requirements in federally assisted housing;
2) Authorize block grants, loan funds and rental subsidies for green residential development and rehabilitation;
3) Encourage Fannie Mae and Freddie Mac to finance more energy efficient mortgages;
4) Direct the Federal Housing Administration to insure $1 billion worth of energy efficient homes; and
5) Provide resources for community-based organizations to create green affordable developments.

Climate change legislation. In 2009, Congress is likely to take up climate change legislation, which could provide an opportunity to secure additional funding to augment energy-efficiency funding provided in the economic recovery package, and help low and moderate income families weather the utility price increases that will result from climate change legislation.

In particular, there is a need for legislative action to provide funding and financing that will address gaps in the web of programs authorized by the 2009 economic recovery act (American Recovery and Reinvestment Act; ARRA) to help improve the energy-efficiency of older homes. Despite these large allocations, a number of important gaps remain, including and especially to assist renters of privately owned assisted housing (the bill included only $250 million for improvements to this stock, far less than is needed), families with housing vouchers (no provisions were included in the act), and moderate income families living in private-market rental housing (no provisions).

Other related issues. The federal weatherization program and federal transportation spending also each have a major impact on climate change and other green issues. Advocates are encouraged to consult the separate chapters on those issues.

What to Say to Legislators

Members of Congress should be encouraged to:

- Support the GREEN Act to, among other things, increase green building and energy efficiency requirements in federally assisted housing.
- Ensure investments in green affordable homes are a priority in energy and climate change policy. Include provisions in any legislation to help low and moderate income families deal with the higher costs for energy, food and other energy-intensive goods that will likely result.
- Work to ensure that new housing is built to a higher standard of energy-efficiency, but also be attuned to the increased costs for housing that may result.
- Secure funding for affordable homes near transit in the transportation bill.
- Reach out to environmental, energy and transit advocates tot find common ground to create a stronger progressive coalition for green communities for all.

State and local representatives should be encouraged to:

- Develop a comprehensive approach to meeting the energy-retrofit needs of low- and moderate income families. The weatherization funding in the economic recovery package is extremely important, but to spend it quickly and effectively, states should partner with owners of privately owned assisted housing as well as non-profits working at the local level.

For More Information

Enterprise Community Partners · www.enterprisecommunity.org

Global Green USA · www.globalgreen.org

Healthy Homes

By Megan Sandel, Alliance for Healthy Homes and the National Center for Medical Legal Partnership/Boston Medical Center

Indoor hazards typically pose far greater risks to children's health than outdoor exposures because children spend as much as 90% of their time indoors, where toxic substances can reach more concentrated levels than they do outside. Older, dilapidated properties usually pose the most severe indoor health hazards and often properties have a combination of health hazards, not just one, including lead dust and deteriorated paint, conditions that cause and worsen asthma (such as dust mites, molds and pests), carcinogens (such as asbestos, radon and pesticides), and other toxins (such as carbon monoxide).

In 2009, the key legislative issue related to health and housing remains very similar to 2008: the passage of comprehensive healthy homes legislation in Congress to catalyze national leadership and accountability among federal agencies.

The Issue

Recent research confirms that housing policy has an important impact on public health and that any effective public health agenda must include a housing component. This research has produced several important findings that should inform housing and health policy in the 21st century.

The long-term effects of housing-related health hazards are alarming. Lead poisoning, chronic low-level carbon monoxide exposure and asthma all profoundly interfere with a child's ability to learn and perform in school. The economic costs to society for lead poisoning alone have been recently estimated to be $44 billon. There are also substantial health effects, such as asthma and injuries, that have significant costs as well encompassing lost learning and earning potential of children, lost work days for parents caring for ill children, medical expenses including emergency room visits and special education costs. Asthma, for example, costs the U.S. economy $16 billion each year in direct and indirect expenses.

The disparities in health impacts are striking, and the burden of housing-related health hazards falls disproportionately on our most vulnerable children and communities. 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 from low income families are eight times more likely to be lead-poisoned than those from higher-income families, and African American children are five times more likely than whites to be lead-poisoned.

The coexistence and cumulative effect of multiple hazards demands careful attention, coordinated assessment and remediation activities and a "whole-house" approach. Inadequate ventilation increases the concentration of 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 expenses for medical care and other costs of housing-related health hazards create justification for investments in primary prevention to address the panoply of unhealthy housing conditions before they cause illness. Attention to hazards in homes must shift to a comprehensive whole-house approach because housing-related health hazards often have overlapping effects, causes and solutions, and because solutions and opportunities may arise through weatherization and rehabilitation program work.

Given the new stimulus package's focus on weatherization funding as job creation, a new push should be given

to areas that will have healthy homes benefits as well, such as window replacement that can also help with lead poisoning, and roof and insulation repair that may help reduce mold intrusion.

The good news is that much of the infrastructure to achieve healthy housing is in place. Unfortunately, numerous existing programs are routinely missing opportunities to make housing healthier. Modest adjustments in policies and practice could harness missed opportunities and maximize resources and results.

What Advocates Need to Know Now

Federal legislation. In the last (110th) Congress, Senator Jack Reed (D-RI) introduced legislation that would help move the federal government towards an integrated approach in addressing health hazards in housing. It is likely that a similar proposal will be introduced this year and receive serious consideration. Senator Reed's bill emphasized cost-effective approaches and market-based incentives to make homes healthier and safer without detracting from their affordability. Entitled the Research, Hazard Intervention, and National Outreach for Healthier Housing Act, the multi-faceted legislation aimed to improve research, enhance the capacity of federal programs, and expand national outreach efforts. The earlier version of the bill included provisions which:

- Provided funding for existing federal housing programs, such as the Community Development Block Grant program, HOME, and the Low Income Home Energy Assistance Program to add healthy homes components to their programs.
- Leveraged the private market interest in healthy homes by creating a voluntary "Healthy Homes Seal of Approval" modeled after the successful Energy Star program.
- Authorized $7 million for each of the next five years for the National Institute of Environmental Health Science and the Centers for Disease Control and Prevention (CDC) to evaluate the health risks and human health effects of indoor exposure to chemical pollutants including carbon monoxide, chemical asthma triggers, and common household and garden pesticides.
- Authorized $6 million for HUD to study methods for the assessment and control of housing-related health hazards.
- Provided $10 million for HUD and CDC to study the indoor environmental quality of existing housing and to create a system for monitoring housing related hazards.

EPA rule implementation. The U.S. Environmental Protection Agency (EPA) is working on implementation of its Renovation, Repair, and Painting Rule, which will require contractor certification and use of lead-safe work practices for all work in all pre-1978 residences, will come into full effect in 2010. Although many advocates still think it does not go far enough, it provides a framework for educating and regulating the construction industry and will help to increase awareness of health hazards in housing. Similar federal standards and practice guidelines are needed for other indoor environmental hazards (for more information see chapter on Lead Programs).

Tips for Local Success

Some provisions in local codes provide a regulatory framework. For example, sanitary codes prohibit peeling paint, standing water, chronic moisture, roof and plumbing leaks and pest infestation. Many localities have started requiring the presence of carbon monoxide detectors in new and existing housing and the International Code Council adopted changes to the model code requiring carbon monoxide detectors in new homes with fuel-burning appliances or attached garages. Increasing public awareness of mold and concern about other housing-related hazards is fueling increased attention to state and local regulation of healthy homes issues. For code enforcement guidelines, see http://www.afhh.org/aa/aa_changing_policies.htm

For More Information

Alliance for Healthy Homes · www.afhh.org (action agenda at www.afhh.org/aa/aa_main.htm)
The Medical Legal Partnership for Children · www.medical-legalpartnership.org
Boston Medical Center – Pediatrics · www.bmc.org/pediatrics/research/Research/Doc4Kids/docs4kids_report.pdf

Homeownership Tax Credit

Buzz Roberts, Senior Vice President for Policy and Program Development, and Barbara Burnham, Senior Director of Federal Policy and Congressional Relations, Local Initiatives Support Corporation

The Homeownership Tax Credit (HOTC) would enable development of affordable for-sale housing for low income people in low income and rural communities – essential to community sustainability and wealth building. Despite wide support, the HOTC has not yet been enacted, and legislation has not been introduced in the current Congress.

History

In the 109th Congress, House and Senate bills were introduced with broad bipartisan support to enact a Homeownership Tax Credit (HOTC) to enable development of affordable for-sale housing for low income people to revitalize low-income and rural communities. The House bill had 201 co-sponsors, and the Senate bill had 18.

The Proposal

Under the proposals put forward in the 109th Congress, the HOTC would enable development of affordable for-sale housing for low income people in low income and rural communities, essential to both community sustainability and wealth building.

In most low income and rural communities, new home construction or rehabilitation costs exceed maximum market value. Without resources to fill the gap between development cost and market value, the shortage will likely worsen. In a smaller number of these communities, development is feasible to serve upper-income buyers but not the long-standing low income community residents. The HOTC would provide a resource to fill these gaps. There are more than four million low income renter households eligible to purchase a home under the program.

The HOTC generally would be targeted at Census tracts with median incomes of 80% or less of the area or state median income. Rural and Native American areas would be eligible as well. States could use a portion of their credit authority in other areas of economic distress. Eligible buyers generally would be those whose income does not exceed 80% of area median income. In certain distressed neighborhoods, eligible buyers could earn up to 100% of the greater of area or state median income.

As envisioned in previous legislation, states would receive annual allocations of credit authority, starting at $1.80 per capita and rising with inflation. States would award credits to developers under a competitive process in accordance with annual plans for meeting state homeownership needs. Developers who received credit allocations would sell them to investors and use the proceeds to bridge the gap between the development cost and the sales price of the homes they would develop. The credit would equal up to 50% of acquisition and development costs for either new construction or substantial rehabilitation.

The proposal accommodates mixed income developments but credits would be provided only on homes that serve eligible buyers. Additionally, states could address the goals of economic and racial integration through their credit allocation plans.

What Advocates Need to Know Now

The HOTC would help produce roughly 250,000 new homes for low income people over a five-year period at a federal cost of just more than $16 billion. This activity would generate more than half-a-million jobs, $20 billion in wages and $10 billion in federal, state and local revenue. The development and economic activity that the HOTC would generate also would help close minority and low income homeownership gaps and stabilize struggling neighborhoods and rural areas. Research has shown that homeownership development initiatives in low income communities can dramatically benefit both targeted communities and adjacent neighborhoods.

What to Say to Legislators

Should HOTC legislation be introduced in the current Congress, advocates should provide legislators with information on how a homeownership tax credit would help low income families become homeowners, especially in their districts.

For More Information

Local Initiatives Support Corporation (LISC) · 202-785-2908 · www.lisc.org
National Council of State Housing Agencies · 202-624-7710 · www.ncsha.org

Housing Plus Services

By Greg White, Housing Policy Analyst, National Low Income Housing Coalition

Housing Plus Services is a term defined as permanent affordable housing that incorporates various levels of services provided by trained professionals for whom service delivery, not property management, is the primary responsibility. NLIHC has developed basic principles for Housing Plus Services, as well as a typology of current programs offered based on target population; goals and outcomes; services provided; and general requirements and restrictions (see chart).

Summary

In recent years, the importance of integrating services with housing in order to help low income people achieve housing stability has gained recognition, though it is far from a new concept. This growth has led to a staggering variety of programs, with divergent goals, rules, eligibility criteria and funding sources. Some public housing agencies (PHAs) provide youth activities, childcare, job training and transportation. Some of these activities are part of HUD's self-sufficiency programs or are related to Transitional Assistance for Needy Families (TANF) work and training requirements for low income families. More and more, private developers of affordable housing are providing a service component as well. 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.

With so many different settings and program goals, Housing Plus Services programs developed without a common language and a generally agreed upon set of definitions. This causes communication problems among groups who could be more effective in both advocacy and service delivery if they worked together. NLIHC offers the definitions of design and implementation aspects of housing plus services programs in an effort to find common ground. The NLIHC Housing Plus Services Policy Committee is currently updating the typology chart to clarify the definitions that may fall in more than one category.

There is not yet a unique source of funding for the service component of Housing Plus Services programs. Depending on the population served, funding is cobbled together utilizing various HUD and Department of Health and Human Services (HHS) sources, Medicaid, Medicare, TANF funds and private sources. This can allow for individual program flexibility but can also cause much delay, uncertainty and uneven distribution of service dollars within any given housing program.

Another funding issue is the use of HUD money for services. Most housing advocates would prefer that HUD utilize its funds for permanent housing and have services funded by HHS, the U.S. Department of Veterans Affairs (VA) and other sources that have service provision as their primary function. Thirty percent of HUD homeless assistance funds must be allocated to creating permanent housing.

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 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 multilevel, 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.

Housing *Plus* Services Typology

Housing Type	General Target Population(s)	Common Goals or Outcomes	Primary Services	General Requirements and Restrictions
Supportive Housing	People who are: formerly homeless; at risk of homelessness; chronically mentally ill; disabled; elderly; in recovery, etc.	To prevent homelessness or recurrence of homelessness. To assure access to a comprehensive support system to help residents to live independently and interdependently in the community.	• Focus on life skills and stabilization • Crisis intervention • Case management • Services coordination • Programs and activities	Often drug and alcohol-free. *Participation in programs or services sometimes required for residency.*
Special Needs Housing	People with special needs, i.e., in recovery; dual diagnosis; HIV/ AIDS; chronic mental illness; disabled; elderly, etc.	To enable people with disabilities and/or who are in recovery requiring ongoing treatment or attention to live independently and interdependently (or to continue recovery/prevent relapse). To prevent homelessness.	• Focus on health, mental health, and/or recovery from addictions • Life skills and stabilization • Crisis intervention • Case management • Services coordination • Programs and activities	Often targeted to people with a particular special need, i.e., HIV/AIDS, chronic mental illness. Drug and alcohol-free. *Participation in programs or services often required for residency.*
Housing for Older Adults (Including Senior Housing and Assisted Living)	Elderly; frail elderly	To enable older adults to live (semi) independently and interdependently, possibly with caregivers or family members or in naturally occurring retirement communities (NORCs), while providing, as needed, for their basic needs. To prevent institutionalization and facilitate aging in place.	• Focus on health and basic needs • Case management • Life skills and stabilization • Crisis intervention • Programs and activities	Age/income level *Participation in programs or services not generally required for residency.*
Service-Enriched Affordable Housing	Low income people, not necessarily at risk or with special needs. Families with children; individuals; disabled people; extended families; couples; elderly people, etc.	To provide affordable housing, while promoting improved social and economic well-being of residents. To encourage community development, interaction and interdependence. To prevent homelessness.	• Crisis intervention • Assistance in accessing resources and services in the community • Programs and activities • Resident participation in decision-making process	General lease agreements for rental housing: rent payment on time; no property damage; etc. *Participation in programs or services not generally required for residency.*
Public Housing	Low Income people, not necessarily at risk or with special needs. Families with children; individuals; disabled people; extended families; couples; elderly people, etc.	To provide affordable housing and promote improved social and economic well-being of residents. To encourage community development, interaction and interdependence. For some groups, to facilitate movement to non-subsidized housing.	• Crisis intervention • Assistance in accessing resources and services in the community • Programs and activities • Resident participation in decision-making process	General lease agreements for rental housing; often income restrictions for initial tenancy; drug-free. *Participation in programs or services not generally required for residency.*

Developed by the Housing *Plus* Service*s* Committee of the National Low Income Housing Coalition - 2002

Housing as a Right

By Eric Tars, National Law Center on Homelessness & Poverty

In 1944, Franklin Roosevelt declared that the United States had adopted a "second Bill of Rights," including the right to a decent home. The United States signed the Universal Declaration of Human Rights in 1948, recognizing housing as a human right. Since that time, the concept of the right to housing has been further developed at the international level. However, the United States has fallen behind the rest of the world in making this right a reality.

The Issue

France, Scotland, South Africa and Ecuador have adopted the right to housing in their constitutions or legislation, leading to improved housing conditions. Recent polling indicates that more than three-quarters of Americans believe that adequate housing is a human right, and two-thirds believe that government programs may need to be expanded to ensure this right. Nevertheless, government policies have not traditionally treated housing as a right, and thus the housing needs of the most vulnerable Americans have gone unfulfilled. U.S. housing advocates 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.

Human Right to Housing Framework. 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.

The human right to housing consists of seven elements: Security of Tenure; Availability of Services, Materials, and Infrastructure; Affordability; Accessibility; Habitability; Location; and Cultural Adequacy. The government can choose how it will implement the right, whether through spending on 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; or by other means. The right to housing framework gives us a tool for holding the government accountable if not all those elements are satisfied.

The right to housing has been developed through a number of international treaties and other documents, many of which were signed or otherwise affirmed by the United States. First included in the Universal Declaration of Human Rights in 1948, the right was codified 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 has ratified the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and the International Covenant on Civil and Political Rights (ICCPR), both of which recognize the right to non-discrimination on the basis of race or other status, including in housing. Additional standards can be found in other documents such as the Habitat Declaration or the United Nations (U.N.) Basic Principles on Development-Based Evictions. Many of these documents have standards hold the United States to a higher standard than current domestic policy.

Using Human Rights in the United States. U.S. groups are using international mechanisms to promote housing rights. In 2006, the U.N. Human Rights Committee reviewed the United States for compliance with the ICCPR. Following advocacy by NLCHP and others, the Committee expressed concern about the disparate racial impact of homelessness and ordered the United States to pursue "adequate and adequately implemented policies to ensure the cessation of this form of de facto and historically-generated racial discrimination." In 2008, a similar review by the Committee on the Elimination of Racial Discrimination under the ICERD resulted in a number of observations concerning the right to housing, including segregation in housing, affordable housing planning, the right to civil counsel in housing court, lack of domestic violence shelters on Native American land, and the right to return for victims of Hurricane Katrina.

Bringing this international language back home, advocates in Minneapolis used the ICCPR and ICERD comments in pushing for the repeal of an 'anti-lurking' ordinance, which was having a discriminatory impact on homeless and minority residents. Advocates also used the May 2008 visit of the U.N. Special Rapporteur on Racism to put an international spotlight on the ordinance. Although the motion to repeal the ordinance ultimately failed by one vote, the public pressure forced the police department to meet with advocates and reduced the harmful enforcement of the ordinance.

The Potential. Scotland provides us with a good example of the difference the right to housing approach can make. The Homeless Etc. (Scotland) Act of 2003 includes the right to be immediately housed for all homeless persons and the right to long-term, supportive housing as long as is needed for priority groups – and by 2012, for all. This includes particularly at-risk groups, such as former prisoners, who are excluded from much housing assistance in the United States. The law also includes an individual right to sue if one believes these rights are not being met. 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.

What Advocates Need to Know Now

Current issues. Advocates are working with the office of Representative Maxine Waters (D-CA), Chairwoman of the House Committee on Financial Services' Subcommittee on Housing and Community Opportunity, to hold Congressional field hearings on the crisis in affordable housing in the spring of 2009 in several cities across the country. These hearings would explicitly frame housing as a human right. Chairwoman Waters is expected to introduce a resolution calling for a right to housing for children.

Additional legislation, from the Protecting Tenants at Foreclosure Act of 2009 to funding the National Housing Trust Fund (for more information, see chapters on Foreclosure and National Housing Trust Fund), will be advanced as steps toward realizing a right to housing. Advocates should encourage Senate staff to pass the ICESCR as a basis for grounding economic recovery efforts in a rights-based framework.

Finally, two visits of international experts will help advocates shine a spotlight on local and national housing rights violations: the U.N. Advisory Group on Forced Evictions will visit New Orleans and the Gulf Coast in July 2009, and the U.N. Special Rapporteur on Adequate Housing will visit several cities across the United States in the fall of 2009.

For More Information

National Law Center on Homelessness and Poverty · 202-638-2535 · www.nlchp.org · wiki.nlchp.org

Housing Tenure: Owning and Renting in U.S. Housing Policy

By Danilo Pelletiere, Research Director, National Low Income Housing Coalition

In housing policy, 'tenure' refers to how a household secures the right to live in its housing. Tenure refers primarily to whether a household rents or owns its home, though there are hybrids such as owned 'mobile' homes sited on leased land, or shared ownership such as cooperatives.

In the abstract, a household should decide to own or rent based on personal factors such as preferences, financial resources, and future plans, as well as the availability, quality and price of homes for rent and for sale where the household wants to live. In practice, however, tenure choice is not an entirely private decision. From political enfranchisement to taxes, policy in the United States has traditionally rewarded homeownership, in recognition but also as reinforcement of owners' status as more worthy and wealthier members of the community. Americans have been exhorted and assisted to become homeowners.

The Basic Economics of Tenure Choice

To an economist, the fundamental difference between owning and renting a home is that an owner controls how the home is maintained and used and therefore has the potential to extract the most value from it in the form of 'rents.' Rent simply means the value generated by putting an asset, in this case a home, to use.

A renter gains value from a home as a shelter and from its location and amenities, and in return for these services pays rent to an owner. While a homeowner can extract rent from a home by accepting these payments, her or she can also forego these explicit payments and live in the home herself. He or she receives the same shelter and location benefits as a renter while also having the opportunity to use, maintain, and improve the property in a way that maximizes personal enjoyment or financial returns. This additional value is the 'rent' the homeowner receives living in the property.

While most households value these additional implied rents of ownership, there are tradeoffs that may cause some households to prefer to rent. While homeowners have significantly more control over their homes, they also have more responsibility for them. Their ability to pursue other activities and opportunities may be limited by the money and time that homeownership demands. While homeownership provides the potential for greater wealth through home price appreciation, it also carries the risk of unforeseen costs and depreciation. Moreover, even if the long term costs between ownership and renting are similar, purchasing a home requires significantly more upfront costs and home owners have to make large expenditures along the way for repairs and maintenance.

Thus, even a household that has a strong preference to own and many homes for purchase from which to choose may still decide to rent under the following conditions:

1. The household does not have the ability to pay the higher *upfront* costs associated with purchasing a home;
2. The household does not have a reasonable expectation of being able to budget for the more variable and uncertain costs of ownership over time (e.g. repairs and equipment replacement); and
3. The household does not have sufficient confidence about being able to sell or otherwise vacate the home in a timely fashion without significant costs if the need to move arises. Besides finding a willing buyer, the household will need to occupy the house for some amount of time to recoup upfront costs and for the value of the house to appreciate.

Because homeownership is more costly than renting, higher income people are the most likely to be able to own homes. To encourage more homeownership among lower income households, public policy can intervene based on the three factors listed above. At a basic level, government can subsidize the upfront and total cost of homes for sale relative to those for rent, either directly subsidizing the building or the purchase for-sale homes or reducing the costs of financing them. Beyond this, it can facilitate budgeting by making the costs of financing and maintaining a home less variable over time. Finally, it can provide some kind of assurance that when a homeowner wishes to sell, there will be buyers in the market with sufficient income or credit to purchase the home.

Federal Programs and Policies that Support Homeownership

A number of current federal programs and policies seek to promote homeownership. Most provide low cost, guaranteed financing. Some provide liquidity to housing markets to further reduce the cost and variability of financing and facilitate the resale of homes. A few programs directly subsidize production of affordable for-sale homes. Tax policies provide ongoing subsidy for higher income homeowners. HUD programs such as the Community Development Block Grant (CDBG) program can assist homeowners in making repairs. Only the Section 8 Housing Choice Voucher program provides ongoing direct assistance for low income homeowners.

Insurance reduces lender risk, reduces downpayments. FHA provides mortgage insurance to lenders for borrowers unable to provide a conventional down payment. The insurance reduces the lender's risk and allows more people to qualify for mortgages and to purchase homes (for more information see Federal Housing Administration chapter). The U.S. Department of Agriculture (USDA) and the U.S. Department of Veterans Affairs also provide federal government-backed mortgage insurance. These programs helped establish the 30-year fixed rate mortgage as the predominant form of mortgage in the United States.

Government-Sponsored Enterprises aid lender liquidity. The structure of the domestic mortgage market is divided into two categories: the primary market and the secondary market. In the primary market, an institution such as a bank or credit union makes a loan directly to a homeowner. A home loan not only represents an immediate risk to the lender, but also, since most loans are paid off over many years, it ties up the money for many years in the future. On the assumption that a primary lender is more likely to make a loan if it can be reasonably certain that it can sell the loan if it needs to, Congress established Fannie Mae, Freddie Mac, and Ginnie Mae to buy and sell mortgages and thereby facilitate the "secondary market" for mortgages. Government sponsorship and oversight in the case of Fannie and Freddie implied a government guarantee. In the past year, with mortgage markets in a free fall, the federal government stepped in with funds and as conservator to stabilize the finances of Freddie Mac and Fannie Mae, assuming explicit responsibility for them (for more information see Government Sponsored Enterprises chapter).

Along with helping the secondary market, federal policy has also made capital available to the primary market. The publicly chartered Federal Home Loan Bank (FHLB) system makes loans to its member banks, which in turn originate mortgages (for more information see Federal Home Loan Banks chapter). The Departments of Agriculture and Veterans Affairs also provide direct loans.

Tax expenditures to assist homeowners. The federal government provides substantial subsidies for homeownership through the tax code. Mortgage interest and real estate property taxes can be deducted from the federal income tax liability of homeowners who itemize their tax returns. Capital gains taxes are waived for up to $250,000 for an individual and $500,000 for a couple on capital gains received from the sale of a home. At more than $150.4 billion in 2006, tax expenditures for homeowners cost the federal Treasury more than three times the cost of direct outlays for low income housing assistance ($39 billion). While the purpose of these deductions is popularly considered to be increasing homeownership, there is a general consensus among economists that in design and practice these policies are ineffective in achieving this goal. The Mortgage Interest Deduction (MID) in particular is cited as a policy that provides the most benefit to higher income households, and therefore does more to increase housing consumption among homeowners than it does to increase the number of homeowners (for more information see Mortgage Interest Deduction chapter).

Other federal programs support homeownership. A first-time home buyer may withdraw, without penalties, money from a tax-free individual retirement account for a downpayment. Additionally, through the support of the federal tax system, state housing agencies issue mortgage revenue bonds and mortgage credit certificates to subsidize first-time homebuyers with low and moderate incomes. Many other federal programs that are not exclusive to homeownership nonetheless support the federal homeownership expansion agenda, including the American Dream Downpayment program, HOME, the Community Development Block Grant (CDBG) Program, the Self-Help Homeownership Opportunity Program (SHOP), the Rural Housing Service, Native American Housing, Family Self-Sufficiency (FSS), Individual Development Accounts and even Housing Choice Vouchers (Section 8 vouchers), which can now be applied to monthly mortgage payments. Federal housing counseling funds are most often used for homeownership counseling, including foreclosure avoidance. CDBG funds are used in many communities to maintain the homes of the elderly and others unable to afford or perform maintenance.

Unlike homeownership, no public policies expressly promote renting as a preferred form of tenure.

Other Forms of Tenure

In general, it should be recognized that owning and renting exist along some kind of continuum and there are other forms of tenure that combine elements of both owning and renting, most prominently providing residents with an equity stake in cooperatively-owned projects. While there are a variety of cooperative ownership and other models of tenure, these models have struggled to move to scale outside of a few cities. An exception has been the growth in owned 'mobile' homes sited on leased land throughout much of the country, which can be precarious if an alternative use for the land is proposed by the landowner or community. Federal programs treat condominiums as homeownership consistently and have accommodated coops and manufactured homes in a variety of ways.

Program History: A Policy Focus on Ownership

Ownership of land and other property has historically been a prerequisite for participation in political and cultural life. Even in the United States, prior to the 20th century, property ownership was often required to vote. Therefore, becoming a property owner brought formal political enfranchisement to men who were not otherwise excluded from the political process by virtue of their race. While property requirements for voting had disappeared by last century along with restrictions based on gender and race, domestic politics continued to laud the homeowner and policy moved decisively toward facilitating the achievement of homeownership for a growing number of households.

In the Great Depression, homeownership rates fell, from 49% in 1930 to 44% in 1940. In its wake, the federal government intervened directly to encourage homeownership and enhance the financial security of homeowners through a growing array of institutions, regulations, and subsidies. These institutions included the Federal Home Loan Banks, the Federal Housing Administration, and Fannie Mae. The rate of homeownership grew steadily after World War II, reaching 62% in the 1960 Census.

In this period, not everyone who had the desire, income and resources to own a home has been allowed to do so. In particular, formal racial discrimination in access to government programs, private financing and neighborhoods restricted the ability of financially qualified non-white households to either purchase a home or to do so in the neighborhoods of their choice, thus limiting their access to many of the financial benefits of homeownership that accrued to qualifying white households over this period. Beginning in the 1970s, federal legislation began to counter act this (for more information see Fair Housing chapter).

By the 1990s, 66% of American households owned their homes. Even with increased access to the housing provided by fair housing laws, the historic lack of housing wealth limited the access of minority households to home buying and the homeownership gap between blacks and whites persisted. This led to a significant push in both the Clinton and Bush II administrations to increase minority homeownership through homeownership assistance and the marketing of homeownership, not only to minority but also to lower income households.

Becoming a homeowner became was not merely a symbol of economic success but the very means by which to achieve it. While the primary mechanism for this was to be growing home equity, new homeowners were also expected to benefit from the assumption of attitudes commonly associated with home owning such as thrift, personal responsibility, and civic engagement.

By 2004, the historical highpoint, nearly 70% of American households owned their own homes. Hispanic rates of homeownership grew most quickly, followed by that of blacks. The homeownership gap persisted, but by 2005, 49% of Blacks and 50% of Hispanics owned homes, up from 43% and 42% respectively just a decade earlier.

By 2007, however, it was becoming clear that a deregulated as well as a poorly regulated mortgage industry and inflated price expectations had exposed U.S. homeowners to significantly greater risks than Americans of the post World War II generation were accustomed to. In particular, homeowners with more recent loans, a higher proportion of whom were lower income and minority, had smaller equity cushions and more costly payments and terms, making them highly vulnerable to falling income and home prices and to foreclosure.

In this environment, many of the assumptions underlying the policy to push for nearly universal homeownership have been revealed to have been flawed. While the boom allowed policy makers to focus on the positives of owning versus renting, the bust is emphasizing the inherent negatives, magnified by poor and often criminal mortgage

practices. The gains that were made in homeownership have proven unsustainable. Between the fourth quarter of 2006 and the same quarter of 2008, the number of renter households grew by 2.2 million and the number of owner-occupied households dipped by 255,000. The nation's homeownership rate declined to 67.5% from a high of 69.2%. There has been an extremely misguided attempt to blame the current crisis on low income homeowners and long standing policies to promote more equitable lending such as the Community Reinvestment Act (for more information see chapters on the CRA and foreclosure). The problem, however, was not with longstanding federal programs and institutions per se. In fact, thus far the performance of GSE and CRA institution loans has been relatively good, but uncritical government boosterism of homeownership obscured real risks from households and provided a fig leaf to cover the often predatory or negligent lending that occurred.

What Advocates Need to Know Now

In response to the foreclosure and credit crises, a number of policies and programs are being implemented with the stated purpose of avoiding foreclosure and helping families maintain ownership of their homes. For example, the Obama Administration rolled out the Home Affordable Modification initiative in March 2009 (for more information see Foreclosure Initiatives chapter). This is a $75 billion program aimed at reducing a borrower's monthly housing expenses to 31% of gross income, through modifications to the loan, such as lower interest rates, extensions of the term, principle forbearance, and principle forgiveness. The cost to the government comes in the form of offsetting the costs of some of these modifications but also in the form of incentives to participate made to loan servicers, who are responsible for handling the loans after they are originated. It is anticipated this program may reach up to 3 million to 4 million at-risk homeowners.

But this plan indicates two problems advocates need to be aware of as policy makers struggle with how to address the aftermath of the housing bubble. First, it remains unclear whether this program will provide a path to responsible homeownership. For example, with government assistance, mortgage interest rates for modified mortgages may go as low as 2%. After five years, however, the payments would increase gradually up to 1 percentage point per year until they reached the standard rate at the time of origination. If the modification has not resulted in increased equity and the monthly payment at the higher rate of interest remains unaffordable, the homeowner may still be forced into foreclosure.

The second concern is that the projected cost of this program is nearly twice the HUD budget in recent years. When added to the direct or potential costs of other programs intended to assist homeowners in trouble, such as FHA Secure or the Home Affordable Refinance initiative, and any future programs, not to mention the broader financial bailout, the costs of maintaining ownership needs to be assessed relative to the costs of renting. Is this the best public policy and the best use of tax dollars.

For advocates, the concern has to be finding the balance between creating a path to responsible and sustainable homeownership for both current and future homeowners and assuring that the uncritical boosterism of homeownership that contributed so much the current crisis does not persist in the response.

What to Say to Legislators

1) Housing policy must focus on providing safe, decent, affordable housing to those most in need, irrespective of the tenure situation or choice.
2) Rental and ownership housing complement each other providing a range of housing choices to Americans.
3) Programs to provide stable and affordable rental housing are likely the best way to responsibly encourage and build the foundation for households choosing homeownership.

For More Information

Center for Economic and Policy Research · 202-293-5380 · www.cepr.net/
(Research and opinion on the choice between renting and owning)

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

Manufactured Housing

By Camille Palacio, Policy Associate, Corporation for Enterprise Development

Manufactured housing is an important yet often over-looked solution to affordable homeownership in the United States that is especially important for low income and rural households. Modern manufactured housing is attractive and can grow in value when certain conditions are met. Because it can be built at a lower cost, manufactured homes can open the door to homeownership for more families, particularly low income families. Properly installed on land with long-term security, manufactured housing can be an asset builder for these homeowners. At the federal level, advocates are working for policies that protect the rights and opportunities of manufactured homeowners to build wealth and achieve financial security.

The Issue

There are more than 7 million occupied manufactured homes in the United States housing roughly 17 million Americans. Approximately two-thirds of all manufactured homes are located in rural areas. Households residing in manufactured homes have traditionally had low incomes. The median income for households in manufactured homes is approximately $29,650, roughly half of the median income for households living in single family homes.

The manufactured housing industry has experienced a dramatic transformation over the past few decades, producing homes of greater quality, size, and safety. Some manufactured home models are virtually indistinguishable from conventionally constructed single-family units. However, while many physical and structural attributes of manufactured housing have improved, other factors such financing, retail systems, installation, and consumer protections for this type of housing have not progressed as well. Many new manufactured homes are still financed with personal property loans by subprime lenders and companies specializing in manufactured housing credit. This form of financing is less beneficial for the consumer than more conventional loans because it generally offers higher interest rates and shorter terms, and in some instances can be predatory in nature.

Although manufactured homes are constructed with design features that allow them to be mobile, most of these units remain stationary throughout their life-spans. Nevertheless, these design factors, combined with a history of being placed on rented land have established a pattern of land tenure status that is unique to this form of housing. Ownership of land is an important component to nearly every aspect of manufactured housing, ranging from quality to assets and wealth accumulation. It is well established that ownership of land is at the heart of property values and is essential for potential appreciation of value in manufactured homes.

Approximately four in 10 manufactured homes are located in land-lease manufactured home communities, often referred to as “mobile home” or “trailer” parks, Households that reside in community settings have lower incomes and are more likely to be elderly than their counterparts residing in scattered site manufactured homes. A major development within manufactured housing communities is the dramatic increase in the number of manufactured home community closures. In many instances, such closures are driven by increasing land values where higher rents or incomes from the sale of land can be commanded. Parks are also closing in declining or unprofitable housing markets due to a lack of revenue or viability. Whatever the cause, closures of manufactured home communities have hit epidemic levels in some areas. 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.

I’M HOME. The Corporation for Enterprise Development (CFED) launched its Innovations in Manufactured Homes (I’M HOME) initiative in 2005. The goal of the multi-year, privately funded, multimillion dollar initiative is to support organizations across the country that are testing innovative ideas to open the door to homeownership for low and moderate income families and helping them build assets through manufactured homes. I’M HOME pursues this goal by supporting organizations that: (1) develop high-quality manufactured homes; (2) provide access to fair and responsibly-priced mortgage financing; (3) address the challenges facing residents in manufactured housing communities; and (4) advocate for public policies that help owners of manufactured homes.

I'M HOME focuses exclusively on homes built to the National Manufactured Home Construction and Safety Standards Act of 1974, known as the HUD Code. This code dictates standards for all manufactured homes in terms of heating, plumbing, ventilation, air conditioning and electrical systems, design, construction, transportation, energy efficiency, wind resistance and fire safety.

What Advocates Need to Know Now

The manufactured housing marketplace operates largely parallel to the conventional real estate market. While manufactured homes have evolved from trailers to high-quality homes that are comparable to site-built homes in many ways, the sales and finance market has not kept pace. In fact, manufactured homes are typically purchased, sold, appraised and financed much as vehicles are, which assumes a depreciating asset that is mobile. The truth is quite different. Less than 1% of manufactured homes are moved after being sited. Additionally, since the implementation of the HUD Code in 1976, the quality of manufactured homes has increased dramatically, and today's manufactured homes are built with the same materials as site-built homes and have a comparable lifespan.

The predominantly low income owners of manufactured homes also face even greater barriers to wealth creation and financial security, including control of the land beneath their home, financing and titling.

I'M HOME is working with partner organizations to overcome these challenges at the state and local levels. In addition to these efforts, there are also a number of things that the federal government can do to ensure that manufactured housing is not only affordable, but also a sound investment for low- and moderate-income families. Federal policy priorities include:

FHA Title I Financing: Protect homeowner assets and the HUD portfolio. FHA Title I underwriting must demand 1) Long-term land tenure; 2) Protection from no-cause evictions and unjust or retaliatory rent increases; 3) Prior project review to assure quality community infrastructure, maintenance and management; and 4) Right to sell the home in-place at a market rate by the homeowner or lender.

FHA Title II Financing: Protect homeowner assets and the HUD portfolio. FHA Title II Financing must 1) Protect long-term land tenure security; 2) Ensure that relocated homes are not excluded from ever qualifying for Title II financing; 3) Recognize that homeowner cooperatives are eligible and that proprietary leases qualify under the leasehold provision; and 4) Require lease terms that exceed the mortgage term.

CDBG one-for-one replacement: a home is a home. Issue a guidance or interpretive letter that the Section 104 (d) Community Development Block Grant one-for-one replacement rule applies to all lower income dwellings including manufactured homes, both rental and owner occupied, whether classified as real or personal property.

HUD Section 207: Make it work for preservation of manufactured housing communities. Review Section 207 multifamily lending programs to evaluate how they can be used for conversion of existing manufactured housing communities to collective resident ownership, as "substantial rehabilitation of existing spaces and facilities" that will affect "materially the livability, marketability, and competitive position of the park" not only for the benefit of an investor and mortgagee, but also for the homeowners. In conjunction with FHA's expanded home loan programs, expansion of Section 207 could improve housing for the lowest income homeowners.

Modernizing manufactured housing stock: promote affordability and preserve resources. Enact legislation to provide funding for the replacement of pre-1976 homes with new, energy-efficient homes. This proposal would allow low income homeowners to replace a substandard home by subsidizing the interest rate on a replacement unit. Eligible homes would be Energy Star rated and may be sited on fee-simple lots or in land-lease communities.

Amend 26 U.S.C. § 216: ensure that all cooperatives are treated equally. Change 26 U.S.C. § 216, to include "land only" cooperatives that provide a site for the member/shareholder's manufactured home so that all cooperatives are treated in the same manner. Such a change would also ensure that residents of manufactured housing cooperatives could deduct cooperative expenses the same way residents of other cooperatives can, as well as making all statutes and rules that refer to sec. 216 include manufactured housing cooperatives.

Federal Capital Gains Credit: Help retiring land owners and promote resident ownership. A number of states have capital gains tax provisions that incent owners of manufactured housing communities to sell the community to residents or nonprofits. A federal version of this tax incentive is a win-win for low income homeowners and elderly community owners who intend to sell their investment. Resident ownership of communities is the surest way to protect land tenure and promote asset building for low income homeowners in land-lease communities.

What to Say to Legislators

Advocates should explain to legislators how manufactured housing is a viable option to affordable homeownership and wealth building, yet specific challenges undermine its ability to provide the same opportunities to build wealth and attain financial security offered by traditional, site-built homeownership. Advocates should ask legislators to support policies that provide families who choose a manufactured home with the same treatment and benefits as owners of any other type of home.

For More Information

Corporation for Enterprise Development · 202-408-9788 · www.cfed.org
Visit CFED's Manufactured Housing Advocacy Center at www.cfed.org/go/imhome

National Consumer Law Center · 617-542-8010 · www.nclc.org

Predatory Lending Protections

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

The foreclosure crisis can be traced to out-dated consumer protection laws and failed regulatory oversight. Loopholes in current federal anti-predatory lending law and inadequate regulatory enforcement allowed abusive and problematic lending to flourish. The foreclosures that arose from predatory lending have not only severely undermined the financial stability of working families and communities but also are now weakening the credit markets and diminishing overall economic activity. New legislation introduced in late March of 2009 would address many of these issues, but advocates would like to see several provisions of the bill strengthened to better deter risky lending.

The Issue

Massive foreclosures are spurring a self-reinforcing cycle of defaults, declines in home values, and rising unemployment. Widespread unemployment is accelerating the economic crisis, as evidenced in a recent report published by Credit Suisse. The study projects 9 million foreclosures over the next four years, assuming an 8% unemployment rate. The federal government reported recently that the unemployment rate now stands at 8.5%, the highest rate in 25 years. Loose underwriting combined with rising unemployment has contributed to a new record rate of 11% of loans in foreclosure or at least one payment past due, according to the Mortgage Bankers Association.

The foreclosure and economic crisis has destroyed significant amounts of national and family wealth. Since the onset of the crisis, house prices have declined at least 25%, with about 10% more in declines forecasted in the next few years. In 2008 alone, $3.3 trillion in home equity was lost.

Congress must pass comprehensive anti-predatory lending legislation to ensure that future crises caused by reckless and deceptive lending do not occur. The law must apply to all entities in the financial industry that are involved in issuing and financing loans. These entities include brokers, mortgage companies, banks, appraisers, servicers (companies that process loan payments), investment banks, and other entities that invest in loans. The law must then be rigorously enforced by regulatory agencies that have oversight over each of these entities. A shortcoming with the current regulatory system is that several entities including brokers, mortgage companies, and investment banks are not adequately monitored by regulatory agencies.

H.R. 1728 – The Mortgage Reform and Anti-Predatory Lending Act of 2009

At the end of March, Chairman Barney Frank (D-MA) of the House Financial Services Committee and Representatives Brad Miller (D-NC) and Melvin Watt (D-NC) introduced H.R. 1728, the Mortgage Reform and Anti-Predatory Lending Act of 2009. H.R. 1728 covers several entities in the financial industry, ranging from mortgage companies and brokers to appraisers. It bans and limits a number of problematic products and practices. However, it contains provisions that do not deter risky lending by establishing clear and certain penalties for issuing or financing problematic lending.

Important provisions in H.R. 1728 that must be preserved

Prepayment Penalties. Prepayment penalties are substantial fees a borrower must pay to his or her current lender if the borrower wants to refinance with another lender. Prepayment penalties have often been a trap, preventing borrowers for escaping predatory loans. H.R. 1728 prohibits prepayment penalties for subprime loans and other loans that do not qualify for safe harbor. Loans that qualify for safe harbor (those presumed to be made responsibly) can contain prepayment penalties, but the penalties must phase out over three years and must be a decreasing percentage of the loan amount during each of the three years.

Ban on Mandatory Arbitration. H.R. 1728 bans mandatory arbitration for both closed-end and open-end loans. Mandatory arbitration often trapped borrowers who needed legal recourse to escape abusive loans.

Tenant Protections. In the case of foreclosure, under H.R. 1728, the tenant has the right to remain the property until

the end of the lease or for at least 90 days in the case of tenants without a lease. If the new owner of a foreclosed property will occupy the property as a homeowner, the tenant will have 90 days to vacate. Pre-existing lease and housing assistance payment contracts for Section 8 recipients must be honored in the case of foreclosed properties.

Appraisal Protections. H.R. 1728 requires on-site appraisals by qualified appraisers for high-cost loans. Also, intimidation or coercion of appraisers with the intent of influencing a valuation is prohibited.

Problematic provisions in H.R. 1728

Safe Harbor Assuming Certain Loans Not Abusive. H.R. 1728 has a safe harbor provision, which provides a 'rebuttable' presumption that certain loans automatically comply with the bill's ability to repay and net tangible benefit standard. In other words, certain loans are presumed to be made responsibly. The safe harbor provision is intended to cover only prime fixed-rate loans. FHA loans are automatically covered by safe harbor because FHA lending is prime lending. This is problematic because FHA lending has recently exhibited high default rates, and FHA lending will probably be a significant share of the loan market in the next several years. As this article goes to press, this provision remains in flux as the lending industry is vigorously contesting this provision and hopes to see more loans included under safe harbor.

Limited Liability. Under H.R. 1728, lenders and securitizers (companies that sell loans to investors) would have limited liability. They would not be required to compensate borrowers in most cases for any harm if the loans complied with the ability to repay standards and net tangible benefit standard. Investors would not have any liability. In contrast, H.R. 1782 makes investors liable for violations of anti-predatory law. In order to deter risky lending, a strong anti-predatory law must hold all parties, including lenders and investors, financially accountable for issuing or financing abusive loans.

Preemption. H.R. 1728 preempts state law that provides additional remedies to borrowers from companies that sell loans or hold loans. If H.R. 1728 was strong on liability for investors and other non-bank institutions involved in selling loans then preemption would not be an issue; however, H.R. 1728's liability limitations and safe harbor provisions are not sufficient.

No Limits on Yield Spread Premiums. H.R. 1728 does not prohibit or limit yield spread premiums (YSPs). YSPs are payments to brokers given when a broker places a borrower in a higher-interest loan than necessary, and encourage brokers to steer minorities and other protected classes to higher-cost loans when they qualify for lower-cost loans. Senator Dodd's bill in the 110th Congress (S. 2452) outlawed YSPs on subprime and non-traditional loans.

H.R. 1782, the Fairness for Homeowners Act of 2009

In addition, Representative Keith Ellison (D-MN) has introduced H.R. 1782, the Fairness for Homeowners Act of 2009, which contains robust consumer protections against broker and lender abuses. Rep. Ellison's H.R. 1782 prohibits charging any other fees or closing costs if a broker receives a YSP.

H.R. 1728 has an anti-steering provision that prohibits "abusive or unfair lending practices that promote disparities among consumers of equal credit worthiness but of different race, ethnicity and gender, or age." The bill's permissiveness towards YSPs will undermine its anti-steering provision.

What Advocates Need to Know Now

In late April, the House Financial Services Committee is likely to mark-up H.R. 1728 and also consider H.R. 1782. The bill will then proceed to the floor of the House. The Senate has not yet acted on an anti-predatory lending bill.

What to Say to Legislators

- An anti-predatory law must cover all entities in the financial services industry that issue and finance loans including brokers, mortgage companies, banks, appraisers, and investors.
- An anti-predatory law must assign clear responsibility to federal regulatory agencies for monitoring each of the entities in the financial services industry that issue and finance loans.
- Brokers, lenders, investors, and companies selling loans to investors must be held financially accountable for issuing reckless loans. Financial penalties are the only way to deter irresponsible lending. H.R. 1728 (with its limited liability and safe harbor provisions) does not hold financial companies sufficiently accountable.
- In the case of foreclosure, tenant protections, such as those in H.R. 1728, are essential.
- The other provisions in H.R. 1728 and H.R. 1782 that limit and/or ban problematic practices such as prepayment penalties and mandatory arbitration are essential.

For More Information

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

Transportation Reauthorization

By Jeffrey Lubell, Executive Director, Center for Housing Policy

The federal government spends more than $50 billion per year on highways, public transit, and other transportation investments. There are a number of ways these investments could be leveraged to expand the supply of affordable housing.

The Issue

The federal government invests just over $50 billion per year for public transit, rail, highway, bicycle and pedestrian facilities and services across the country. The money is granted principally to state transportation departments, local and regional transit agencies and metropolitan planning organizations. The current federal authorization is known as the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU).

The principal aim of the nation's investments in transportation is to facilitate the mobility of individuals and goods. A growing number of advocates, however, believe that these investments should be structured in a way that also advance other key national priorities, including energy security, reductions in greenhouse gas emissions, and public health.

A full analysis of the nation's transportation funding system is beyond the scope of this guide. There are several aspects of this system, however, that are relevant to the affordable housing community:

Opportunity to create incentives for expanding the availability of affordable housing near public transit. Federal transportation funding is one of the largest sources of federal funding provided to local communities. Accordingly, this allocation system could potentially represent a powerful way to create incentives for localities to increase the supply of affordable housing. An example would be to give a preference in the award of funding under the New Starts program – a program that funds new public transit capacity – for communities that invest in the creation and preservation of affordable housing near public transit.

Opportunity to expand funding for affordable housing. Some communities have chosen to use federal transportation funding for affordable transit-oriented development and other housing-related uses.

Planning requirements. There are a number of planning requirements applicable to the receipt of federal transportation funds. By improving the coordination of these planning processes with local land use and housing planning, communities could improve the likelihood that families will find affordable housing near public transit and job centers.

The preservation of affordable housing near transit. Research by the National Housing Trust and Reconnecting America has found that many privately owned, existing apartments subsidized by the federal government are located near transit and are at risk of being lost over the next five years. The groups have identified more than 250,000 subsidized apartments within a half mile of transit in 20 cities—a unique and essential resource. Through programs such as the project-based Section 8 program, families and seniors pay no more than 30% of household income on rent, guaranteeing access to quality affordable housing that otherwise would not be available. Nearly 70% of subsidized apartments near transit, however, have federal contracts expiring over the next five years. When a contract expires, the owner has the option of opting out of the government program to capitalize on higher demand and market values.

What Advocates Need to Know Now

Transportation in stimulus bill. The economic recovery package (American Recovery and Reinvestment Act or ARRA), passed in February 2009, includes a number of different funding streams to support public transit and other transportation projects. The federal, state, and local governments – as well as Metropolitan Planning Organizations – will all be under pressure to spend these funds as quickly as possible. Nevertheless, it is important to ensure the

funds are spent wisely, in ways that advance core national policy objectives. In particular, it will be important to ensure that priority is given in the allocation of funding to projects that include a component designed to increase residential density and affordability near public transit and job centers.

SAFETEA-LU Reauthorization. During 2009-2010, Congress will take up reauthorization of federal transportation funding. It is critical that debate on this measure consider how the federal government could use its allocation of transportation funding to preserve and increase the availability of affordable housing near public transit and job centers. Specifically, Congress should do the following:

- Revise the allocation formula for transportation funding to create strong incentives for communities to preserve and expand the availability of housing affordable to families with a mix of incomes near public transit stops, job centers, and other amenity-rich areas that allow families to reduce their dependence on cars.

- Make it easier to use transportation funds to support affordable, transit-oriented development.

- Provide funding and technical assistance to allow communities to coordinate their transportation, land use, and housing planning efforts.

What to Say to Legislators

Call your Members of Congress and ask to speak to the person who deals with transportation policy with the message that:

As Congress considers reauthorization of the transportation bill, Members should acknowledge the need to overhaul the nation's transportation funding system to bring it into the 21st Century. In particular, the system needs to ensure it advances the nation's goals of reducing energy use and greenhouse gas emissions. To accomplish this, when reauthorizing the federal transportation funding programs, Congress should include strong incentives in the system for more compact development and the expansion of affordable housing near public transit and job centers. This will expand the ridership for public transit, reduce car usage, and reduce pressures for sprawl. It will also ensure that low and moderate income families have equal access to public transit and jobs.

Call your state and local elected officials and ask to speak to the person who deals with transportation policy with the message that:

In allocating funding for transportation projects, they should give priority to communities that agree to preserve and expand the availability of affordable housing near public transit and job centers. They also should require improved coordination among planners focused on transportation, housing, and land use issues.

For More Information

The Center for Housing Policy has a range of materials available on the relationship between housing and transportation policy. www.nhc.org/housing/chp-research/

A group called Transportation For America is organizing a campaign to educate Congress and the public about the importance of strengthening the reauthorization of federal transportation funding to advance these and other core policy objectives. www.t4america.org

The National Housing Trust and Reconnecting America will issue a report later this year on the preservation of federally assisted homes near public transit.

National Housing Trust · www.nhtinc.org

Reconnecting America · www.reconnectingamerica.org

State and Local Housing Trust Funds

By Mary E. Brooks, Housing Trust Fund Project, Center for Community Change

Housing trust funds are government-established funds that have ongoing, dedicated sources of public funds committed to support the production and preservation of homes for low income households. Housing trust funds dedicate public revenues by ordinance or legislation so that the revenues are available each and every year to support critical affordable housing needs.

Summary

Housing trust funds employ public funds and, as a consequence, should--and usually do--work to address the affordable housing needs that are most critical. Virtually all housing trust funds identify in the legislation or ordinance establishing the fund, what their purpose is which is usually defined, in part, by serving households at a certain percentage of the area median income. Very often, a housing trust fund will set aside a percentage of the available funds to serve the lowest income households, because their housing needs are more difficult to address.

Because 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 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 actually 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.

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.

Housing trust funds are created locally to address the most critical housing needs that exist. In order to ensure that the trust fund does what needs to be done, several decisions must be made about what gets funded through the trust fund. This includes determining eligible applicants, eligible activities, and requirements that must be met to receive funding.

Most housing trust funds provide funding through loans and grants. 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 authorities. Eligible activities are usually quite broadly defined, including new construction, rehabilitation, acquisition, emergency repairs, accessibility, first time homeownership and many other activities. Rental assistance is provided by some housing trust funds. There are a few 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 that funded projects must meet. 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 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 these challenging housing opportunities. Another concern is the long-term affordability requirements that must be met. Many 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 they want to make sure are incorporated, including accessibility, mixed-income, green housing principles 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 housing trust funds difficult. Different revenue sources are available to cities or counties or states, because each controls specific taxes and fees. There is no substitute for doing the research that must be done for each housing trust fund. Opportunities vary from state to state and from jurisdiction to jurisdiction.

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 impact of their development's employees on the housing supply. These fees are part of the zoning ordinance. Along with linkage fees, inclusionary zoning in-lieu fees are also used by many jurisdictions. 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.

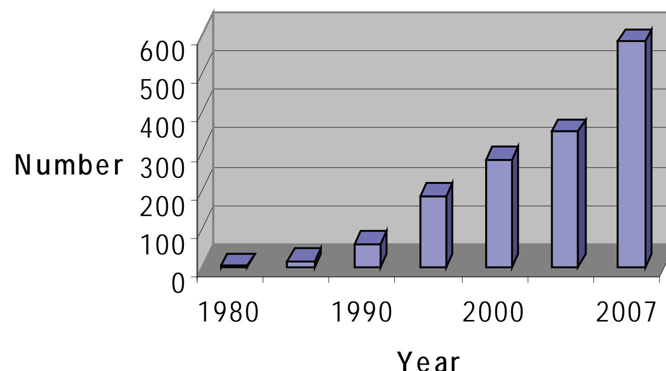
The most common revenue source for a county housing trust fund is a document recording fee. This is the best source for a county housing trust fund, and is one of the few revenue sources that most counties can commit. Other sources used by counties, however, include sales taxes, developer fees, real estate transfer taxes or real estate excise taxes.

The most common revenue source for a state housing trust fund is the real estate transfer tax, but states have committed nearly two dozen revenue sources to housing trust funds. Other options include interest from state held funds (such as unnamed unclaimed property funds and budget stabilization funds, among others), 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. Other housing trust funds have been 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.

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 (such as a housing trust fund), 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. It pays, literally, to be creative in searching for potential public revenue sources – new ideas are constantly being explored.

As the revenue source search is undertaken, it is extremely important that a goal for the housing trust fund be established that identifies the amount of revenue needed each year. 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, such as a one-time appropriation, bond revenues or private sources, will be proposed, 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 housing trust fund field is state legislation that enables local jurisdictions to create housing trust funds. There are several models of how this can be done. 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 and/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.

What Advocates Need to Know Now

With more than 600 housing trust funds created and implemented over the past 30 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 homeless needs and demonstrated that we can provide decent affordable homes for everyone if we are willing to commit the resources to do so. By doing so, we expand local economies, demonstrate new partnerships and build local capacity to engage in public policy initiatives. Creating a housing trust fund is a proactive step that housing advocates can take to make systemic change in the housing field.

Housing trust funds are one of the most popular and rapidly growing responses to addressing this country's need to adequately house all who live here. These government-established distinct funds have ongoing dedicated sources of public funds to support the production and preservation of homes for low income households. They take a giant step forward by saying that affordable homes are important enough to the health of every community that we must commit public resources to address these critical needs.

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. Our challenge is making affordable housing enough of a priority that elected officials can make the right decision. Creating a housing trust fund is almost always a matter of priorities.

Housing trust fund campaigns have also made important contributions in redressing the way we view affordable housing. Campaigns have demonstrated that supporting housing is good for local economies. 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, 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.

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. As housing advocates, we have an obligation to educate the public and elected officials about the new face of affordable housing.

Housing advocates have had a huge influence on this process by engaging in campaigns to create housing trust funds. By identifying and committing a public source of revenue, such as a tax or fee, to a housing trust fund, these campaigns have succeeded in getting local governments to agree that affordable housing is an issue that needs more attention and more resources. 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 on-going 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. Because housing trust funds ask for the dedication of public funds, they should and tend to serve those whose housing needs are most severe.

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.

Tips for Local Success: An Overview of a Housing Trust Fund Campaign

Virtually all housing trust funds require a campaign. It is likely to be a multi-year effort and should not be considered unless advocates are willing to make this kind of investment of time and effort. While the rewards are long-standing and impressive, the campaigns can be challenging. Regardless, there is a wealth of information and experience that provides good direction, sound advice and proof that it can be done.

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. Do not think of the obstacles; rather, focus on the possibilities.

Housing trust funds have become almost commonplace as an element in an overall housing policy for any community or state. With more than 600 housing trust funds in cities, counties and states, these funds have become well known for their flexibility, sustainability, and success in addressing critical housing needs. They are as innovative as they are reliable.

Here are some steps to take in creating a housing trust fund campaign:

1. **Invite some friends over.** The average housing trust fund campaign takes three years … so don't even think about this, unless you are really serious about spending some time to get there. In fact, begin by bringing together the folks you know that are most committed to making this happen. This core group will keep the campaign focused and see it through to a successful conclusion.
2. **Think through what you want.** Develop a proposal for a housing trust fund. Spend time thinking through a mission, how much in dedicated revenue is most desirable each year, who should administer the fund, what kind of oversight should there be, who would be eligible for funding, what kinds of affordable housing/homeless activities should be funded, and what kinds of requirements must be met in order to be eligible for funding (e.g., income targeting, long term affordability, accessibility, green housing, etc.). Pinpoint the specific public revenue source(s) to commit to the fund. You'll need to do some research and gather background information to complete this step well.
3. **Expand your circle of friends.** Be very creative in reaching out to those who might want to be part of this campaign. Don't think about the opposition and don't bring them into your circle to convince them you have a good idea. Invite those who will endorse the proposal you have developed and/or add to it. Get commitment to participate; get endorsements to support the proposal.
4. **Think through how to talk about your proposal.** Housing trust fund campaigns have broken down walls with regard to stereotypes of affordable housing. Bring a face to your campaign; connect housing to education, health, job creation; show that investing in a housing trust fund is good fiscal policy for your city, county or state. Be creative.
5. **Find the best elected champion to work with you.** You need to get some kind of ordinance or legislation passed to create the housing trust fund. Talk to your best elected friends and get advice on how to proceed. The first few you think about may not be your best bets; find a true effective legislative champion; get new folks involved in pushing for affordable housing. Then work to get it passed.

Current housing trust fund campaigns. At any given time, there can be as many as 70 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 to existing housing trust funds.

The following states are working on creating new housing trust funds: Alabama, Alaska, Arkansas, Colorado, Mississippi, New York, Pennsylvania, Tennessee, and Virginia. States where there is interest in increasing funding for an existing state housing trust fund, include: California, Delaware, Florida, Kansas, Louisiana, Maine, Maryland, Missouri, Montana, New Mexico, North Carolina, Ohio, Oklahoma, Oregon, South Carolina, Texas, Utah, and Washington.

Many housing advocates at the city and county level are involved in housing trust fund campaigns as well. Some are working on state enabling legislation to increase their options for creating effective local housing trust funds.

For More Information

If you are interested in creating a housing trust fund, begin by reading the information that has been compiled by the Housing Trust Fund Project of the Center for Community Change. Check out the Center's new website at: http://www.communitychange.org/our-projects/htf. There is a vast amount of information about housing trust funds and campaigns to put them into place as well as useful resources. The Project also produces a quarterly newsletter on current housing trust fund activities that is free and is available by contacting the Project with an email address.

To get more information about housing trust funds or to request technical assistance, please contact: Mary Brooks, Housing Trust Fund Project, Center for Community Change, 661-245-0318, mbrooks@communitychange.org or www.communitychange.org/our-projects/htf.

Community Opposition to Affordable Housing

By Danna Fischer, Legislative Director and Counsel, National Low Income Housing Coalition

No matter how compelling the need for affordable housing may be in a community, there is a tendency on the part of neighbors to resist any change, particularly in residential neighborhoods, that might bring buildings or people that look different. Advocates who encounter these attitudes from neighbors or elected officials cannot rely exclusively on legal remedies. Rather, they must adopt multi-faceted approaches, including community building, inclusionary zoning and other methods of managing local opposition.

Opposition to affordable housing has been a serious problem for many years. It is difficult in almost any community in the country to develop housing for people with low incomes. Opponents have devised a wide range of strategies to keep affordable housing out of their neighborhoods. Tactics include circulating petitions to oppose the housing or needed zoning or regulatory changes; writing letters to owners, politicians and the media; lobbying elected officials; filing lawsuits; and forming opposition groups.

These actions are designed to prevent the siting of affordable housing in particular neighborhoods based on the fear that the proposed affordable housing will negatively affect property values and quality of life. These concerns about the size, type, appearance and management of the housing, the nature of the residents and the existence of similar housing in the area are based on misperceptions about the nature of the housing and its residents. While overt discrimination against protected groups is illegal and is subject to redress in the courts, most opposition is not overtly discriminatory, but is instead based on facially non-discriminatory neutral concerns. Thus, it is difficult to address this opposition through the courts.

Without redress to courts, advocates must instead do their homework and anticipate opposition arguments and tactics; in other words, be prepared to sell your project to the community rather than rely on lawsuits to protect the needed housing.

Generally, advocates working to site housing in their communities should:

- Develop the factual and statistical arguments and background material needed to support the housing. Familiarize yourself with the research on the positive effects of affordable housing, group homes and community services on neighborhoods.
- Get to know the relevant players in your local government and the relevant policies. For example, you can familiarize yourself with and participate in your jurisdiction's Consolidated Plan (ConPlan), which is required for the receipt of federal housing and community development funds (for more information see chapter on the Consolidated Plan).
- Create alliances with business interests, such as the local chambers of commerce, local economic development councils and businesses, as well as organizations such as local AARP and United Way offices. Use the alliances to help spread your message and develop support for your proposal.
- Educate local officials, community leaders and opponents about the proposed affordable housing development. Use public forums, letters to the editor, local media and other venues to get your messages before the public. Make the connection between affordable housing and the local economy.
- Understand what housing laws currently apply in your jurisdiction, such as federal or local fair housing laws or laws relating to comprehensive planning and housing element requirements.

Advocates should especially arm themselves with recent research on the effects of affordable homes on neighboring property values. Several studies have concluded that such homes do *not* lower surrounding home values, as many opponents have argued. A summary of these studies and their findings is available at http://www.housingpolicy.org/getting_started/why_not.html#Will+affordable+housing+decrease+nearby+property+values%3F

Inclusionary zoning. Another tool in the arsenal of affordable housing advocates is inclusionary housing. Inclusionary housing requires that new market rate developments include or provide for affordable housing. These requirements usually take the form of a local ordinance or permitting process that requires affordable housing in exchange for increased density or other concession for the developer. Linking market-rate and affordable housing inclusionary zoning can increase the chance that families live in healthy communities with access to needed resources.

Inclusionary zoning has been used all over the country. Montgomery County, MD, is often cited as one of the successful examples of inclusionary zoning, building more than 12,000 units since 1974.

For More Information

Housingpolicy.org provides information about affordable housing development and specifically information about inclusionary zoning www.housingpolicy.org/toolbox/strategy/policies/inclusionary_zoning.html
and the effects of affordable housing on property values www.housingpolicy.org/getting_started/why_not.html#Will+affordable+housing+decrease+nearby+property+values%3F.

Jaimie Ross, "Creating Inclusive Communities in Florida: A guide for local elected officials and key staff on how to avoid the NIMBY syndrome" (Updated and Reprinted in 2005), available through the Florida Housing Coalition at www.flhousing.org.

Sara Pratt and Michael Allen, "Addressing Community Opposition to Affordable Housing Development: A Fair Housing Toolkit" (Housing Alliance of Pennsylvania, 2004), available at www.knowledgeplex.org/showdoc.html?id=68549.

Tim Iglesias, "Managing Local Opposition to Affordable Housing: A New Approach to NIMBY" 12(1) Journal of Affordable Housing and Community Development Law 78 (Fall 2002), available at http://bazelon.org/issues/housing/articles/IglesiasMLOinprint.pdf.

As called for in the "American Homeownership and Economic Opportunity Act of 2000," the Regulatory Barriers Clearinghouse is established to collect, process, assemble and disseminate information on the barriers faced in the creation and maintenance of affordable housing. www.huduser.org/rbc/

Building Better Communities Network · 202-467-5730 x117 · www.bettercommunities.org

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

The Campaign for Affordable Housing · 323-330-0540 · www.tcah.org

The Budget and Appropriations Process

By Martha Coven, Senior Legislative Associate, Center on Budget and Policy Priorities

Advocates should follow closely the federal budget process, which lays out the federal government's broad priorities for the year, and the appropriations process, which allocates the total amount of dollars provided through the budget process to specific federal programs, including housing programs.

President's Request

The federal budget operates on an annual cycle that begins the first week in February, when the President must provide a detailed budget request to Congress. The budget request covers the upcoming federal fiscal year, which begins on October 1. For example, the Administration in February 2009 released its first look at its budget plan for FY10, which begins October 1, 2009.

The President's budget addresses three main areas: entitlement programs, 'discretionary' or 'appropriated' programs, and taxes.

Entitlements like Medicare or Social Security generally run on auto-pilot, and are not controlled by annual appropriations. But if the President wants to make changes in these programs (whether to expand them or cut them), he will reflect that in his budget request.

'Discretionary' or 'appropriated' programs must have their funding renewed each year in order to continue operating. Almost all housing programs are discretionary, including the big ones like Section 8 and public housing. The President's budget request has a line item for each housing program, showing how much he thinks Congress should provide in funding for the year ahead. The budget request may also include legislative language recommending policy changes in particular programs.

Finally, if the President wants to make a change in federal tax policy, that will be reflected in his budget as well. Some low income housing is subsidized through the tax code, for example, by the Low Income Housing Tax Credit. Taxes are also an important part of budgeting generally, because costly tax cuts drain revenues from the rest of the budget that could have been used to maintain or expand affordable housing programs, for example. Since 2006, Congress has been trying to live by a 'pay-as-you-go' standard that requires any tax cut to be offset somewhere else in the budget or the tax code, so that it does not add to the deficit. (Note: this 'PAYGO' rule also applies to expansions of entitlement programs, but *not* to funding for discretionary programs like affordable housing.)

Taken together, the President's requests relating to entitlements, discretionary programs, and taxes determine whether his budget plan will lead to deficits, surpluses, or a balanced budget.

Congressional Budget

After receiving the President's budget, Congress holds a series of hearings at which Cabinet officials testify about the budget request. Congress then turns in March and April to the task of crafting its own budget plan, which is very different from the President's budget request. Instead of a detailed plan, the Budget Committees in each chamber write a 'budget resolution' which operates like a blueprint for the individual spending and tax bills that will follow over the course of the year.

What is particularly important in the budget resolution for housing programs is the total amount of funding that is made available for all discretionary programs. This top-line number in the budget resolution acts as a ceiling on discretionary spending for the rest of the year. If, for example, it is set at a level that corresponds to a freeze in spending, then it will be very unlikely that there will be significant increases in housing funding later in the year, because that will just mean deeper cuts in other areas to adhere to that overall cap. The cap is taken very seriously, and cannot be set aside later in the year without the support of the House leadership and a 60-vote supermajority in the Senate.

A final budget resolution must be agreed to by both houses, but it does not need the President's signature, because it is not actually a binding law, just a very powerful roadmap. Once it is complete, the committees of Congress get to work on their tax bills and spending bills.

Congressional Appropriations

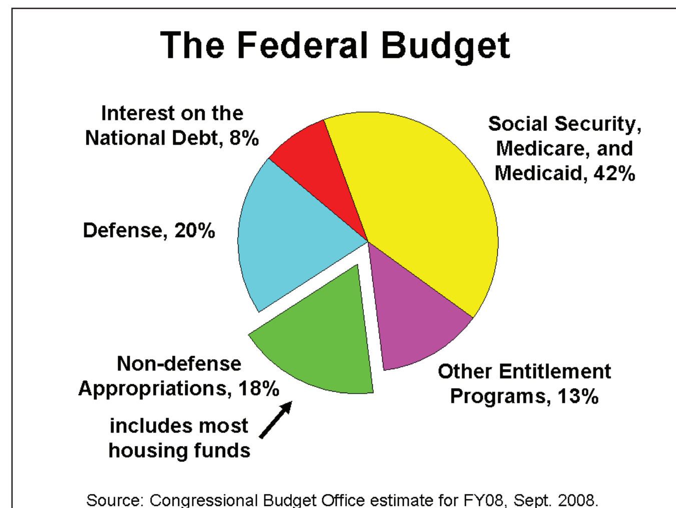
For housing, most of the critical budget activity takes place in the Appropriations Committee. The Committee takes the total amount of money provided in the budget resolution for discretionary programs (which budget experts call the '302(a) allocation'), and then divides it up among its 12 subcommittees (into what are known as '302(b) sub-allocations'). One of those subcommittees, Transportation-HUD-Related Agencies, then must further allocate its funding (its '302(b)') among the various housing programs (with the exception of rural housing, which is funded by the Agriculture Appropriations subcommittee).

The 12 appropriations bills that are produced through this process must be passed by both chambers and signed into law by the President, or wrapped into a catch-all 'omnibus' appropriations bill. If either doesn't happen before the new fiscal year begins on October 1, then a 'continuing resolution' keeps the government open and provides funding for programs until final appropriations bills are agreed to.

What Advocates Need to Know Now

Housing advocates have opportunities throughout the annual budget process to have an impact on important decisions. For example:

- Prior to the President's submission of a budget request to Congress, advocates can provide input to federal agencies and the President's Office of Management and Budget on what the priorities for the coming year should be.
- Once the President's budget request comes out, advocates can comment on the housing parts of it (the good and the bad), as well as on the tax policies, and whether they will lead to adequate revenue for housing programs and other priorities, or a further shrinking of the pie.
- When Congress starts crafting its budget resolution, advocates can encourage it to set a reasonable level for overall discretionary program funding, one that provides enough resources not only to maintain current services, but also to address unmet need.
- Finally, advocates can work to secure funding for housing programs in the Transportation-HUD appropriations bill, and help fight any tax cuts that are not paid for and would therefore drain needed revenues from the overall budget.



For More Information

"Introduction to the Federal Budget Process," by Martha Coven & Richard Kogan, available online at www.cbpp.org/3-7-03bud.htm.

Background on the Budget and Appropriations from the Coalition on Human Needs, available online at www.chn.org/issues/budget/background.html.

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

Federal Data Sources for Housing Advocacy

By Keith Wardrip, Senior Research Analyst, National Low Income Housing Coalition

Accurate, reliable demographic and socioeconomic data are crucial to housing researchers and advocates alike from the national scale down to the neighborhood level. While there are countless resources for both quantitative and qualitative housing data at the state and local level, data collection efforts with national coverage and a housing focus are fewer in number and are in danger of shrinking further as budget cuts loom.

Sources of Housing Data

The Census. As it has been since 1790, the decennial census is the only comprehensive count of the U.S. population (see table). The Census Bureau attempts to achieve a full count of the population by distributing a questionnaire containing basic demographic questions (e.g., age, sex, race) to all households and 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 of 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.

Current issues. Representing the most significant data collection effort on the horizon, Census 2010 will be conducted in April of next year. Budget cuts and the failure of a major contract for handheld computers prevented the full implementation of important field tests in 2008, but President Bush met the Census Bureau's request for an appropriation of roughly $3 billion in the FY09 Continuing Resolution. In addition, the American Recovery and Reinvestment Act of 2009 (ARRA) included $1 billion for the Census Bureau that will fund measures designed to increase the accuracy of the census, particularly as it relates to hard-to-count populations. These measures include the hiring of additional census takers, increasing the number of community partnership specialists, and stepped-up efforts at outreach and advertising. The omnibus bill that is expected to control appropriations for the remainder of FY09, as well as the FY10 budget, must include sufficient funding to allow the Census Bureau to maximize the accuracy of Census 2010.

Many consumers of federal data have long supported the removal of the Census Bureau from the Department of Commerce, and legislation introduced but not enacted in the 110th Congress would have done just that, making it a stand-alone agency and creating a fixed five-year term for its director. Although the future of this legislation is uncertain, it has recently been reported that the Obama White House will directly partner with the Commerce Secretary in overseeing Census 2010, representing a bigger role for the White House than in recent censuses.

American Community Survey. Historically during the decennial census, one in six households has received an expanded questionnaire, or 'long form,' that also includes specific questions regarding a household's income, education, employment, and other socioeconomic characteristics. While continuing to conduct a census every ten years through the use of the 'short form,' as constitutionally mandated, the Bureau intends to replace the survey component of the decennial census (i.e., the long form) 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 three million households when data were collected in 2005; 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 release of 2007 data in 2008 was the first to include estimates based on three years of data for all areas with a population greater than 20,000. And ACS data released in 2010 will include five-year estimates of population and housing for areas as small as block groups. 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.

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 member. 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. The American Housing Survey (AHS) is the only comprehensive national survey specifically focused on housing. The survey is longitudinal in nature, tracking changes in the same housing units over time, and produces national and regional estimates every two years. Historically as many as 47 of the largest metropolitan areas were surveyed on a rolling basis every six years. However, due to budget constraints, the number of metropolitan areas to be over-sampled as part of the national survey was reduced to 21 in 2007, with seven surveyed every two years; even with the reduction in the number of metropolitan areas, sample sizes have been reduced to meet budget demands. National data were last released in 2008, as were estimates for the following metropolitan areas: Baltimore, Boston, Houston, Miami, Minneapolis, Tampa, and Washington, DC.

Current issues. AHS continues to suffer as a result of cuts to the budget for HUD's Office of Policy Development and Research (PD&R). Budget cuts dating back to FY06 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). More recent cuts have further reduced the number of metropolitan areas to be surveyed in 2009 from seven to six and call into question the survey's future. Although PD&R is planning to conduct the AHS in 2011 and has requested the funds to restore the survey to 47 areas, its future is up in the air at the time of publication.

Residential Finance Survey and Home Mortgage Disclosure Act. A focus on housing finance, rather than people or units, sets the Residential Finance Survey (RFS) and Home Mortgage Disclosure Act (HMDA) data apart from the Census Bureau efforts discussed above. Last conducted in 2001, the former is a decennial investigation of the financial characteristics of residential properties, and the latter is an annual collection of data from disclosure filings made available to advocates to monitor the lending patterns of financial institutions. At publication, the most recent HMDA data available covered mortgage lending that occurred in 2007.

Current issues. Another potential casualty of PD&R's budgetary woes, the 2011 RFS is currently unfunded and is not expected to be conducted following the decennial census as it has been since 1951. However, recent conversations among staff at HUD, the Federal Housing Finance Agency, the Department of Treasury, and the Federal Reserve suggest that all recognize the importance of collecting financial data in both the single-family and multifamily housing sectors. Although no formal agreement has been reached, the hope is that these groups will collaborate on a survey to replace the RFS and collect this time-sensitive information much more frequently than every 10 years.

Current Population Survey. The last national survey detailed in the following table – the Current Population Survey, or 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 considered 'patients' or 'inmates') and is the primary source of data on the annual poverty status of U.S. residents. Thus the CPS is a very important source of data for low income housing advocates.

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 the following programs: project-based Section 8 and other federal rent subsidies for multifamily housing; FHA insured/subsidized mortgages; Sections 202 and 811; and the Low Income Housing Tax Credit program. In addition to data for these individual programs, HUD produces a dataset called Picture of Subsidized Households, which includes public housing in addition to the previously mentioned files but which currently reflects data collected in 2000.

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. And thanks to data released by HUD in 2008, 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: HOME; tax-exempt multifamily housing bonds; Section 8 Mod Rehab; project-based vouchers; HOPWA; and McKinney-Vento permanent housing. Data on subsidized rural housing are also not publicly available.

Fair Market Rents. HUD also annually updates Fair Market Rents (FMRs) 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.

Additional Surveys. Other surveys not described in the table but nonetheless of importance to housing advocates and researchers include:

- Housing Vacancy Survey, a Census Bureau survey that quantifies rental and homeowner vacancy rates, the characteristics of vacant units, and the overall homeownership rate on a quarterly (nation, regions) and annual (states, 75 largest metropolitan areas) basis. Data collected for the Housing Vacancy Survey are also used to produce the annual CPS estimates.
- Survey of Construction, 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, a HUD-sponsored survey of the absorption rate of newly constructed multifamily units conducted by the Census Bureau.
- Survey of Income and Program Participation, 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.

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. (See NLIHC's work summarizing the available data and how it can be used at http://nlihc.org/template/page.cfm?id=133.)

However, data-driven preservation efforts today cannot be maximized because HUD does not publish data on all of its programs in one easy-to-use database. To the contrary, the data that HUD currently makes available to the public are not complete, not always updated in a timely fashion, and require a certain level of database expertise to utilize fully. Legislation is expected to be introduced in the House that would require HUD to improve upon the quantity, quality, and usability of the subsidized housing data that the agency provides to the public.

Tips for Local Utilization and Success

First and foremost, housing advocates should encourage everyone to fully participate in Census 2010 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.

What to Say to Legislators

Call your 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. 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 prepare for and carryout an accurate Census 2010.
- Restoring years of cuts to HUD's Office of Policy Development & Research's budget, at least to its pre-2007 level, that would allow it to once again fully implement the American Housing Survey.
- Continuing to fully fund the American Community Survey.

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. A few of these groups include the Council of Professional Associations on Federal Statistics (http://www.copafs.org/), The Census Project (http://www.thecensusproject.org), and the Housing Statistics Users Group (http://groups.google.com/group/housing-statistics-users-group).

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Comparison of Selected National Datasets

	American Community Survey	American Housing Survey	Census	Residential Finance Survey	Home Mortgage Disclosure Act	Current Population Survey
Survey or Census?	Survey	Longitudinal survey	Census and survey components	Survey	Census of qualifying institutions	Survey
Sample Size	Sample size expanded from 800,000 to 3 million households (1:40) in 2005	55,000 units are surveyed nationally every odd-numbered year; circa 3,000 units are included in each metro survey	Census of all households and group quarters; in 2000, 1 in 6 households received survey component, or 'long form'	Roughly 68,000 properties in 2001	Roughly 34 million loan records in 2006 reported by 8,886 financial institutions	Roughly 55,000 households per month for labor force estimates; 75,000 annually for socioeconomic data
Survey of…	Population and housing	Housing units; household and individual characteristics data also available	Population and housing	Residential properties; interviews with owners and mortgage lenders	Individual loan applications as reported by large banks and lending institutions in metro areas	Households representing the civilian, non-institutionalized population
Data Available	Basic population, housing, and income variables	Detailed housing, income, and neighborhood variables	Basic population, housing, and income variables	Financing and other project characteristics; owner demographics	Home mortgage lending activity by institution and race/ income of applicant; socioeconomic and housing data from census & HUD	Labor force, poverty, income, and health insurance data, cross-tabulated by demographic and employment characteristics
Frequency	Annual since 2000	National survey is biennial; each survey covers 7 of 21 large metros; each metro is surveyed every 6 years	Decennial since 1790	Decennial since 1950	Annual since 1997	Monthly estimates of labor force; annual for income, poverty, and health insurance

	American Community Survey	American Housing Survey	Census	Residential Finance Survey	Home Mortgage Disclosure Act	Current Population Survey
Data Comparability Over Time	Surveys fairly comparable since 2000, although 2006 ACS is first to include group quarters	Designed to track changes in individual units, but can be problematic; some variables change year to year	Data are largely comparable though some caution is necessary due to changes in methods and questions	1991 and 2001 survey instruments are largely comparable	Caution is urged due to frequent changes in coverage and required reporting	Use of different census-based controls and sample designs affect comparability
Level of Geographic Detail	Population: >250k since 2000; >65k in 2005 ACS; >20k in 2007 ACS; tracts and block groups in 2009 ACS	National, regional, and select major metropolitan areas	All levels of census geography, down to the block level	National and regional (for select data)	National, metro areas, and census tracts (for select data); reporting institutions	National, census regions and divisions, and states
Format of Available Data	Demographic profiles, rankings and geographic comparisons, customized tables, maps, microdata, etc.	Data tables and microdata	Demographic profiles, rankings and geographic comparisons, customized tables, maps, microdata, etc.	Data tables and microdata	Data tables and microdata	Data tables and microdata
Agency Charged with Data Collection	Census Bureau	Census Bureau sponsored by HUD	Census Bureau	Census Bureau, historically sponsored by HUD	Federal Financial Institutions Examination Council	Census Bureau and the Bureau of Labor Statistics
Status	Cuts threatened in recent years	National sample size and number of metros reduced in 2007; budget cuts threaten to reduce the sample further in 2009	Constitutionally required; recent implementation decisions have added to the cost and must be funded in the FY09 budget	No plans to conduct in 2011 unless Census can find a partner to fund the effort	Data collection required by act of Congress	No known threats

Analysis of Impediments to Fair Housing Choice

By Ed Gramlich, Director of Outreach, National Low Income Housing Coalition

States and local governments must certify that they are 'affirmatively furthering fair housing' in their Consolidated Plans (ConPlans) and Public Housing Agency (PHA) Plans. In order to comply, these jurisdictions must have an Analysis of Impediments to Fair Housing Choice, also known as an AI.

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. Three other laws require jurisdictions to certify (pledge in writing) that they are affirmatively furthering fair housing, often abbreviated as AFFH: AI requirements apply to the Community Development Block Grant (CDBG) program, programs such as HOME which are required to prepare a Comprehensive Housing Affordability Strategy (CHAS), and the Quality Housing and Work Responsibility Act of 1998 (QHWRA), which created the PHA Plan (for more information see related articles).

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.

Analysis of Impediments

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 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 multi-lingual marketing, zoning that limits group homes, and insufficient public transportation to areas with affordable housing.

AIs are their own separate documents, the content of which are not prescribed by HUD. They are available to the public. HUD's *Fair Housing Planning Guide* defines an Analysis of Impediments 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, familial status (in other words, households with children) and disability.
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, family types and disabilities.
- Promoting housing that is structurally usable by all people, particularly those with disabilities.
- Fostering compliance with the nondiscrimination features of the Fair Housing Act.

Tips for Local Utilization and Success

Advocates should be aware of and impress upon their jurisdictions that a judge has recently ruled that "the AFFH certification was not a mere boilerplate formality, but rather was a substantive requirement." On February 24, 2009, U.S. District Judge Denise Cote, in *U.S. ex rel. Anti-Discrimination Center v. Westchester County, New York*, found that from April 2000 to April 2006 the county's AI "utterly failed to comply with the regulatory requirement that it

perform and maintain a record of its analysis of impediments to fair housing choice in terms of race. This failure is only compounded by the county's failure to follow the guidance provided by HUD [in its *Fair Housing Planning Guide*]." Judge Cote also observed that "[t]he AFFH certification was not a mere boilerplate formality, but rather was a substantive requirement rooted in the history and purpose of the fair housing laws and regulations, requiring the county to conduct an AI, take appropriate actions in response, and to document its analysis."

The name of the agency or department which will have an AI varies from locality to locality. Generally, the office that manages the CDBG program should be able to provide a a copy. In addition, advocates can contact the Fair Housing and Equal Opportunity (FHEO) staff at their HUD Field Office.

AIs are not sent in 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;' plus, 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.

When are AIs written? According to the *Fair Housing Planning Guide*, AIs must be updated in cycle with the timeframe of a ConPlan. So, theoretically, if a jurisdiction has to come up with a new ConPlan every five years, then it should also revise its AI at the same time. However, the September 2, 2004, HUD Policy Memorandum merely states that a jurisdiction "should update, where appropriate, its AI…to reflect the current fair housing situation in their community."

In a more positive vein, that Policy Memorandum implies that jurisdictions which do not make appropriate revisions to update their AIs could face problems. 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,"

Monitoring Compliance

Before the start of the CDBG, HOME or public housing program year.

In order to get CDBG, HOME or public housing money, jurisdictions must certify that they are affirmatively furthering fair housing. 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 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 which could cause HUD to look more carefully at an AI is the failure to make "appropriate revisions to update the AI." (September 2, 2004, Memorandum)

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 HUD Field Office.

CDBG regulations also allow a certification to be challenged if there is evidence that a policy, practice, standard or method of administration, although it 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.

At the end of the CDBG or HOME program year.
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 (September 2, 2004, Memorandum).

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 HUD Field 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 Community Planning and Development (CPD), which administers CDBG and HOME, suggests that a jurisdiction keep for the record: copies of local fair housing laws and ordinances; the full history of the development of its AI; options available for overcoming impediments; a list of those consulted; planned actions and actions taken; and issues that came up when actions were carried out.

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.

For More Information

HUD's Office of Fair Housing and Equal Opportunity (FHEO) www.hud.gov/offices/fheo/promotingfh.cfm.

HUD's *Fair Housing Planning Guide*, Vol. 1 (#HUD-1582B-FHEO) is available at www.hud.gov/offices/fheo/images/fhpg.pdf. [Vol. 2 (#HUD-1582A-FHEO) is out of print. It was less useful because it was mainly samples.]

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*: www.hud.gov/offices/cpd/affordablehousing/library/modelguides/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: www.hud.gov/offices/fheo/promotingfh/fairhousing-cdbg.pdf.

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Consolidated Plan

By Ed Gramlich, Director of Outreach, National Low Income Housing Coalition

The Consolidated Plan, popularly called 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); Emergency Shelter Grants (ESG); HOME; and Housing Opportunities for Persons With AIDS (HOPWA) grants. States, large cities and urban counties that get any of these grants must have a ConPlan. In addition, Public Housing Agency (PHA) Plans must be consistent with the ConPlan. The ConPlan is a tool advocates can use to influence how federal housing and community development dollars are spent in their communities.

The ConPlan process is guided by HUD's Office of Community Planning and Development (CPD).

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 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 ConPlan's Strategic Plan), one 'application' document (the Annual Action Plan) and one set of performance reports (the CAPER, which includes CDBG's Grantee Performance Report or GPR).

Summary

Jurisdictions develop ConPlans at least once every five years (the long-term Strategic Plan), and must update them annually (the Annual Action Plan). The five steps of the ConPlan calendar are:

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, or a draft, 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: failure to follow public participation requirements; failure to satisfy all of the required elements; or, an inaccurate certification made by a jurisdiction (for example, failure of a jurisdiction to take 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 the area median income (AMI).

There are several public participation features related to the Annual Performance Report. There must be reasonable notice that a report is available, 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.

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 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 income, 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 disabled people. 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 income. 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 (15 days is considered timely if the jurisdiction gets CDBG).

Key Elements of the ConPlan. There are seven key elements of the ConPlan.
1. Housing and Community Development Needs. The ConPlan must estimate housing needs for the upcoming five years. Also, the ConPlan must describe "priority nonhousing 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 those needs "shall be based on any other reliable source". NLIHC's *Out of Reach* and *Congressional District Housing Profiles* are excellent sources of data (available at www.nlihc.org).

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).
- Family type, including: small families (2-4 people); large families (5+); individuals; and elderly households.
- Tenure type (whether the household rents or owns).

The ConPlan must also:

- Estimate the need for public housing and Housing Choice Vouchers (Section 8), referring to waiting lists for those programs.
- Summarize the number of people who have a housing cost burden (pay more than 30% or 50% of their income), live in very poor quality housing or live in overcrowded housing.
- Estimate the housing needs for persons with HIV/AIDS and for persons with mental or physical disabilities. The ConPlan must show the supportive housing needs of those with physical or mental disabilities.
- Estimate the housing needs of victims of domestic violence.
- Summarize the nature and extent of homelessness. The need for homeless facilities and services must be discussed separately for individuals and 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 addictions) must be described. The ConPlan must describe the characteristics and needs of people who now have housing but who are threatened with homelessness.

2. The 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 condition and cost of housing. It must show areas where low income people and different races and ethnic groups are concentrated (does not apply to state ConPlans).

An inventory of both facilities and services for homeless people must be included, broken down by emergency shelter and transitional housing. A description of facilities and services for people who are not homeless but require supportive housing must be included. The housing stock available to serve people with disabilities, with special needs and with HIV/AIDS must also be described (does not apply to states).

Public housing developments must be identified and the number of public and assisted housing units (e.g., Section 8) must be given. The condition of public and assisted housing and the type of household and income level served must be described.

The ConPlan must describe units currently assisted with federal or state funds that might be lost for any reason such as the end of a Section 8 contract, expiration of an FHA mortgage or demolition or sale of public housing. To the extent information is available, the ConPlan should estimate the number of vacant or abandoned buildings and whether they are suitable for rehabilitation.

3. The Strategic Plan. This long-term plan must be done at least every five years. It must present the jurisdiction's specific objectives in measurable terms and estimate a timetable for achieving them. It must show a jurisdiction's priorities for distributing CPD money (the four block grant programs administered by that HUD office and subject to the ConPlan) among needs and various neighborhoods. "Needs" can mean type of activity (such as rental rehab) as well as type of person (such as extremely low income). The Strategic Plan must explain why a category of need is a priority, especially among the income groups. HUD's Tables 2A and 2B provide a snapshot of what is and is not a priority.

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 compared to 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 needs of public housing will be met.

Priority homeless needs should be shown. There must also be a written strategy for helping people to avoid becoming homeless, reaching out to homeless people to determine their needs, addressing needs for emergency shelter and transitional housing and helping homeless people make the transition to permanent housing.

4. The 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.

5. Lead-Based Paint. The Strategic Plan must outline actions to find and reduce lead paint hazards.

6. 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," CPD's more recent (May 2005) *Fair Housing for HOME Participants* (referring to the HOME Program) relaxed this requirement and merely says that a jurisdiction "should…update its AI on an as-needed basis. When a Participating Jurisdiction is developing a completely new complete Consolidated Plan…changes in the jurisdiction…may result in a need to make revisions to the AI."

7. The Annual Action Plan. The Annual Action Plan must describe the activities the jurisdiction will carry out in the upcoming year, along with the reason for making these allocation priorities. The activities must address the Strategic Plan's priority needs. 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. For uses of CDBG, there must be enough detail about each activity (including location) that people can determine the degree to which they are affected.

There must be an estimate of the number and type of households that will benefit (does not apply to states). One-year goals for providing affordable housing to homeless, non-homeless and special needs households must be provided, along with one-year goals for providing affordable housing through new construction, rehab, acquisition or rental assistance.

States must describe how they will distribute funds to local governments and nonprofits, and there must be a description of all criteria used to select 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.).

The Annual Action Plan must indicate the activities that will be carried out in the upcoming year to address homelessness by: meeting emergency shelter needs and transitional housing needs; preventing homelessness, especially for those with incomes below 30% of the median; 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.

What Advocates Need to Know Now

The ConPlan is a potentially useful advocacy tool for directing funds toward activities more beneficial to people with low income because jurisdictions must provide for and encourage public participation, particularly by people with low income. Advocates and residents should monitor the needs assessment and priority setting processes, making sure that all of the needs are identified and that these needs are assigned the level of priority they deserve. 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's Consolidated Plan web page is www.hud.gov/offices/cpd/about/conplan/index.cfm.

Continuum of Care

By Jeremy Rosen, Executive Director, National Policy and Advocacy Council on Homelessness (NPACH)

The Continuum of Care is HUD's local planning process, and provides an outlet for government agencies, service providers and advocates to meet to evaluate the needs of homeless persons in the community and plan to deliver housing and services to meet those needs. Once these plans are developed, Continuums of Care apply for and administer HUD McKinney-Vento funding for transitional housing, permanent housing and supportive services programs.

History

The Continuum of Care (Continuum) process was developed administratively in 1994, so that communities around the country would use a single, comprehensive planning process when applying for HUD's homeless assistance funding. In introducing the Continuum, HUD recognized the importance of having all stakeholders – government agencies, service providers and advocates – present when communities create plans to prevent and end homelessness. HUD also sought to create a uniform planning process for communities around the country.

Summary

Most Continuums are organized by either a local government agency or a large community nonprofit. The Continuum's goal is to create an annual plan to address homelessness. To do this, the Continuum must attempt to define the scope of homelessness in its community, develop an inventory of resources currently available to address homelessness, and identify gaps in services and then prioritize unmet needs. HUD's annual homeless assistance Notice of Funding Availability (NOFA) is typically issued in March or April with an application deadline in June. This makes each spring a busy period, as communities must rank new and renewal programs in a manner that is congruent with their analysis of unmet needs. Once the NOFA application is submitted, Continuums begin planning for the following year's NOFA. HUD's McKinney-Vento funding awards are typically made in either December or January.

In recent years, HUD has required Continuums to coordinate with local planning bodies that are preparing '10-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, Community Development Block Grant, or HOME – and other federal, state, and local funding. This integration is critical, so that McKinney-Vento funding can be best leveraged with other funding that will be used to help end homelessness (for more information see chapters on Plans to End Homelessness and the McKinney-Vento programs).

What Advocates Need to Know Now

Last authorized in 1994, the housing title of the McKinney-Vento Act has expired. Accordingly, HUD has implemented the Continuum process through their annual NOFA. Legislation to reauthorize these provisions was approved in the House last year. Companion legislation in the Senate did not pass. Similar bills, which would codify the Continuum of Care process (under a different name) into federal law, are expected to be introduced this year.

There are several important policy issues with respect to Continuums of Care – how broad community participation can be ensured, how to ensure that Continuums do comprehensive planning with little funding and without overburdening smaller and more rural communities, and the degree to which HUD mandates that Continuums respond to HUD priorities.

For Continuums to be most effective, it is important that all key stakeholders have a seat at the table. In many communities, groups such as child/education advocates, veterans advocates, youth advocates, and advocates for victims of domestic violence have not always been part of Continuums. These advocates should reach out to their local Continuums – likewise, Continuums should reach out and ensure participation from these groups. At the

same time, rural Continuums should not be penalized if all the stakeholders present in a large urban center are not present in smaller communities.

In recent years, Continuums have been asked to take on additional responsibilities, such as reviewing local policies – including discharge planning practices of public systems of care (e.g., hospitals, jails and prisons, the foster care system), access policies of mainstream programs serving low income people and local zoning policies – to ensure that those procedures are not resulting in people becoming homeless. Such a review is a critical part of any substantive community plan to end homelessness. However, HUD should implement these requirements in a reasonable way, to ensure that smaller Continuums are not penalized if they do not have the financial and staff resources to perform all of these duties.

Finally, there is an ongoing debate about HUD's role in setting priorities for Continuums. Through much of the 1990s, HUD typically deferred to the project rankings done by local Continuums when making awards. However, in recent years HUD has provided incentives to Continuums that prioritize projects to provide permanent housing for the long-term, or 'chronic,' homeless population. Some advocates support this effort, arguing that communities would not serve that population without strong incentives, while other advocates believe that the new incentives prevent communities from best meeting their local needs.

Tips for Local Success

Participation in the Continuum of Care is one of the only ways for advocates to push for their community to receive targeted federal funding for housing and supportive services targeted to people experiencing homelessness. By joining their local Continuum advocates can shape a community's priorities in addressing homelessness for current and emerging populations.

Advocates who participate in the Continuum process should expect to have meaningful input in preparing the annual plan to be submitted to HUD, along with the corresponding ranking of new and renewal programs. Annual plans are prepared based on surveys and other forms of data collection. To effectively influence development of the plans, advocates must be prepared to submit data that supports their arguments.

Advocates not participating in the Continuum process should join as soon as possible. To find out what agency is coordinating a local Continuum, advocates can go to HUD's Homelessness Resource Exchange website: www.hudhre.info. Advocates should also seek to involve other community organizations in the Continuum of Care process, the best local planning and decision making takes place when all key stakeholders are at the table.

What to Say to Legislators

Call your Representatives and Senators and ask to speak with the person who handles housing policy. Tell them that you are working locally to help end homelessness, and that you hope that Congress will work this year to re-write the HUD McKinney-Vento Act - the legislation that governs HUD's homeless assistance grant programs. Re-writing this law will help local Continuums of Care because:

- It will ensure participation in the Continuum of Care from a broad range of important community stakeholders.
- It will help coordinate local Continuums of Care with state and local Interagency Councils on Homelessness and 10-Year Plans to End Homelessness,
- It will provide additional resources for Continuum of Care operations.

For More Information

National Policy and Advocacy Council on Homelessness · 202-714-5378 · www.npach.org

Plans to End Homelessness

By Meghan Henry, Research Associate, National Alliance to End Homelessness

The homeless population was once assumed to be largely mentally ill, urban, and unsolvable. The solution was to manage the problem through the creation of emergency shelters, transitional housing, and other homeless services. This is no longer the case. Over the last few decades, numerous studies have worked to dispel 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 the early part of the decade, more than 215 communities have completed 10-Year Plans to End Homelessness, and many more are in the process of developing them.

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 endorsed the initiative to end chronic homelessness. In 2002, the Interagency Council on Homelessness (ICH) was reactivated, and in 2003 it challenged 100 cities to create plans to end chronic homelessness. Since that time, hundreds of communities have taken up that challenge, and more than 215 have completed their plans to end homelessness.

Components of the Plan

Plans to end homelessness have been completed in all regions of the country - north, south, east and west - in all types of communities – rural, urban and suburban. While some of the elements in the plans may differ, most start from the same place: understanding the local homeless population. More than 80% of communities with completed 10-year plans collected baseline data on homelessness prior to engaging in planning efforts. This data allows the community to better understand who in their community becomes 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 over 350,000 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 83% of the plans.

While the initial challenge was to create plans to end chronic or long-term homelessness, most communities (74%) 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, 66% 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 33% 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 cutoff 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 82% 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, and increasing income through job training services, Supplemental Security Income (SSI) outreach, Transitional Aid to Needy Families (TANF) outreach, or Earned Income Tax Credit (EITC) outreach was included in over three-quarters of the plans.

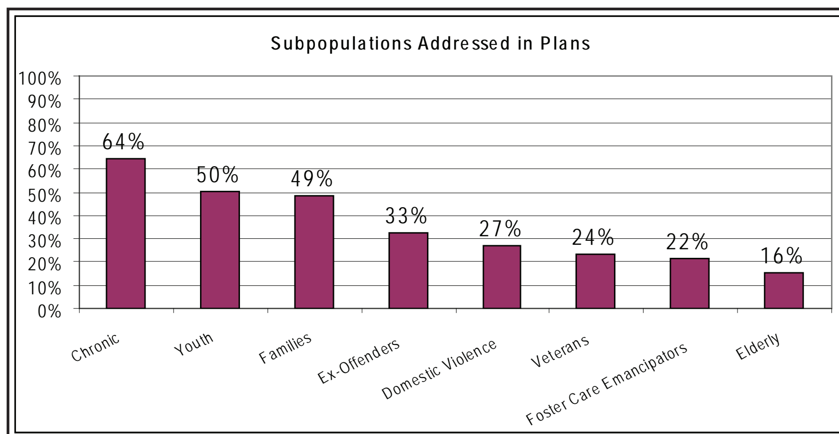
Tips for Local Success

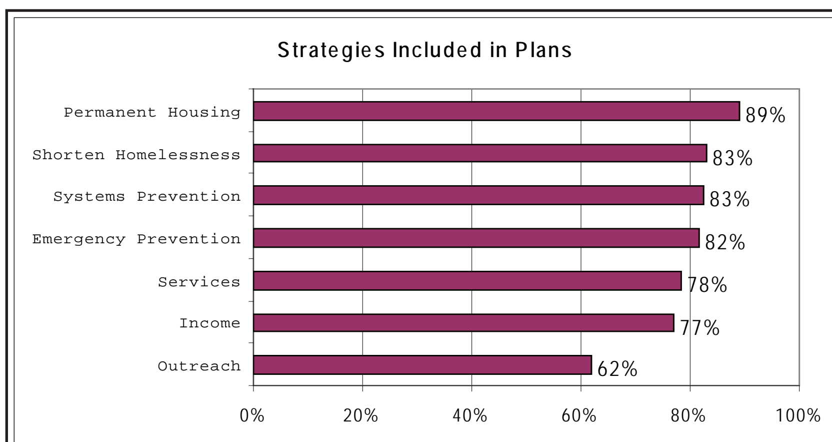
To be successful, the planning process should be participatory and involve multiple sectors of the community. Receiving input from the public, private and nonprofit sectors allows for greater community buy-in and a smoother transition from planning to implementation. The 215 completed plans incorporate 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.

These efforts reflect the national momentum behind ending homelessness, but there is much more to be done. While over 215 communities have completed these plans to end homelessness, the transition from planning to implementation can be difficult. 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 communities' changing need.

For More Information

National Alliance to End Homelessness · 202-638-1526 · www.endhomelessness.org





Public Housing Agency Plan

By Linda Couch, Deputy Director, 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). The PHA Annual Plan was meant to ensure local accountability through resident and community participation opportunities. In recent years, however, various administrative and legislative efforts have weakened PHA Plan.

History

The Quality Housing and Work Responsibility Act of 1998 (QHWRA) established the PHA Annual and Five Year Plans because of the significant devolution provided to public housing agencies in that bill. The PHA Annual Plan was meant to ensure local accountability through resident and community participation opportunities. Resident Advisory Boards were created in QHWRA to ensure public housing residents and voucher assisted households can actively and effectively participate in the PHA plan process.

In June 2004, HUD issued regulations to streamline the annual plan requirements for housing authorities (PHAs) with fewer than 250 public housing units and any number of voucher units. These PHAs were only required to submit to HUD certifications on capital improvement needs and on civil rights compliance. This regulatory streamlining action was broadened in 2008, when Congress enacted several reforms that greatly diminish the PHA Annual Plan requirements for PHAs that administer fewer than 550 combined units of public housing and vouchers. Also in 2008, HUD took administrative action to dilute the information shared with residents and the general public in the PHA Plan documents.

Program Summary

Most of the nation's PHAs must develop annual and five-year management plans, collectively referred to as the Public Housing Authority Plan (PHA Plan). The plans include information and public hearing requirements on a variety of issues, from rents to income targeting to demolition and disposition plans. The annual PHA Plan is designed to govern how PHAs operate in a given fiscal year by spelling out what a PHA's policies will be in specific areas, including rents, pet policies, admissions and occupancy. The five-year PHA Plan describes the PHA's overall mission in addressing the housing needs of low income families in its jurisdiction.

As part of this planning process, PHAs are required to have at least one Resident Advisory Board (RAB) to assist in the development of these PHA Plans. RAB membership must adequately reflect and represent residents served by the PHA.

What Advocates Need to Know Now

Congress has worked to weaken the usefulness of the PHA plan. In July 2008, the Housing and Economic Recovery Act included a provision greatly diminishes the PHA annual plan requirements for PHAs that administer fewer than 550 combined units of public housing and vouchers. Because of the 2008 law, 75% of the nation's PHAs, which administer 21% of public housing units and 11% of all vouchers, will be exempted from including in their annual PHA plan everything but a civil rights certification. These PHAs must still establish resident advisory boards (RABs) and respond to the recommendations of the RABs at the required annual public hearing.

HUD has also taken action to weaken the usefulness of the PHA Plan. Until 2008, HUD had public housing agencies use a computer-based PHA Plan "template." This was a very helpful outline of all of the PHA Plan components required by the law (see chart).

But, HUD drastically streamlined the template in 2008, reducing it from a helpful 41-page, easy to access electronic guide, to a mere page and a half 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 new PHA plan template will make it more difficult for residents and others to understand the PHA Plan process, engage in it and have access to information associated with the 18 statutorily required PHA plan components.

In the new template, PHAs will merely have to indicate which of the long list of components was revised, not how the components were revised. Residents and other advocates will receive significantly less information about revisions included in the plan. And, there will no longer be a list of components so that residents and others are prompted to proactively recommend their own revisions to the plan.

NLIHC is also concerned that resident involvement in the PHA Plans will diminish due to loss of guidance in the revised PHA plan template. The new template includes far fewer reminders about the role of the Resident Advisory Board 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 Resident Advisory Board Members or residents on the PHA Board.

The 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 and the number of these vouchers under lease.

- The PHA's Section 8 Management Assessment Program ratings, any audits of the agency performed by the HUD Secretary and any corrective action the agency has had to take regarding SEMAP (section 8 management assessment program) or audit findings.

What to Say to Legislators

Advocates should let their Members of Congress know that:

- The PHA Annual and 5-Year plans are important, local tools that should be protected and enhanced.
- HUD's streamlined, diminished template for submitting an annual PHA plan should be reversed.

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's web page for locating your PHA Plan is www.hud.gov/offices/pih/pha/approved/.

What's 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 (including those regarding pest infestation) governing maintenance.

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. For more information about demolition/disposition, see pages 7 and 8 of NLIHC's The Public Housing Agency Plan: A Potential Tool in the Affordable Housing Preservation Toolbox, www.nlihc.org/doc/2007phaplanmanual.pdf.

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" [for more information on conversions, see pages 8 and 9 of NLIHC's The Public Housing Agency Plan (PHA Plan): A Potential Tool in the Affordable Housing Preservation Toolbox, www.blihc.org/doc/2007phaplanmanual.pdf].

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 explained in a formal pledge that will comply with laws including the Civil 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 5-Year Plan.

Qualified Allocation Plan

By Ed Gramlich, Director of Outreach, 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 (as well as tax-exempt bonds and any state-level tax credits) to housing projects.

The QAP is a tool advocates can use to influence how their state's share of annual housing tax credits is allocated to affordable housing projects. Advocates can use the public hearing and comment requirements to convince their housing finance agencies to better target tax credits to projects that house people with extremely low income, locate projects in priority areas, and preserve the existing stock of affordable housing.

Plan Summary

The QAP is a document that state (and a few local) agencies must have 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) 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), which are tracts with a poverty rate of 25% or in which 50% of the households have incomes below 60% of the area median income (AMI).

The selection criteria must address 10 items: location, housing needs, public housing waiting lists, individuals with children, special needs populations, whether a project includes the use of existing housing as part of a community revitalization plan, project sponsor characteristics, projects intended for eventual tenant ownership, and—new starting January 1, 2009—energy efficiency and historic nature. These requirements are minimums; states can adopt more rigorous criteria that target advocates' priority populations and locations.

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, New York awards 10 bonus points to projects that set aside 20% of the units for special needs populations.
- 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, Ohio sets aside $2 million 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.

Tips for Local Success

Because each state gets a new allocation of LIHTCs each year (for more information see the Low Income Housing Tax Credit chapter), QAPs are usually drafted annually. This gives advocates regularly scheduled opportunities to influence QAP priorities. Until recently, LIHTCs were in high demand among developers; therefore, they proposed projects that addressed the priorities set forth in the QAP to give themselves an advantage in the selection process. There is less demand for LIHTC in the current economic climate, but advocates should continue to participate in the QAP 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 an individual

priority 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, advocates might promote units with more than two bedrooms. (Hawaii offers bonus points for projects providing units with two or more bedrooms for at least 10% of all low income units.) To facilitate rural projects, West Virginia gives bonus points to projects with fewer than 50 units.

Advocates can also argue for features that protect tenants. For instance, Kentucky provides bonus points for projects that do not permanently displace residents, and Illinois precludes use of its preservation set-aside fund by public housing redevelopment 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 extended use period of another 15 years, try to get the compliance period lengthened as a threshold issue (Maine has a 90-year threshold); or, try to get bonus point preferences or set-asides for projects that voluntarily agree to a longer compliance period. (Nebraska awards additional points to developers who extend their low income housing commitment to 45 or more years.) Try to get preferences for projects in which the owner agrees at the outset not to convert the building to market rate after the first 15 years. (Maryland gives points to a project if the owner agrees not to exercise the right to any opt out rights and takes on a 40-year rent-restricted period.)

Procedural steps advocates can take to improve the QAP. There must be a public hearing about a proposed QAP before it is approved by the unit of government overseeing the HFA, but there are no specific requirement 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.

Once an HFA has decided 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.

There must be a comprehensive market study of the housing needs of low income people in the area to be served by a project before tax credits are allocated. 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.

For More Information

HUD's HOME Program web site has links to a firm which lists the HFAs in all states at www.novoco.com/stcaa.shtml. This link also is a source of state QAPs at www.novoco.com/low_income_housing/lihtc/qap_2007.php

Capsule descriptions of any preservation, rural, 'green,' transit-oriented development, or sustainable features of each state's QAP is available from the National Housing Trust at www.nhtinc.org/documents/Pres_Scan_July_2008.pdf

Resident Participation in Federally Subsidized Housing

By Linda Couch, Deputy Director, National Low Income Housing Coalition

Based on their own experiences of living in subsidized housing, residents bring to the table unique and important ideas about how developments should be managed, how HUD and local public housing agencies (PHAs) should be run, and perspectives about how established and emerging policies impact their needs and desires for the future. Resident participation in all aspects of the operation of housing management is critical to the long-term success of federal housing programs.

Program Summary

HUD has three major rental programs that collectively provide rental subsidies to approximately 4.5 million households nationwide. These programs are the public housing program, HUD-assisted multifamily rental 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 Residents

There are a number of HUD programs and policies that help support the participation of all public housing residents.

PHA plan process and formation of Rresident Advisory Boards. Opportunity for resident participation can be found in the annual and five-year planning process in which most PHAs are required to engage. Resident Advisory Boards (RABs) were created in 1998 by the Quality Housing and Work Responsibility Act (QHWRA).

QHWRA delegated significant decisions regarding the administration and upkeep of the public housing stock from HUD to local PHAs. The RABs were created in QHWRA to ensure public housing residents and voucher assisted households can actively and effectively participate in the PHA plan process (for more information see chapter on the PHA Plan). RABs consist of residents who are elected to represent the population served by the housing agency. By law, housing agencies must provide RABs with reasonable resources to enable them to function effectively and independently of the housing agency.

Right to organize regulations. The Code of Federal Regulations guarantees residents the right to organize a resident council to represent their interests, defines what constitutes a duly-elected (or democratically established) resident organization, and defines HUD's obligation, along with housing agencies, to support resident participation activities through training and other activities. This rule, referred to as Part 964 of Title 24 of the Code of Federal Regulations (24 CFR Part 964), includes the right to participate in: improvements and modernizing; new programs and services; new plans, policies, and procedures; and all aspects of public housing operation. Included in 24 CFR Part 964 is the right to organize and elect a resident council to advocate on behalf of residents.

Funding for resident participation. Most PHAs are required to include in their annual operating budget an amount totaling $25 per occupied unit per year to fund resident participation. The funding may be used to support training, resident organizing and other activities. PHAs are required to pass these funds through to resident councils to enable them to design site-based programs and activities.

Resident commissioners. The law also mandates that every PHA, with a few exceptions, have at least one person assisted by the agency (either a public housing resident or voucher holder) on its governing board. HUD's rule governing the appointment of resident commissioners states that residents on boards should be treated no differently than non-residents.

Resident Opportunities and Self Sufficiency (ROSS) 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. Grants under the ROSS program can be made to PHAs,

resident management associations, resident councils, resident organizations, intermediary resident organizations and other nonprofit entities operating as associations or networks that administer programs that benefit resident organizations. A multitude of initiatives for residents can be part of such grants. ROSS funds are appropriated annually by Congress; HUD then issues a Notice of Funding Availability for eligible applicants to compete for the grants. In FY09, the ROSS program was funded at $40 million, down from a historic high of $55 million in FY04.

Residents in Privately Owned, HUD-Assisted Multifamily Housing (with Project-based Rental Assistance)

Despite an unprecedented level of tenant organizing in privately owned, HUD-assisted housing over the past 15 years, most HUD tenants remain unorganized and unaware of the rights, opportunities and policies that affect them. In other instances, when tenants have attempted to organize and assert their rights they have been met with resistance by owners and their management agents. It is important to know that tenants do have avenues through which they can affect the policies and rules that regulate their housing.

Tenants' right to organize. There are regulations in place which require owners to recognize tenant unions or organizing committees that meet regularly, are democratic and are completely independent of owners and management agents. These regulations recognize the right of tenants to leaflet, door-knock, post notices and convene meetings without management present and without prior notice to or permission from management.

Residents also 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.

In addition:

- HUD has published a brochure which clarifies that tenants have the right to organize free of management harassment or retaliation. This brochure must be distributed annually to all HUD tenants.
- HUD's Model Lease, which is applicable to all HUD tenants, explicitly refers to the Right to Organize regulations.
- The Management Agent Handbook requires that owners recognize tenant unions and specifies management practices that would violate tenants' rights and potentially create liability for HUD-imposed sanctions.
- The Civil Monetary Penalties regulation allows HUD to assess fines on owners or management agents for egregious violations of tenants' right to organize.

Over the years, Congress and HUD have also expanded the formal process for tenant participation in decisions affecting HUD housing.

- Owners are now required to provide a one-year notice to tenants of their decisions on whether or not to renew an expiring project-based Section 8 contract. In addition, owners are required to provide a notice to tenants between five and nine months prior to a decision to prepay a HUD-subsidized mortgage.
- Tenants of properties with HUD-insured mortgages subject to HUD rent regulation are to be notified by owners of their intent to increase rents 60 days before the rent increase is to go into effect and are allowed to comment on the proposal to the owner and HUD.
- When owners choose to go into HUD's Mark-to-Market program, HUD's contract agency is also required to notify tenants prior to a first and second tenant meeting to allow tenants to comment on the owner's plans to rehabilitate the building and change the financing.
- Tenants in buildings owned by HUD or under HUD foreclosure are to be notified by HUD of pending auctions or sales of their buildings, enabling tenants to submit purchase offers as a nonprofit or limited-equity cooperative or to support purchase by others.

Funding for resident participation. For several years, Congress provided funds to help tenants organize, primarily to understand and influence the future of their homes when the Section 8 contract expires. Before the $10 million in authorized funds were fully utilized, HUD suspended the Outreach and Training Grant (OTAG) and Intermediary Technical Assistance Grant (ITAG) programs, established in 1994, due to administrative and accounting problems. 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.

Voucher Holders

There are approximately two million households that receive tenant-based assistance through the Housing Choice Voucher Program.

Organizing residents in Section 8. Section 8 voucher holders are among the most difficult residents to organize because the nature of the voucher program is such that households receiving this type of subsidy (renting in the private market) are less likely to be in direct proximity or contact with each other. At the local level, voucher participants play a key role in the formation of policies. PHAs make many policy determinations affecting voucher holders such as the priority given to homeless individuals, families fleeing domestic violence, working families and those with limited English-speaking capability, as well as resident preferences, admissions criteria, the amount of time that a voucher holder will have to search for a unit, minimum rents, homeownership program development and similar priorities and policies.

Rules about RABs (see the public housing section above) also apply to voucher holders. As such, voucher holders can play an integral role in setting the agenda for local PHAs. Indeed, it is the advent of the PHA planning process and the requirement that voucher holders be included on RABs that offers an excellent platform from which to organize voucher holders to have a voice.

What Advocates Need to Know Now

The number of PHAs that must complete PHA Plans has been substantially reduced by Congress. Furthermore, in 2008, HUD used its administrative powers to dramatically weaken the usefulness of the PHA Plan for residents and other community members.

Similarly, resources for tenants in HUD-assisted tenants to organize to protect their rights and their housing have decreased in recent years with the loss of remaining funds in the OTAG and ITAG programs. The 111th Congress could be the right time not only to protect existing resident participation tools and resources, but to expand them.

Major HUD-assisted housing legislation is expected in the 111th Congress (for more information see chapter on Project-Based Assistance). These bills will be an opportunity to achieve capacity building resources for tenants in projects with expiring HUD-assisted contracts. Tenants can help HUD save affordable housing developments if they are given the right tools.

Advocates also hope this legislation includes a federal right of first purchase for preservation purchasers of properties. If enacted, private owners ending their participation in a federal affordable housing program would have to offer their properties for sale at fair market value to preservation purchasers. Such purchasers may include tenant organizations but, regardless, the provision would allow for the continued affordability of the apartments.

What to Say to Legislators

Members of Congress should be urged to:

- Fund the public housing Resident Opportunity and Self Sufficiency (ROSS) program at $55 million in FY10.
- Roll back 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.
- Enact a federal first right of purchase for preservation purchasers so that more HUD-assisted homes would be preserved as private owners leave federal housing subsidy programs.

For More Information

National Alliance of HUD Tenants (NAHT) · 617-267-9564 · www.saveourhomes.org
National Housing Law Project · 510-251-9400 · 202-347-8775 · 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://www.access.gpo.gov/nara/cfr/waisidx_05/24cfr964_05.html

Budget Chart for Select Housing Programs

FY10 Budget Chart for Selected Programs (in millions)

HUD Program (set asides indented)	FY04 Enacted	FY05 Enacted	FY06 Enacted	FY07 Enacted	FY08 Enacted	FY09 Enacted	President's FY10 Request 2/26/09
Tenant Based Rental Assistance	14,186	14,766	15,417	15,920	16,391	16,817	
Contract Renewals	12,893	13,463	13,949	14,436	14,666	15,034	
Tenant Protection Vouchers	205	163	178	149	200	150	
Administrative Fees	1,235	1,200	1,238	1,281	1,351	1,450	
Family Self Sufficiency Coordinators	48	46	47	47	49	50	
Family Unification Vouchers					20	20	
Veterans Supportive Housing Vouchers					75	75	
Nonelderly Disabled Vouchers					30	30	
Disaster Housing Assistance Vouchers							
Project Based Rental Assistance	4,792	5,298	5,037	5,976	6,382	7,100	
Advanced appropriation for contract renewals						400	
Public Housing Capital Fund	2,695	2,579	2,439	2,439	2,439	2,450	
Emergency/Disaster Grants	50	30	17	17	19	20	
Resident Opportunities and Supportive Services	55	52.5	38	38	40	40	
Public Housing Operating Fund	3,579	2,438	3,564	3,864	4,200	4,455	
HOPE VI	149	143	99	99	100	120	
Native American Housing Block Grants	650	621	624	624	630	645	
Native Hawaiian Housing Block Grants	9	9	9	9	9	10	
Housing Opportunities for Persons with AIDS	295	282	286	286	300	310	
Community Development Fund	4,921	4,671	4,178	3,772	3,866	3,900	
CDBG Formula Grants	4,331	4,110	3,711	3,711	3,593	3,642	4,500
Self-Help Homeownership Opportunity Program	27	25	20	20	60	64	
Economic Development Initiative Grants	276	262	307	0	180	165	
Brownfields Redevelopment	25	24	10	10	10	10	
HOME Investment Partnership Program	2,006	1,900	1,733	1,733	1,704	1,825	
HOME Formula Grants	1,859	1,789	1,690	1,690	1,629	1,821	

HUD Program (set asides indented)	FY04 Enacted	FY05 Enacted	FY06 Enacted	FY07 Enacted	FY08 Enacted	FY09 Enacted	President's FY10 Request 2/26/09
American Dream Downpayment Initiative	87	50	25	25	10	0	0
Housing Counseling Assistance	40	42	42	42	50	65	
Foreclosure Counseling					180		
Homeless Assistance Grants	1,260	1,241	1,327	1,442	1,586	1,677	
Samaritan Initiative	--	--	--	0	0		
Rural Housing and Economic Development	25	24	17	17	17	26	
Housing for the Elderly (Section 202)	774	741	735	735	735	765	
Housing for Persons with Disabilities (Section 811)	249	238	237	237	237	250	
Fair Housing and Equal Opportunity	48	46	46	46	50	54	
Fair Housing Assistance Program	28	26	26	26	26	26	
Fair Housing Initiatives Program	20	20	20	20	24	28	
Lead-Based Paint Hazard Reduction Program	174	167	152	152	145	140	
Policy Development & Research (excluding grants to academic institutions)	47	45	36	36	28	35	
Total Budget Authority	31,200	32,040	34,270	33,650	37,600	41,500	47,500

NLIHC will keep this information updated at www.nlihc.org as information on program funding levels becomes available.
April 6, 2009

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 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.

Then we suggest that they call the office of their Congressman or Congresswoman and ask to speak to the person who provides constituent services. We help them 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 now has a "looking for housing" link on its web site which contains similar information. It is available at www.nlihc.org/resources/looking.cfm.

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 consistent case workers will become more aware of the housing problems of people who live in their Congressional districts and communicate these needs to the Congressmen or Congresswomen. Finally, the people in need may actually obtain knowledgeable assistance in their own communities in their search for affordable housing.

NLIHC State Partners

NLIHC state partners are an integral part of the work that we do. Our state partners are housing and/or homeless advocacy organizations serving statewide or regional areas, and are the organizations with whom we work most closely. Please join the partner(s) where you live, as well as NLIHC, to strengthen state and national advocacy for more affordable housing.

Alabama

Alabama Arise
334-832-9060
www.alarise.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

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

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

Connecticut

Connecticut Housing Coalition
860-563-2943
www.ct-housing.org

Delaware

Delaware Housing Coalition
302-678-2286
www.housingforall.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

Hawaii

Affordable Housing and Homeless Alliance
808-845-4565
www.hawaiihomeless.org

Illinois

Housing Action Illinois
312-939-6074
www.housingactionil.org

Indiana

Indiana Association for Community Economic Development
317-920-2300
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
504-258-8023

Maine

Maine Affordable Housing Coalition
207-553-7780
www.mainehousingcoalition.org

Massachusetts

Citizens' Housing and Planning Association
617-742-0820
www.chapa.org

Michigan

Coalition for Michigan's Housing and Community Development
616-855-4475
www.livingmichigan.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

New Hampshire Housing Forum-AFSC
603-224-2407
www.nhhousingforum.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
505-982-9000
www.nmceh.org

Supportive Housing Coalition of New Mexico
505-255-3643
www.thehousingcoalition.com

New York

Neighborhood Preservation Coalition of New York State
518-432-6757
www.npcnys.org

Coalition for the Homeless
212-776-2000 or 518-436-5612
www.coalitionforthehomeless.org

New York State Rural Housing Coalition
518-458-8696
www.ruralhousing.org

Supportive Housing Network of New York
212-870-3303 or 518-465-3233
www.shnny.org

Tenants and Neighbors
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

Ohio

Coalition on Homelessness and Housing in Ohio
614-280-1984
www.cohhio.org

Oregon

Housing Alliance (c/o Neighborhood Partnership Fund)
503-226-3001
www.oregonhousingalliance.org

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
401-421-6458
www.rihomeless.com

Pennsylvania

Housing Alliance of Pennsylvania
215-576-7044
www.housingalliancepa.org

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

Central Virginia Housing Coalition
540-604-9943
www.centralvahousing.com

Virginia Housing Coalition
804-497-3060
www.vahousingcoalition.org

Washington

Washington Low Income Housing Alliance
206-442-9455
www.wliha.org

Washington State Coalition For The Homeless
253-761-7446
www.endhomelessnesswa.org

Wisconsin

Housing for All (c/o Independence First)
414-291-7520

Wisconsin Partnership for Housing Development, Inc.
608-258-5560 or 414-226-0380
www.wphd.org

Wyoming

Wyoming Coalition for the Homeless
307-634-8499
www.wch.vcn.com

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.

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 whohave 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 e-mail 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 costs 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; and
- 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).

For More Information

Alliance for Justice (www.afj.org) 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*. Alliance for Justice also publishes guides on related topics 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 really comes down to talking to your Member of Congress or a staff person about an issue of concern to you. Every American has that right. As a housing advocate, you can, and should, lobby your congressional delegation. It is important to remember that you do not have to be an expert on housing policy to lobby. The experience and information you can provide on the housing situation in your Member's district is very valuable to him or her. Indeed, you are the expert when it comes to what is going on in your district or state. And it is the responsibility of Members of Congress and their staff to be responsive to the concerns of their constituents.

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 both your organization and your Member added insight into where each of you stands on a given topic.

A face-to-face meeting with a Senator or Representative is often the most effective way to get your voice heard. However, given the schedule of most Members, you may end up meeting with the staff person who deals with housing issues. Do not be disappointed if this is the case. Staffers have significant input into many policy decisions, 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 in advance for an appointment. If you do not know your Member's phone number, call the U.S. Capitol Switchboard at 202-224-3121 and ask to be transferred. Ask to meet with your Member or his or her staff person who works on housing issues. Tell the person who sets up your appointment: 1) where you are from and what organization you represent; 2) the purpose of the meeting; and 3) the number of people who will be attending the meeting. You may be asked to fax in a request for the meeting rather than giving the information over the phone. E-mail the staff person you will meet with to confirm the meeting date, time and purpose and to send any information you think would be useful for the Member or staff person to review in advance. The day before the visit, call to confirm the appointment.

Planning the meeting. A planned meeting will be more relaxed and productive. Before you go, set an agenda based on how much time you have - usually no more than 20 minutes or half an hour. Decide what issues you'd like to discuss (usually no more than two or three), how to frame your message positively, and what specific action or actions you would like your Member to take. Unless you have met with them before, do not assume that Members and staff understand the problem. It is best to start with a description of the problem in your community, and then move on to solutions.

In deciding how to frame your message, it helps to know your Member's professional interests and personal concerns, including congressional committee assignments, memberships and affiliations (often listed on a Member's web site). This may help you gauge what your Member's priorities are and why he or she should be interested in what you have to say. It also helps to know how your Member voted on housing issues. You can review roll call votes on key bills at http://thomas.loc.gov. If the Member's record is favorable, remember to acknowledge his or her past support during the meeting. If a record is unfavorable you may express your concern, but remember that today's opponent may be tomorrow's ally.

Gather written materials to leave with the staff person. To remind Members and staff of the extent of the housing crisis in their districts, copy pages from *Out of Reach* that show the hourly housing wage in each county and Congressional District Profiles that show housing affordability data for renters by Congressional Distsrict, as well as other NLIHC research reports, (or download data from www.nlihc.org). For information on the National Housing Trust Fund as part of the solution, download a copy of the policy proposal and a list of endorsers from your state at www.nhtf.org. Finally, decide who from the group will lead the meeting and what everyone else's roles will be.

The meeting. Be punctual! Security at the House and Senate office buildings can be tight and, if there are hearings or other events in those buildings, the lines to enter the building can be long, so be sure to leave extra time. Be sure also to leave behind items that may trigger a security concern.

Begin the meeting by introducing the attendees and stating the purpose of the meeting. As you raise your first issue, state your views clearly. Remember to start with the problem and then to move on to solutions. Include personal stories and experiences to make key points. Have concrete and specific suggestions for action, such as supporting, sponsoring, co-sponsoring or opposing a bill.

Be honest. If you are asked a question to which you do not know the answer, tell your Member or staff person you will find out the answer and get back to him or her soon. In fact, rather than feeling bad about not having the answer or information, think of it as an excellent reason to get back in touch with your Member or staff person later. Do not make a scapegoat of other programs in making your point. If the Member or staff person suggests that you engage in a discussion of another program, do not get off point. Come back to your agenda. Keep in mind that the Member or the staff person may have to cut the meeting short, so stick carefully to your agenda. Do not do all of the talking. Listen and get a sense of your Member's views on the issue. The Member might have legitimate concerns about the issue that your group should address.

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'. Information is important as it will enable you to develop any follow up that must be done. Leave the relevant materials. Thank the Member or the staff person for his or her time.

Keep the door open for further discussion and lay the foundation for future contact. Even if your Member seems to be leaning against your position, do not write him or her off. Consider your meeting an opportunity to build your relationship with the staff person and to educate the office about your organization's work. Every meeting is an investment that will pay off in the future.

Following your visit. Send a letter or e-mail to your Member and his or her staff thanking them for their time and reaffirming your views and any agreements made in the meeting. Send any information or materials you agreed to provide. If you lobbied on an issue being tracked by your state coalition or NLIHC, report the results of the meeting to them. This is especially crucial on an issue such as the National Housing Trust Fund. Monitor your Member's actions on your issue. Continue to communicate with him or her as the issue advances.

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 Member's district! When writing, make sure you state the issue concisely and specifically, using bill numbers where applicable. To make sure the correct person receives your letter, address it to the attention of the housing staff person. Because security concerns mean that letters are significantly delayed in reaching Congress, it is a good idea to fax as well as mail your letter. Call your Member's office to get his or her fax number.

Handwritten letters can be especially effective. If you are having a meeting of agency staff, board members, clients, etc., start the meeting by handing out blank paper and having everyone take 10 minutes to handwrite a letter to his or her Member. You can provide a sample letter, but encourage people to describe the problem as they see it. Collect the letters and then fax and mail them over the course of a few days. Address letters as follows:

Senate
The Honorable (full name)
Attn: Housing Staffer
United States Senate
Washington, DC 20510

House
The Honorable (full name)
Attn: Housing Staffer
United House of Representatives
Washington, DC 20515

Calling Your Member of Congress

If a letter represents 100 voters, a call from a constituent may be considered as representing as many as 10. 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 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 say who you are, where you are from and what organization or constituency you represent. When possible, have names and numbers of bills you are calling about. The days before a key vote or hearing are critical decision times and an especially effective time to call. You can locate the address and phone number of your Member by going on the NLIHC web site and using our Contact Congress option. A Member of Congress may also be contacted through the Capitol Switchboard at 202-224-3121.

Emailing Your Member of Congress

Unless you are using an email service like the one on the NLIHC web site, it is generally not a good idea to attempt to correspond with your Member using email. Members can receive upwards of 50,000 emails a month and many of these messages will never be read by the appropriate staff. But once you have established a relationship with a staff person and have that staff person's direct email address, email can be an easy and effective way to keep in touch.

Other Advocacy Ideas

Visits, letters and calls are not the only 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.
- 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 get an editorial or other press coverage, be sure to send the clippings to your Member's office.
- Elicit the support of potential allies who are influential with your Member - 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?

Contacting Congress, the White House, and Federal Agencies

Congress · Capitol Switchboard · 202-224-3121

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

U.S. Senate · www.senate.gov

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

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.org

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

Department of Agriculture, Rural Development · 202-720-3631 · 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 · 202-622-1100 · www.treas.gov/cdfi/

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

Federal Housing Finance Board · 202-408-2500 · www.fhfb.gov

Small Business Administration · 202-205-6600 · www.sba.gov

Key Congressional Committees

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 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 as 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. The Subcommittee on Housing and Community Opportunity focuses on public, affordable, and rural housing, community development and flood insurance. The Subcommittee oversees HUD.

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

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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. The Subcommittee on Housing, Transportation, and Community Development is the primary oversight committee for the U.S. Department of Housing and Urban Development (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 also oversees all issues related to public and private housing, senior housing, nursing home construction, and Indian housing issues.

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Mike Johanns (NE)
Mike Crapo (ID)
Mel Martinez (FL)
Jim DeMint (SC)

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. The Subcommittee on Transportation, Housing and Urban Development, and Related Agencies has jurisdiction funding for the departments of Housing and Urban Development and Transportation. It also oversees funding for the Federal Housing Administration and economic and community development programs, such as Community Development Block Grants.

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Sam Brownback (KS)
Lamar Alexander (TN)
Susan Collins (ME)
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How Laws Are Made

The House and Senate processes are replete with rules and procedures to hasten, thwart and kill legislative proposals. The political power and will of those seeking to use these tools can prove critical to their success. The role of congressional staff cannot be overstated. Members of Congress have personal staff in their individual offices. Committee and subcommittee leadership (in both the majority and the minority) have separate committee staff. Both personal and committee staff have significant input in the legislative process.

Laws may be initiated in either chamber of the Congress, the House of Representatives or the Senate. This description, found on the web site of the Government Printing Office (GPO), tracks a bill introduced in the House of Representatives:

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 (a list of bills awaiting action). Here the House Rules Committee may call for the bill to be voted on quickly, limit the debate, or 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.

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 the law, from the U.S. Senate: www.senate.gov/reference/resources/pdf/legprocessflowchart.pdf

The Legislative Process from about.com: http://usgovinfo.about.com/library/weekly/aa010899.htm

Forms of Legislative Action from the U.S. House of Representatives: www.house.gov/house/Tying_it_all.shtml

An Introduction to the Federal Regulatory Process

Once Congress changes an existing law or creates a new one, federal agencies such as HUD must add, delete or modify the text of existing rules by publishing "proposed" regulations for public comment. Advocates and residents can take advantage of the regulatory comment process by using their knowledge and experience to shape how laws are carried out. After final regulations are put into effect, residents and advocates can use them to ensure that local officials abide by the law as directed through regulations.

When Congress changes an existing law or creates a new one, federal agencies such as HUD must add, delete or amend the text of regulations. Laws spell out the general intent of Congress but often cannot include all of the technical details important to achieving Congress' wishes; regulations add those details and present the law's requirements in language that is easier to understand.

Two publications are keys to the federal regulatory process. The *Federal Register* is a daily publication that contains proposed regulations, final rules, official notices, presidential documents and other items. All final regulations published in the daily *Federal Register* are eventually gathered together, or "codified," in the Code of Federal Regulations (CFR). The HUD-related rules in the CFR are updated each April. The federal government uses the words regulation and rule interchangeably.

Summary of the Federal Regulatory Process

After Congress amends a law or passes a new law, the responsible federal agency (HUD, for example) must carry out those changes. To do that, the agency writes proposed rules that are published in the *Federal Register* for public comment. After considering all comments, the agency publishes final regulations and sets a date in the near future for them to go into effect. (The Office of Management and Budget [OMB] reviews both proposed and final rules before they are placed in the *Federal Register*.) Between the date final rules are published and the date they go into effect, the regulations are reviewed by the congressional subcommittee with authority over the issue covered by the rules in order to ensure that they meet but do not overstep congressional intent.

Proposed Regulations. In order to implement laws, Congress has given federal agencies such as HUD the power to write rules and enforce them. When housing law is created or modified, HUD must draft suggested regulations that specify how the law is to be carried out. These are proposed regulations. Sometimes the law that triggered the need for rules will give HUD a deadline for issuing a proposed rule.

Prior to publishing proposed regulations, HUD must send them to OMB (a part of the Executive Office of the President) which has up to 90 days to check whether the proposed rules are consistent with Executive Order 12866 (see the last section of this appendix for more). 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 rule making" (NPRM) in the *Federal Register* that contains the proposed language of the regulations with references to the changes in law that triggered the need for new or amended rules. The public must have an opportunity to submit written comments and is generally given a 60-day period to comment.

The public can read and copy comments made by others at HUD Headquarters, or at www.regulations.gov.

Final Regulations. HUD must consider all public comments and can make changes based on them to then issue final rules. (Before publishing the final rules in the *Federal Register*, HUD must again submit them to OMB for review, which can take up to another 90 days.)

HUD must publish the final rules in the *Federal Register*. In the preamble to the final regulations, 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.

But, before the final regulations do go into effect, they are sent to the congressional subcommittee responsible for the subject matter, as well as to the Government Accountability Office (GAO), to ensure that the rules meet, but do not overstep, congressional intent. It is not unusual for more than a year to pass between publication of proposed rules and issuance of final rules.

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

- Advanced Notice of Proposed Rulemaking (ANPR): 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.
- Direct Final Rules: HUD can issue regulations thought to be minor and non-controversial, but must withdrawn them if negative comments are submitted.

Negotiated Rulemaking, a seldom-used approach, engages knowledgeable people to discuss an issue and negotiate the language of proposed regulations. For example, the FY04 Appropriations Act required HUD to use negotiated rulemaking to make changes to the Public Housing Authority (PHA) operating fund formula. In response, HUD convened a 28-member committee representing PHAs, tenant organizations and tenant advocacy groups.

Petition for Rulemaking allows anyone to 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, it must be in writing and include the basis for denial. Seasoned advocates are not aware of the successful use of this approach by low income advocates.

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. (Advocates are not aware of informal hearings; however, HUD has used informal meetings of interested parties to help inform HUD prior to the development of proposed regulations. For instance, before the Consolidated Plan regulations were drafted, HUD held numerous meetings with a wide array of stakeholders.)

Existing regulations not specifically required by law can be waived by the HUD Secretary. In the past some advocates have succeeded in convincing HUD to waive harmful rules.

How to Find Proposed and Final Regulations in the Federal Register. The advanced search page of the *Federal Register* at www.gpoacess.gov/fr/advanced.html allows for searches of proposed and final rules by typing available information such as “page 12345,” or “24 CFR part 92,” or “housing and urban development AND HOME program.”

To learn whether today’s *Federal Register* contains any proposed or final rules, go to www.gpo.gov/su_docs/aces/fr-cont.html and scroll down to “Housing and Urban Development Department.”

The web page www.regulations.gov provides all rules open for comment and enables electronic submission of comments.

How to Read the Federal Register. There are standard features in the *Federal Register* for both proposed and final rules. The opening heading will look like this (with different numbers and topics):

Department of Housing and Urban Development
24 CFR Part 990
[Docket No. FR-4874-F-08]
RIN 2577-AC51
Revisions to the Public Housing Operating Fund Program
AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD
ACTION: Final rule

Below the heading there will be:

SUMMARY: This is a short presentation of what is proposed or implemented and what the related issues and rulemaking objectives are.

DATES: Here is either: "Comment due date," the date by which comments to proposed rules are due; or "Effective Date," the date final rules will go into effect.

ADDRESSES: For proposed regulations only, this section provides the room number and street address for sending written comments. More and more it also provides a web address when electronic commenting is possible.

FOR FURTHER INFORMATION CONTACT: The name of a major HUD staff person responsible for the issue is presented, along with a phone number and office address.

SUPPLEMENTARY INFORMATION: This section is often called the "preamble" and can go on for many pages. It contains a detailed discussion of the issues and the rule making objectives. The law or sections of a law that give legal authority for the regulations are generally mentioned. With final rules, there must also be a discussion of all of the significant public comments submitted, along with HUD's reasons for accepting or rejecting them.

List of Subjects in nn CFR Part nnn: The actual changes begin at this heading. Key words are presented here.

Then there is a sentence that says: "Accordingly, for the reasons described in the preamble, HUD revises [or proposes to revise] *nn* CFR Part *nnn* to read as follows:"

The sections of the regulations subject to change then follow in numerical order.

At the very end the document is dated and signed by the appropriate HUD official.

Sending Comments about Proposed Regulations. To send comments, follow the guidance provided in the addresses section. For example, regarding proposed changes to the Consolidated Plan rules one would have addressed comments to:

Regulations Division, Office of General Counsel
Room 10276, Department of Housing and Urban Development
451 Seventh Street, SW Washington, DC 20410-0500

RE: Docket No. FR-4923-P-01; HUD 2004-0028
Revisions and Updates To Consolidated Plan

It is very important to indicate the docket number, and it is helpful to include the subject title as it appeared in the heading of the proposed rule.

Beyond that there is no set format for writing comments. It is best to indicate which of the proposed rules are of concern by citing them and commenting on them individually. For example:

ABC Tenant Organization thinks that there are problems with proposed section 91.315(k)(3) because…
We strongly endorse proposed section 91.205(b)(1) because…

Advocates should rely on their experiences to explicitly state why they agree or disagree. When there is disagreement, suggest words that address the concern. Don't just write about the problems; be sure to tell HUD what is good. Declaring support for key provisions is often essential to counterbalance negative comments from those in opposition.

The Code of Federal Regulations (CFR). All final rules published in the daily *Federal Register* are eventually codified by placing them in the *Code of Federal Regulations*. The CFR is updated each April for HUD-related rules. To look up a rule that has not changed in the past year, turn to the CFR.

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. For example, within Title 24, Part 92 covers the HOME program rules, Part 582 has the Shelter Plus Care regulations, and Part 903 lays out the Public Housing Agency Plan (PHA Plan) rules.

There are four ways to look up regulations in the CFR.

The traditional approach to finding rules in the CFR is to go to www.gpoaccess.gov/cfr/index.html. To find a regulation either type in the title and part number (if known) or click on the link “Browse and/or search the CFR.” From that browse/search feature, scroll down to Title 24 and click on the most recent year. That will bring up Title 24 and all of its parts. This is not adequate if the part number is not known because not all parts are listed logically. For example, although the HOME program (Part 92) is run by the Office of Community Planning and Development, Part 92 is not in the CPD section. However, by entering HOME Program in the Search Terms box, Part 92 is the second option listed. For a list of key parts, see the last section of this appendix.

A second option for looking up housing rules is to find a link on the web page of the HUD program area of interest. Many, but not all, HUD programs make it easy. However, sometimes the most recent version is not linked.

There are now two relatively new ways to find regulations. One new approach is the test site for the “e-CFR” at www.gpoaccess.gov/databases.html. Click on Electronic Code of Federal Regulations (e-CFR), which brings up the e-CFR home page. On the e-CFR home page, select Title 24 from the dropdown box and a list of HUD-related parts will appear. The e-CFR is updated frequently, so it should contain changes made by final rules in the *Federal Register* before those changes are placed in the formal *Code of Federal Regulations* in April. The Office of the Federal Register stresses that the rules available there are not an official legal edition of the CFR.

The other relatively new way to find rules is to use www.regulations.gov. The Regulations by Topic link offers the topic Family, Home, and Community, which links to Title 24 in the CFR.

Talking About Regulations. Two levels of regulatory citation have already been mentioned, the title and the part. Below that come the section that covers one provision of a program rule, and then a paragraph that provides specific requirements.

For example, the PHA Plan regulations are in Title 24 at Part 903, written as 24 CFR 903. Resident Advisory Boards (RABs) and their role in developing the annual PHA Plan are presented in Section 13, cited as 24 CFR 903.13. Paragraph (c) specifies that PHAs must consider the recommendations made by the Resident Advisory Board, and subparagraph (c)(1) goes into more detail by requiring PHAs to include a copy of the RAB’s recommendations with the PHA Plan. This is written as 24 CFR 903.13(c)(1).

The Principles in Executive Order 12866
The principles that OMB uses to review proposed and final rules include:

- Identify and assess available alternatives to direct regulation.
- Design regulations in the most cost-effective manner to achieve the regulatory objective.
- Assess both the costs and benefits of the intended regulation, and propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs.
- Base decisions on the best reasonably obtainable scientific, technical, economic and other information.
- Identify and assess alternative forms of regulation.
- Tailor regulations to impose the least burden on society.

For More Information

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

National Archives and Records Administration (NARA) has a good online tutorial at www.archives.gov/federal-register/tutorial/index.html.

Office of the Federal Register · 202-741-6000 · www.archives.gov/federal-register

Regulations.gov · 877-378-5457 · www.regulations.gov

e-CFR · ecfr@nara.gov · www.gpoaccess.gov/databases.html

How To Make a Freedom of Information Act (FOIA) Request

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

In order to use FOIA, advocates don't have to have legal training or use special forms. All that is necessary is a simple letter. This appendix provides some tips for submitting a FOIA request.

FOIA applies to federal agencies such as HUD and USDA's Rural Development (RD), but not to the central office of the White House, the Congress or the courts. Each federal agency has its own separate practices and regulations indicating how the FOIA process works within it.

- HUD's FOIA webpage is http://www.hud.gov/offices/adm/foia/index.cfm.
- USDA's FOIA webpage is http://www.usda.gov/da/foia.htm.
- RD's FOIA webpage is http://www.rurdev.usda.gov/efoia/index.html.

See "For More Information" at the end of this appendix for links to HUD and USDA/RD FOIA regulations.

The federal agency with primary responsibility for FOIA is the U.S. Department of Justice. Its web site (www.usdoj.gov/foia) has all of the basic information and links to all of the other agencies' FOIA websites.

Records include not only print documents (such as letters, reports and papers) but photos, videos, sound recordings, maps, email and electronic records. Agencies are not required to research or analyze data for a requester. Agencies are not required to create a record or document in response to your request; they are only obligated to look for and provide existing records. Amendments to the law in 1996 do, however, require agencies to make reasonable efforts to search for records in electronic form and defines "search" to mean to review, including by automated means, agency records (e.g., performing relatively simple computer searches).

This appendix is a streamlined summary focusing on housing advocates' FOIA needs. It points to HUD, USDA and RD guidance and does not cover all features of FOIA such as aspects important to the media, lawyers and commercial interests.

A FOIA Might Not Be Necessary

Look Before Leaping. Before considering a FOIA request, it is best to carefully explore the HUD or RD web sites and be fairly confident that the information you are looking for is not already available online.

HUD's website is difficult to navigate if you don't already have a link to a specific program area. One way to get started is to go to the HUD home page and click on "About HUD." On that page, in a box titled "HUD Offices," the key "Program Offices" are linked (http://www.hud.gov/about/index.cfm).

The RD home page, http://www.rurdev.usda.gov/rd/index.html, is even more confusing. From it you can get to the RD programs pages at http://www.rurdev.usda.gov/rhs/. However, there is not much information on these pages.

HUD's FOIA webpage also has links to its "E-FOIA Reading Room" http://www.hud.gov/offices/adm/foia/foiareadingroom.cfm, and from there to its "Online Library" http://www.hud.gov/library/index.cfm and to "Frequently Requested Materials" http://www.hud.gov/offices/adm/foia/frequentrequestedmaterials.cfm.

Start With an Informal Verbal Request. The information that you seek might be readily available from agency staff in the Field Offices, Regional Offices or Headquarters Offices. It is often quicker and easier to start with an informal approach. Simply phone the agency office and ask for information or send an email using informal language; agency staff are frequently willing to provide information. Formal, written requests generally trigger a slower, formal, bureaucratic process.

HUD local offices can be found at http://www.hud.gov/local.

RD State Offices, Area Offices and Local Offices can be located at http://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.

How To Make a FOIA Request

A FOIA Is Simply a Letter. It doesn't take a law degree to make a FOIA request. Just write a simple letter asking for information, being as specific as possible.

Addressing a FOIA Letter

- On the envelop write on the lower left corner: "Freedom of Information Act Request."

- Letters to HUD should be addressed to:

o For requests to HUD Field Offices, the "HUD FOIA Liaison."
HUD has many "FOIA Requester Service Centers" http://www.hud.gov/offices/adm/foia/foiarequestorservicecentercontacts.doc.

If you are not happy with the response from a FOIA Requester Service Center, you can write the Regional FOIA Public Liaison, http://www.hud.gov/offices/adm/foia/foiaservicecenters.cfm.

o For requests to HUD Headquarters, specific program area "FOIA Liaisons" are at http://www.hud.gov/offices/adm/foia/HeadquartersFOIALiaison.doc.

If you are not happy with the response from the Headquarters program FOIA Liaison, write to the HUD Headquarters "FOIA Public Liaison," http://www.hud.gov/offices/adm/foia/foiaservicecenters.cfm.

If you are not sure which program office to send a FOIA request to, you can either write to the "Chief FOIA Officer" in the Office of General Council or submit an electronic FOIA request at http://www.hud.gov/offices/adm/foia/foia.cfm.

(Executive Order 13,392, December 14, 2005 requires each agency to have one or more "FOIA Requester Service Centers" and "FOIA Public Liaisons.")

- Letters to RD should be addressed to:

o For records held at the local level, write to the Rural Development FOIA Coordinator in that state, http://www.rurdev.usda.gov/efoia/requests.htm#goto.

o For records held at Headquarters or the Finance Office in St. Louis, write to the Rural Development FOIA Officer in Washington, D.C., http://www.rurdev.usda.gov/efoia/requests.htm.

o If you are not sure where the information is located, send the FOIA request to the Rural Development FOIA Officer in Washington, D.C.

Contents of a FOIA Letter. The FOIA letter can be very simple and short. You don't have to have a legal background to write one. You don't have to explain why you are making the request; however, in order to get fees waived, you essentially do have to explain why (see the third step below).

First, state that you are making a request under the Freedom of Information Act.

Second, describe what you are looking for in as much detail as possible.

- It helps to include the title of a document or the number of a form, but it isn't necessary.
- Give specifics about dates, locations, types of beneficiaries, etc. in order to narrow the search for information to only what you need.
- Try to follow the instructions given by the agency on its website and/or in its regulations. (This just helps to

minimize delays and misunderstanding. Go ahead and write a FOIA letter even if you can't find the agency's instructions on its website of if you are not comfortable reading regulations. The HUD and RD FOIA web pages are listed in the "How To Make a FOIA Request," above, and links to the regulations are in the "For More Information" section below.)

Third, request a waiver of any fees by writing:

"I request a waiver of all fees because disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of HUD [or RD], and because as a nonprofit organization we have no commercial interest in the information." (*This language comes from a Congressional sample letter and echoes the law.*)

Be sure to explain your organization's mission and its nonprofit nature in order to demonstrate that you don't 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.

See the next section of this appendix for more about fee waivers and reductions.

Other elements to consider including in a FOIA letter are:

- A telephone number so that a FOIA Liaison can call for clarification about your request.
- Whether you prefer the information in paper or electronic formats. (The law requires agencies to provide information in the form requested if the agency can readily reproduce it in the requested format.)
- A sentence asking for a detailed justification if any information is denied.
- A sentence reminding the FOIA Liaison that the law requires the agency to write back within 20 days indicating whether the request will be processed.

A sample FOIA letter is on the last page of this appendix.
Be sure to keep a copy of the FOIA letter for your records.

Means of Sending a FOIA Letter. None of HUD's guidance explicitly state what means of delivery is acceptable. Beyond the U.S. Postal Service, the HUD website has its own online submission option for general requests to Headquarters, http://www.hud.gov/offices/adm/foia/foia.cfm, and the list of "FOIA Requester Service Centers" includes fax numbers. It is a good idea to call the office you intend to send the request to and ask what methods are allowed and preferred.

RD's FOIA web page states that requests may be sent by mail or fax, but email is not acceptable because a signature is necessary.

Fees and Fee Waivers

Low income housing advocates should always attempt to get fees waived.
The law says:
Documents shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if the disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.
[5 USC Section 522(a)(4)(A)(iii)]

Current HUD regulations [24 CFR Section 15.110(h)] mostly echo the law; however, instead of saying "shall" furnish without charge, the regs say HUD "may." USDA and RD regulations do not directly address waivers; waivers are discussed in Appendix A of the USDA regs. Appendix A primarily repeats the Department of Justice's ambiguous 1987 guidance (see below), but also adds two potentially beneficial points:

- RD may waive fees for nonprofits undertaking public safety, health or welfare activities.
- RD may waive fees for nonprofits when it is in the interest of the program.

USDA's web-based "FOIA Reference Guide" simply parrots the law, but RD's FOIA "Instruction 2018 – F" addresses waivers, repeating the provisions of Appendix A of the USDA regs.

Sometimes an agency will ask for more information before granting a waiver.

For any non-commercial requests, agencies will not charge for the first two hours of searching for the information or for the first 100 pages of copying.

Each agency is allowed to set fees that are "reasonable standard charges" for the direct cost of searching and copying. In most instances, fees are based on the salaries and benefits of the staff involved in responding to the FOIA request. The fees are presented in each agency's regulations. HUD's are at Section 110(c), and USDA's are in Appendix A of the regulations.

If you don't think you qualify for a fee waiver or reduced fees, or if you have been denied a waiver or reduction and still want to proceed with a FOIA request, you might want to set limits in your FOIA letter. For example, you might ask HUD or RD to contact you if estimated search and copying fees exceed a dollar amount that you won't go beyond. HUD and RD will not charge for fees under $25. Agencies can't require an advance payment unless fees are estimated to be greater than $250.

You can appeal a denial of a fee waiver. HUD's regs require an appeal of a denial of a fee waiver to include: the address of the office which denied the waiver, the fee charged, why you think fees should be waived and copies of any correspondence regarding fees. HUD must respond in 20 working days. USDA's regs and "FOIA Reference Guide" state that you can appeal a fee waiver denial and requires appeals to be made within 45 days following the regular appeal instructions (as mentioned in Appeals, below).

Department of Justice Fee Waiver Guidance. The Department of Justice (DOJ) issued government-wide fee waiver policy guidelines on April 2, 1987. HUD's regulations, USDA's regulations (in Appendix A), and RD's "Instruction 2018 – F," all echo the DOJ guidance.

The DOJ guidelines "encourage agencies to waive fees…whenever the statutory fee waiver standard is met." However, DOJ admits that these guidelines establish a more rigorous standard for meeting "the public interest." For nonprofits the guidance contains four basic factors (directly from words in the statute) presented in rather ambiguous language.

1. Does the subject of the request concern the "operations or activities of the government?...The subject matter must specifically concern identifiable operations or activities of the federal government – with a connection between them that is direct and clear, not remote or attenuated." DOJ admits that in most cases records held by a federal agency will likely meet this threshold.
2. What is the "informative value" of the information? Is it "likely to contribute to an understanding of government operations or activities?" What "potential does it hold for contributing to the public understanding of government operations or activities?"
3. Will it contribute to "public understanding" as opposed to an individual's understanding or that of a "narrow segment of interested persons?" DOJ says the identity of the requester should be considered to determine whether the requester is in a position to contribute to public understanding. What is the requester's qualifications or expertise, and is the requester intending to and able to get the information to the general public?
4. Is the information likely to contribute "significantly" to public understanding? What will the impact be on public understanding, compared to the current level of public understanding? DOJ says that assessing "significance" is an objective determination, not a subjective one.

HUD and RD Must Respond in Twenty Days

HUD and RD must grant or deny your FOIA request within 20 working days of receiving it. (The 20-day period doesn't start until the FOIA office of the appropriate program or geographic area gets the request.) This response is

simply to tell you whether the agency intends to provide the information. There is no time limit on actually providing the information, however, USDA's regulations require RD to approximate the date the information will be provided. If HUD or RD denies your request they must tell you why and explain that you have a right to appeal (see Appeals, below).

If there are "unusual circumstances" the agency can tack on an extra 10 days, and must give you written notice. According to HUD and USDA regs, unusual circumstances include the need to review large numbers of records, consult with other agencies and collect information from remote locations.

Most of the time the 20-day response period is not met due to limited numbers of staff and high volumes of requests. The law allows you to consider a request to be denied if the deadline is not met, enabling you to file an administrative appeal or a law suit.

However, before jumping to appeal, it might be more productive to simply call and ask about the status of your request. Keep notes of phone calls and copies of all correspondence. Given the reality of request backlogs at agencies, it is helpful to keep in contact with your FOIA Liaison to make sure your request hasn't been forgotten and to emphasize that you are still interested. But, don't hound your FOIA Liaison, be reasonable and assume that the Liaison is simply overworked.

Expedited Requests

If there is an imminent threat to the life or physical safety of someone or if there is an urgent need to inform the public, you can ask for expedited processing. HUD and RD will notify you within 10 working days whether it will speed up processing, giving your request priority and bumping other requests ahead of yours in the queue.

Regarding a situation of urgently needing to inform the public, HUD's regs describe a "compelling need" for expedited processing as a situation in which an organization is "primarily engaged in distributing information and there is an urgency to inform the public concerning actual or alleged federal government activities." USDA's regs require a nonprofit to demonstrate that their primary activity involves publishing or otherwise disseminating information "to the public as a whole, and not just a particular segment or group." USDA explains that "urgency" implies that the information has particular value that will be lost if not disseminated quickly.

When seeking expedited processing, your request letter should demonstrate a compelling need and state: "I certify that the statements contained in this letter are true and correct to the best of my knowledge and belief."

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 or personal information.

One exemption might be relevant to housing advocates, "internal government communications." 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. For example, a letter from RD to HUD listing potential ways they could implement a joint tenant protection voucher program would be exempt prior to the program's implementation. Any factual information in such correspondence must be made available, as long as revealing the facts would not unveil too much of the ongoing decision-making process. Once the program is finalized, such a letter might no longer be exempt because it provides the public with an understanding of the basis for the final policy decision.

The letter denying a FOIA request must give the reasons for denial and inform you of your right to appeal to the head of the agency.

Appeals

To appeal a HUD denial of information, send a letter to the HUD official indicated in the denial letter within 30 days. If that appeal fails, bump up the appeal to the HUD Secretary. To appeal an RD denial, send a letter to the RD official indicated in the denial letter within 45 days. If that appeal fails, bump up the appeal to the RD FOIA Officer; if still not satisfied, write to the Rural Housing Service Administrator.

Mark both the envelop and the letter "Freedom of Information Act Appeal" and include any reference number that the agency might have included in its denial letter. HUD's regulations require appeals to include: a copy of the original FOIA request, a copy of the denial letter and your arguments for releasing the information. USDA's regs do not specify the content of an appeal letter, but its online guide suggests including the number assigned to your initial request by RD along with the date of the denial.

The agency has 20 working days to make a decision regarding an appeal.

Appeals can also be made if the agency indicates that no records were located and you think the agency failed to carry out an adequate search.

If part of your request is accepted but part is denied, there is no harm in appealing the denial

For More Information

Advocacy Organizations

- Public Citizen's Freedom of Information Clearinghouse, http://www.citizen.org/litigation/free_info/.
  - *Aids for Drafting FOIA Requests*, www.citizen.org/litigation/free_info/foic_aids/index.cfm.
  - *Freedom of Information Act User's Guide*, http://www.citizen.org/documents/FOIABrochureWEB.pdf.
- The National Security Archive, http://www.gwu.edu/~nsarchiv/nsa/foia.html.
  - *FOIA Basics* http://www.gwu.edu/~nsarchiv/nsa/foia/guide.html.
- The Reporters Committee for Freedom of the Press, *How to Use the Federal FOI Act*, http://www.rcfp.org/foiact/index.html.

Basic Government Guides

- General Services Administration, *Your Right to Federal Records*, http://www.pueblo.gsa.gov/cic_text/fed_prog/foia/foia.pdf.
- U.S. House of Representatives, Committee on Government Reform, *A Citizen's Guide to Using the Freedom of Information Act,* http://www.fas.org/sgp/foia/citizen.pdf.
- Department of Justice, *Freedom of Information Act Guide*, http://www.usdoj.gov/oip/foi-act.htm.

HUD, USDA, RD, and Department of Justice web pages

- Department of Justice (agency responsible for coordinating all agencies' FOIA activities) http://www.usdoj.gov/oip/index.html.
  - Freedom of Information Act, 5 USC Section 552, http://www.usdoj.gov/oip/foiastat.htm.
- HUD's FOIA webpage, http://www.hud.gov/offices/adm/foia/index.cfm.
  - HUD's FOIA regulations [24 CFR part 15], http://www.hud.gov/offices/adm/foia/foiareg.cfm.
  - "Making a FOIA Request" http://www.hud.gov/offices/adm/foia/foiarequests.cfm.
  - HUD's online form for FOIA Headquarters requests, http://www.hud.gov/offices/adm/foia/foia.cfm.
- USDA's FOIA webpage, http://www.usda.gov/da/foia.htm.
  - USDA's FOIA regulations [7 CFR part 1], http://www.usda.gov/da/usdaregs.pdf.
  - RD's supplemental FOIA regulations [7 CFR part 2018 Subpart F], http://www.access.gpo.gov/nara/cfr/waisidx_05/7cfr2018_05.html.
  - USDA's "FOIA Reference Guide" http://www.usda.gov/da/foia_guide.htm.
  - RD's FOIA webpage, http://www.rurdev.usda.gov/efoia/index.html.
  - RD's "How to Make a FOIA Request," http://www.rurdev.usda.gov/efoia/requests.htm.
  - RD's FOIA Instructions ("RD Instruction 2018 – F"), http://www.rurdev.usda.gov/regs/regs/pdf/2018f.pdf.

Sample FOIA Letter

Date

Agency/Program FOIA Liaison
Name of Agency or Program
Address

RE: Freedom of Information Act Request

Dear :

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.]
[Explain how the information will contribute to public understanding of HUD/RD operations or activities.]
[Explain how not just you or your organization, but a broader segment of the public will gain in understanding. Describe the role and expertise of your organization as it relates to the information. Describe how the information will be disbursed to a broader audience.]
[Explain how the current level of public understanding will be greatly increased by the release of this information.]

Optional: As provided by law, a response is expected within 20 working days.

Optional: 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.

Optional: If you have any questions about this request, please phone me at _____.

Sincerely,

Name
Address

Statutory Citations

Section 3 Housing and Urban Development Act of 1968, 12 U.S.C. 1701u, economic opportunities for low and very low income persons.

Section 5 United States Housing Act of 1937, 42 U.S.C. 1437c, funding for public housing and Section 8 housing.

Section 8 United States Housing Act of 1937, 42 U.S.C. 1437f, low income rental housing assistance.

Section 108 National Housing Act, 42 U.S.C. 5308, loan guarantees.

Section 202 Housing Act of 1959, 12 U.S.C. 1701q, elderly and handicapped housing.

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), refinancing.

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 operating loss 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 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 531 HUD Appropriations Act, 1998 amends Section 236 of the National Housing Act to provide for rehabilitation grants.

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.

Section 1311 Housing and Economic Recovery Act of 2009, P.L. 110-289, National Housing Trust.

Title II National Housing Act, 12 U.S.C. 1707, et seq., FHA mortgage insurance;

Title V Housing Act of 1949, 42 U.S.C. chapter 8, subchapter III, rural housing.

Civil Rights Act of 1964, P.L. 88-352, prohibits discrimination in federally assisted housing.

Title VIII Civil Rights Act of 1968, 42 U.S.C. 3601-3639, prohibits discrimination in sale or rental of housing.

Glossary

The assistance of the Local Initiatives Support Corporation in the preparation of this document is appreciated.

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 FY09 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.

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.

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.

BASIC RENT. The rent required to operate a Section 236 project, including debt service on the subsidized mortgage at one percent interest. This is the minimum rent payable by tenants (absent any additional rental subsidy).

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 tenant 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.’ 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 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. In the past, 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.

CAPITAL GAIN. The cash proceeds realized upon sale of property, if any, minus the owner's capital account. Capital gain is subject to federal and state tax when the property is sold.

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 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 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.

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 REINVESTMENT ACT (CRA). A program that requires periodic evaluations of insured depository institutions and their efforts in helping meet the credit needs of its entire community.

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).

COOPERATIVE. An organization owned by its members.

CREDIT UNION. A not-for-profit 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. The 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 preservation program. Program 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.

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 (EUR). 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 charted government-sponsored enterprise providing financial products and services, including purchase of mortgages from originators in order 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.

FREDDIE MAC (FEDERAL HOME LOAN MORTGAGE CORPORATION). A Federally charted government-sponsored enterprise providing financial products and services, including purchase of mortgages from originators in order to facilitate new mortgage lending. Similar to Fannie Mae.

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 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.

FEDERAL NATIONAL MORTGAGE ASSOCIATION (Fannie Mae). The Publicly owned, government-sponsored corporation established in 1938 to purchase both government-backed and conventional mortgages from lenders and securitize them. Its objective is to increase the affordability of home mortgage funds for low, moderate, and middle income home buyers. Fannie Mae is a congressionally chartered, shareholder-owned company, and the largest source of home mortgage funds in the United States. Because of its closeness to the federal government, which is perceived to back the obligations of Fannie Mae with an implicit guarantee, its securities are considered second in safety only to those of the U.S. Treasury. This is a repeat definition

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. The 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 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 budget. 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, FY06 begins on October 1, 2005, and ends on September 30, 2006.

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 homeowner 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.

FREEDOM OF INFORMATION ACT (FOIA). This generally refers to the process of securing available 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.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION (Ginnie Mae). 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. Unlike an insured loan, no insurance fund exists and no insurance premiums are paid.

HOME INVESTMENT PARTNERSHIPs PROGRAM. The HOME program, administered by HUD's Office of Community Planning and Development, provides formula grants to states and localities (See 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). The legislation requiring most financial institutions and mortgage lenders that make mortgage loans, home improvement loans, or home refinance loans to collect and disclose information about their lending practices.

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, www.census.gov/hhes/www/ahs.html.)

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.

INSPECTOR GENERAL. The HUD official appointed by the president who is responsible for conducting audits and investigations of HUD's programs and operations.

INTEREST REDUCTION PAYMENT (IRP). In a Section 236 project, the Interest Reduction Payment or interest subsidy provided by HUD on a monthly basis makes up the difference between the mortgage debt service actually paid and the debt service that would have been paid at an interest rate of one percent.

LIKE KIND EXCHANGE. A tax-deferral mechanism involving a "swap" of the project being sold for a replacement project. The capital gains tax is deferred until the replacement property is sold.

LEVERAGING. The maximization of the effects of federal assistance for a project by obtaining additional project funding from non-federal sources.

LOAN MANAGEMENT SET-ASIDE (LMSA). A form of Section 8 used to support properties that need assistance, either to alleviate residents' rent hardship or to prevent high vacancy and potential default. Originally created in 1976, LMSA has been allocated annually thereafter.

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.

LOW INCOME HOUSING PRESERVATION AND RESIDENT HOMEOWNERSHIP ACT (LIHPRHA). The 1990 statute authorizing the "permanent" federal multifamily preservation program. Program active 1990 - 1996.

LOW INCOME HOUSING TAX CREDITS (LIHTC). Tax Credits are allocated to states on a per-capita basis and allocated by the states to affordable rental housing development and rehabilitation projects. Tax Credits are authorized pursuant to Section 42 of the Internal Revenue Code.

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.

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. The debt instrument by which the borrower (mortgager) 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.

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.

MULTIFAMILY ASSISTED HOUSING REFORM AND AFFORDABILITY ACT (MAHRA). The 1997 statute authorizing the Mark to Market program and renewals of expiring Section 8 contracts.

NEW CONSTRUCTION/ SUBSTANTIAL REHAB. A form of project-based Section 8 assistance used in the original development and financing of the housing. Projects can be both insured and uninsured (with conventional or state/local bond financing). These contracts are long-term (20-40 years). Active 1976 - 1985.

NOTICE OF FUNDING AVAILABILITY (NOFA). A notice by HUD to inform potential applicants that program funding is available.

OBLIGATION. An order placed, contract awarded, service received, or similar transaction that will require payment.

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). The ORHP processes applications to prepay RHS multifamily housing loans and preserve housing as affordable low and very lowincome housing.

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.

PAYMENT STANDARD. The amount used to determine how much rent a housing authority will pay monthly to subsidize a 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. A system developed by HUD for analyzing costs of operating public housing developments, used as the basis for calculating the need for operating subsidies.

PHYSICAL PROBLEMS. According to the definitions used for the 2001 American Housing Survey, “a unit has severe physical problems if it has any of the following five problems: Plumbing. Lacking hot or cold piped water or a flush toilet, or lacking both bathtub and shower, all inside the structure (and for the exclusive use of the unit, unless there are two or more full bathrooms). Heating. Having been uncomfortably cold last winter for 24 hours or more because the heating equipment broke down, and it broke down at least three times last winter for at least 6 hours each time. Electric. Having no electricity, or all of the following three electric problems: exposed wiring, a room with no working wall outlet, and three blown fuses or tripped circuit breakers in the last 90 days. Hallways. Having all of the following four problems in public areas: no working light fixtures, loose or missing steps, loose or missing railings, and no working elevator. Upkeep. Having any five of the following six maintenance problems: (1) water leaks from the outside, such as from the roof, basement, windows, or doors; (2) leaks from inside structure such as pipes or plumbing fixtures; (3) holes in the floors; (4) holes or open cracks in the walls or ceilings; (5) more than 8 inches by 11 inches of peeling paint or broken plaster; or (6) signs of rats in the last 90 days.” A housing unit has moderate physical problems “if it has any of the following five problems, but none of the severe problems: Plumbing. On at least three occasions during the last 3 months, all the flush toilets were broken down at the same time for 6 hours or more…. Heating. Having unvented gas, oil, or kerosene heaters as the primary heating equipment. Kitchen. Lacking a kitchen sink, refrigerator, or cooking equipment (stove, burners, or microwave oven) inside the structure for the exclusive use of the unit. Hallways. Having any three of the four problems [considered severe physical problems under Hallways]. Upkeep. Having any three or four of the six problems listed [considered severe physical problems under Upkeep].

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.

RECONCILIATION BILL. A bill containing changes in law recommended by House or Senate committees pursuant to reconciliation instructions in a budget resolution.

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 non-taxable 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.

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. 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 to match the terms and conditions of a third-party offer to purchase the property, within a specified time period. Holder must be notified of the third party offer and may be required to close by a designated date.

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."

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.

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.

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 8 PROJECT-BASED CONTRACTS. 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 tenant rental 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. Administered by HUD's Office of Public and Indian Housing and local housing authorities, the Section 8 Project-Based Voucher program allows local housing authorities to contract with property owners to ensure that Section 8 voucher holders to will occupy up to 25 percent of a building's units. When assisted tenants move and take their vouchers with them, new voucher holders replace them.

SECTION 202. A HUD program created in 1959 that provided 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) BMIR. A HUD program under which the federal government provided direct loans at a below-market interest rate (3 percent) and 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. RHS programs authorized by Sections 514 and 516 of the Housing Act of 1949. They may be used to buy, build, improve or repair housing for farm laborers.

SECTION 515 RURAL RENTAL HOUSING PROGRAM. A program that 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 Section 515 of the Housing Act of 1949.

SECTION 533 HOUSING PRESERVATION GRANT PROGRAM (HPG). This program grants funds available from RHS to promote preservation of Section 515 properties. Authorized by Section 533 of the Housing Act of 1949.

SECTION 538 RENTAL HOUSING LOAN GUARANTEES. They enable RHS to 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 by Section 538 of the Housing Act of 1949.

SECTION 811. Provides funds to nonprofit organizations to develop rental housing with the availability of 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.

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. TANF was due for reauthorization in 2003, but as of early April, 2004, such reauthorization had yet to be enacted.

VERY LOW INCOME. Defined as a household income 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.

For More Information

2001 American Housing Survey Definitions · www.census.gov/hhes/www/housing/ahs/ahs01/appendixa.pdf

HUD's Glossary of Terms · www.hud.gov/cfo/glossary.html

Advocates' Guide Authors

NLIHC is grateful to the authors of Advocates' Guide articles, including:

Nancy Bernstine. Nancy Bernstine serves as the Executive Director of the National AIDS Housing Coalition, a national housing advocacy and policy organization which focuses on the housing needs of people with HIV/AIDS. Previously, she was a member of a Washington, DC, law firm representing non-profit housing organizations and housing industry trade associations and has worked in senior policy positions in other national nonprofit housing organizations. Nancy serves on the board of the National Low Income Housing Coalition, 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.

Catherine Bishop. Catherine Bishop has 30 years of experience in federal housing law and is a recognized legal expert in the field. A veteran litigator, trainer and advocate, Ms. Bishop has built long-standing relationships with residents, housing, legal and policy advocates, as well as with numerous representatives of HUD and housing authority officials, nationwide. Ms. Bishop currently focuses on public housing and voucher issues including full utilization of vouchers, portability and discrimination against source of income, and tenants' rights and participation, the PHA Administrative Plan process, and HOPE VI and demolition and disposition of public housing, promoting and improving programs such as Section 3, an employment opportunity obligation attached to housing and community development funding and issues related to ensuring that individuals who have previously been incarcerated and paid their debt to society have the opportunity to reside in federally assisted housing.

Mary E. Brooks. Mary Brooks is the Director of the Housing Trust Fund Project, created the Project in 1986, and now works out of California. She has always worked in the field of low income housing, and has a Masters 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 and is widely regarded as the national expert in the field of housing trust funds.

Linda Couch. Linda Couch is the Deputy Director of the National Low Income Housing Coalition, which is dedicated solely to ending America's affordable housing crisis. Linda has worked at NLIHC since 1995 except for three years at the American Association of Homes and Services for the Aging. Linda also 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 Masters of Public Affairs from the University of Connecticut and a B.A. from George Washington University.

Martha Coven. Martha Coven served as the Senior Legislative Associate at the Center on Budget and Policy Priorities, where she worked on a broad range of issues, including the federal budget, housing, Social Security, welfare, and climate change. She also routinely provides training in the federal budget process for national and state-based non-profits. Before coming to the Center in 2001, Coven worked on health care policy at Consumers Union, the publisher of Consumer Reports magazine. Her prior experience includes five years on Capitol Hill, four of which were spent working for the House leadership on a variety of communications and domestic policy initiatives. Coven holds a B.A. in economics and a law degree from Yale University.

Jennifer Cowell. Jennifer Cowell has served as the Director of Congressional Relations at the Council of Federal Home Loan Banks for three years. Prior to coming to the Council, she spent three years in the office of Congressman Jim Gerlach, handling his Financial Services Committee work within her portfolio of issues. She also spent two years working for Congressman Pat Toomey. Jennifer is a graduate of Pennsylvania State University.

Sheila Crowley. Sheila Crowley is the President and CEO of the National Low Income Housing Coalition, where she heads a membership organization dedicated solely to ending the affordable housing crisis in America. She joined the staff of the National Low Income Housing Coalition in December 1998, after two decades in Richmond, Virginia 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 1996-97 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.

Ed Gramlich. Ed Gramlich has been at NLIHC since October 2005. In December 2007 he took on the role of Director of NLIHC's Outreach Team. For the first two years at NLIHC his primary responsibility was staffing the RegWatch Project, an endeavor to expand the Coalition's capacity to monitor federal regulatory and administrative actions – with a focus on preserving the affordable housing stock, both public and assisted. Prior to joining the staff of the Coalition, Ed 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, Ed also devoted considerable time to providing technical assistance to groups concerned about the negative impacts of UDAGs in their community.

Kai Fillion. Kai Fillion joined the Economic Policy Institute in 2008. Before that, he worked as a research assistant and student at the University of New Hampshire, spent two years as a Peace Corps volunteer in Jamaica, and three years as an electronic technician. His goal is to create economic analyses that are meaningful and comprehensible, and which promote income equality. Kai received his B.S. in Electrical Engineering from UC Berkeley, and his M.A.in Economics from the University of New Hampshire.

Danna Fischer. Danna Fischer is the Legislative Director and Counsel for the National Low Income Housing Coalition. Before joining the Coalition she was a Senior Director at Freddie Mac where she was responsible for the company's relationship with HUD. Danna got her start in housing policy as counsel to the Housing Subcommittee of the House Committee on Banking, Finance and Urban Affairs (now the House Committee on Financial Services). On the committee, she worked on a wide range of housing issues including the development of the HOME program, housing preservation, McKinney revisions, Section 8 reauthorizations and public housing.

Wendy Helgemo. Wendy Helgemo, Esq., (Ho-Chunk) has served as the Director of Governmental Affairs at the National American Indian Housing Council since 2006. Prior to coming to NAIHC in September 2006, Ms. Helgemo was a staff attorney for the National Indian Gaming Commission. She has also served as Tribal Counsel in the Department of Justice of the Ho-Chunk Nation and as deputy solicitor general for the Mille Lacs Band of Ojibwe Indians. Ms. Helgemo has a Bachelor of Arts degree from St. Olaf College and a Juris Doctor from the University of Colorado School of Law.

Meghan Henry. Meghan Henry is a Research Associate for the Homelessness Research Institute, the research and communications arm of the National Alliance to End Homelessness. Joining the staff in July 2006, she is responsible for the analysis of various data and research on homelessness, writing research reports and briefs, monitoring progress on the Ten Year Plan, and for connecting policymakers with research on homelessness and poverty. Meghan graduated from Tufts University with her Master's degree in Urban and Social Policy and Planning in May 2006. While pursuing her Master's degree, she worked at a substance abuse clinic and as a Research Assistant at Tufts University in the field of Urban Economics. Prior to graduate school, Meghan was a researcher for special projects at US News and World Report, and has a Bachelor's degree from the University of Florida.

Mindy La Branche. Mindy La Branche has worked in the Policy and Government Affairs department of the National Council of State Housing Agencies since January 2007. Mindy received her Bachelors of Arts degrees in business administration and global leadership from Huntingdon College.

Peter Lawrence. Peter Lawrence is a Senior Policy Director for Enterprise Community Partners. His primary issue responsibilities are tax (including advocacy on the Low Income Housing Tax Credit and the New Markets Tax Credit programs as well as tax incentives to promote green and sustainable building) and preservation policy. He also is a Vice President and member of the Board of Directors of the Affordable Housing Tax Credit Coalition, as well as a member of the Board of Directors of the New Markets Tax Credit Coalition. Prior to joining Enterprise, he was a Legislative and Policy Associate at the National Council of State Housing Agencies (NCSHA). He also was a Housing Policy Analyst for the Center on Budget Policies and Priorities, a Congressional Fellow for Senator Jack Reed of Rhode Island in his capacity as the Ranking Member of the Senate Housing and Transportation Subcommittee, and a Presidential Management Fellow for the Office of Policy Development & Research at HUD. In addition to his federal experience, he has served as an Analyst for the affordable housing group of Chicago Metropolis 2020, and as an appointed member of the Interagency Taskforce on Homelessness of the City of Berkeley, CA.

Nancy Libson. Nancy has been the Director of Housing Policy at American Association of Homes and Services for the Aging for the last five years, following a more than 30-year career 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 DC Public Housing Authority, the National Center for Housing Management, Hessel, Aluise, and Neun, and an affordable housing developer.

Dvora Lovinger. Dvora Lovinger is the Senior Director of Government Affairs for Enterprise Community Partners, Inc. where she leads the development and implementation of a national affordable housing and sustainable community development federal policy agenda. Prior to working at Enterprise, Dvora was a senior advisor to U.S. Senator Barbara A. Mikulski (D-MD) for over 4 years. Prior to working on the Hill, Dvora worked at several non-profits focusing on women's issues. Dvora has a bachelor's degree in English from St. Mary's College of Maryland and a master's degree in political science with a concentration on Women, Politics, and Political Leadership from American University.

Jeffrey Lubell. Jeffrey Lubell is Executive Director of the Center for Housing Policy, the research affiliate of the National Housing Conference. From 2000 to 2003, Lubell served as director of the policy development division of the Office of Policy Development and Research at the U.S. Department of Housing and Urban Development. He has also worked as an independent consultant and as a housing policy analyst for the Center on Budget and Policy Priorities. Lubell is a graduate of Harvard Law School and Harvard College.

Jane Malone. Jane Malone is Housing Policy Director/Director of Finance and Grants at the Alliance for Healthy Homes. Malone leads the development and analysis of the Alliance's housing-related policy positions and oversees the organization's financial operations and federal grants management. She also monitors federal, state, and local policies on housing and environmental health hazards and performs strategic data analysis. Malone joined the Alliance in 1998, bringing more than 20 years' experience in human services, community-building, and housing issues, including executive direction of a $36 million city agency and nonprofit organizations. Malone studied sociology, social work, and city planning at the University of Pennsylvania.

Monica McLaughlin. Monica McLaughlin is the Public Policy Specialist for the National Network to End Domestic Violence (NNEDV). In her role at NNEDV, she works on the intersection of domestic violence and housing issues. As a life-long activist in the women's movement, Ms. McLaughlin began her career as a domestic violence advocate in Montana, Chicago and England. While completing her Masters Degree in Communication Studies, she was the Public Relations and Advocacy Coordinator for a women's substance abuse treatment program. Her work with survivors afforded her a unique perspective on the issues that impact women's lives and fueled her desire to advocate for women by shaping public policy. Ms. McLaughlin is a member of the Board of Directors of Ramona's Way, a non-profit organization in Washington, DC that provides holistic services for women who abuse substances and who are also survivors of emotional, physical and/or sexual abuse.

Todd Nedwick. Todd Nedwick serves the National Housing Trust as the Assistant Director of the National Preservation Initiative. His efforts are focused on maintaining NHT's position as the national authority on federally assisted multifamily housing data. He also coordinates NHT's communications activities, including its monthly newsletter, website and preservation policy issue briefs. Mr. Nedwick developed experience analyzing multifamily housing data while working for the Local Initiatives Support Corporation's (LISC) Affordable Housing Preservation Initiative. He conducted a number of analyses for local LISC offices in order to assess the risk to the affordable housing stock posed by the impending expiration of federally assisted housing contracts. His work also included mapping the federally assisted housing inventory. Mr. Nedwick has two years of strategic communications experience, having served as a Program Manager for Radiant Communications. He has worked closely with many non-profit organizations to help them improve their advocacy efforts. Mr. Nedwick holds a B.A. in Political Science from American University and a Masters in Public Policy with a concentration in Social Policy from the University of Maryland, School of Public Policy.

Ann O'Hara. Ann O'Hara is co-founder of TAC and Director of TAC's Housing Center. Ann is nationally known for her public policy work to expand affordable housing opportunities for people with disabilities and her expertise in housing programs for people who are homeless or at-risk of homelessness. She has over 25 years experience in the development and administration of the full range of subsidized rental and homeownership programs funded at the national, state,

and local level. Working with a consortium of other national organizations, Ann has successfully advocated for national housing policy initiatives, developed legislative proposals, and assisted numerous federal and state agencies to address the housing problems of extremely low income people with special needs. Prior to joining TAC, Ann served as Assistant Secretary for Housing and Director of Rental Assistance for the Commonwealth of Massachusetts.

Camille Palacio. Camille Palacio is a Policy Associate at CFED. Coming to CFED with an extensive international work in non-profit advocacy, Ms. Palacio lived and participated in non-profit development initiatives and HIV/AIDS ministries in South Africa. She has had the opportunity to travel and study abroad in various countries including Peru, Bolivia, Argentina, Costa Rica, Namibia, Botswana, Lesotho, France, Germany, and Belgium. Throughout her travels and academic pursuits, Ms. Palacio has developed a passion for advocating on behalf of marginalized populations and participating in community development programs. She is involved in the CFED policy team's effort to expand economic opportunity through research and advocacy. Ms. Palacio holds a B.A. from Gardner-Webb University with a triple major in Political Science, Psychology, and Sociology and concentrations in development, migration, and refugee affairs.

Danilo Pelletiere. Danilo Pelletiere has been the Research Director of the National Low Income Housing Coalition since 2003. Prior to NLIHC he held various positions at George Mason University, World Resources Institute, and Virginia's Center for Innovative Technology. He was also a volunteer leader of the Sierra Club's "Restore the Core" campaign addressing the environmental and equity issues of sprawling development in the Washington, DC, region. Danilo received his B.A. in regional science from the University of Pennsylvania. He received his Ph.D. in public policy from George Mason University in 2003, where he continues to teach and research at the School of Public Policy. In 1994-1995 he was a Fulbright scholar in the field of economic development at the University of Rostock, Germany.

Meg Power. Dr. Meg Power is President and Executive Director of Economic Opportunity Studies (EOS) of Washington, DC, a non-profit corporation that provides analysis, training, and support for organizations that offer low-income families and communities resources to become more self-sufficient. She has specialized in analyzing and designing programs that provide affordable and fair energy services and environmental benefits for all individual consumers, including sustainable community development, and energy efficiency. She has also developed expertise in the management and information systems of the community-based organizations that provide such resources, with particular expertise in the governance and management of Community Action Agencies.

Megan Richardson. Megan Richardson became the policy associate for the National Housing Conference in September, 2008. She joined NHC as a recent graduate from the University of Michigan, where she received a bachelor of arts in history. Ms. Richardson's interests in affordable housing and community development policy stem from her studies and interest in urban planning while a student, as well as from her experience as a legislative intern for the National Low Income Housing Coalition.

Jeremy Rosen. Jeremy Rosen is the Executive Director of the National Policy and Advocacy Council on Homelessness (NPACH), with responsibility for managing all aspects of the organization. Mr. Rosen previously worked in the National Office of Volunteers of America, where he served as Director for Homelessness and Mental Health. Mr. Rosen has also been employed at the National Law Center on Homelessness & Poverty and 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 child welfare system. He is a frequent speaker on these topics, and has published numerous journal articles and papers.

Megan Sandel, MD, MPH. Dr. Megan Sandel is an Assistant Professor of Pediatrics at Boston University School of Medicine. Her work has focused on asthma, lead, injuries, housing and child health. Cited as a respected authority in her field, Dr. Sandel often gives testimony to the connection between housing and child health in the United States and its effects on children. She has served as a principal investigator on grants from the HUD with the Boston Public Health Commission to study if housing changes improved the health of children with asthma. She has a K award from NIH on housing and stress in urban children, particularly how it pertains to the development of asthma and wheezing. In 2007, Dr Sandel was named the Medical Director of the National Center for Medical Legal Partnership.

Thomas Shellabarger. Thomas Shellabarger is the Policy Advisor for urban and economic issues in the Department of Justice, Peace, and Human Development at the United States Conference of Catholic Bishops. This work entails assisting the U.S. bishops in formulating policy on housing, community development, employment and low-wage workers, civil rights, and federal budget issues consistent with the social teachings of the Church. He is also an advocate on these issues with the Congress and the Administration. Prior to his work at the U.S. Conference of Catholic Bishops, Thom worked as the Public Affairs Officer for the Catholic Archdiocese of Detroit. He is a graduate of The University of Michigan with graduate work in Political Sociology at Florida Atlantic University. A former VISTA (Volunteer In Service To America), Thom serves on numerous national and local boards for service and charitable organizations.

Josh Silver. Josh Silver has had 17 years experience in the housing and community development field. As Vice President of Research and Policy at the National Community Reinvestment Center (NCRC), Mr. Silver develops policy positions, produces various research studies, engages in proposal writing and fundraising, and supervises a staff of research and policy analysts. 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.

Leslie R. Strauss. Leslie R. Strauss is Senior Policy Analyst at the Housing Assistance Council. She joined HAC in 1991 as Research and Information Director and has also served as 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 is a Senior Policy Analyst with a focus on chronic homelessness. He joined the staff of the National Alliance to End Homelessness in 2002. Mr. Suchar promotes effective policies and practices related to supportive housing, mental health, substance abuse treatment, health care, and other services for homeless people as well as programs that facilitate rapid rehousing for families and individuals. His prior experience includes 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.

Deidre Swesnik. Deidre Swesnik is the Director of Public Policy and Communications at the National Fair Housing Alliance. She joined NFHA in 2003 as both its Public Policy Program Director and New Groups Project Coordinator. As Public Policy Program Director, Deidre represented the interests of the National Fair Housing Alliance and its members before Congress and federal agencies, and coordinated efforts with advocacy and industry groups on housing and civil rights. As New Groups Project Coordinator, she was responsible for the creation of a new full-service fair housing center in Gulfport, MI. Prior to NFHA, Deidre was a Policy Associate with Rapoza Associates, a public interest lobbying and government relations firm in Washington, DC, where she focused on low income housing and economic development. She also served as a Peace Corps Volunteer in Mali, West Africa, where she managed several micro-enterprise and water projects in collaboration with local entrepreneurs and women's associations. Deidre earned her Bachelor of Arts degree from Columbia University.

Eric Tars. Eric Tars currently serves as the human rights staff attorney and children and youth staff attorney with the National Law Center on Homelessness & Poverty. Before coming to the Law Center, Eric was a Fellow with Global Rights' U.S. Racial Discrimination Program, and consulted with Columbia University Law School's Human Rights Institute and the US Human Rights Network. Eric currently serves as the Chair of the Training Committee of the US Human Rights Network and on the CERD Advisory Task Force of the Network. Eric received his JD as a Global Law Scholar at Georgetown University Law Center, and during that time served as a Research Assistant to Prof. Mari Matsuda, as a Legal Assistant at the Inter-American Commission on Human Rights, and as Law Clerk at Harmon, Curran, Spielberg & Eisenberg, a law firm specializing in non-profit law. He received his BA in Political Science from Haverford College, and studied international human rights in Vienna, Austria at the Institute for European Studies 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.

Keith Wardrip. Keith Wardrip is senior research analyst with the National Low Income Housing Coalition, where he conducts affordable housing research and contributes to reports, including *Out of Reach*, that can be used to further the Coalition's mission. He earned his M.A. in geography at the University of Colorado, with an emphasis in urban studies and affordable housing. During his graduate studies, Keith worked at the CDBG and Affordable Housing Office in Longmont, CO. Prior to attending the University of Colorado, Keith spent five years as a senior research analyst with Federated Department Stores, where he evaluated new store opportunities based on underlying demographic data using a GIS that he co-developed and maintained. Keith holds a B.A. in geography from the University of Kentucky.

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 third 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, co-chairs the LIHEAP Coalition, serves on the steering committee of the Campaign for Safe and Affordable Drinking Water, and served as a member of the U.S. EPA's National Drinking Water Advisory Council's Small Systems Affordability Work Group. She was an Economic Justice Fellow at Consumers Union.

Laurel Weir. Laurel Weir is the Policy Director for NLCHP where she has worked since 1989. At NLCHP, Laurel is responsible for overseeing the organization's legislative advocacy. Prior to becoming Policy Director, she coordinated NLCHP's advocacy, administrative, and financial functions for five years. Ms. Weir received her BA from Scripps College in 1988 and a Master's Degree in Public Policy from the School of Public Affairs, University of Maryland in 2002.

Greg White. Greg White is Housing Policy Analyst at the NLIHC, focusing on the implementation of a National Housing Trust Fund, disaster-related housing, and homelessness issues. Prior to joining the NLIHC staff in April of 2008, Greg was a Legislative Assistant for Senator Olympia J. Snowe from Maine. During his five and a half year tenure with Senator Snowe, Greg advised the Senator on housing, mortgage banking, and homelessness issues, among others. He was previously an intern for Senator Susan Collins (ME). Greg, a native of Portland, ME, is a graduate of the University of Southern Maine with a degree in Political Science.

Ruth Anne 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. For a decade, she has been the leading advocate and trainer on HUD's Family Unification Program, which provides federal housing vouchers to families and youth aging out of foster care. Through White's advocacy, $40 million in new funding for the Family Unification Program will become available beginning this fall. Prior to joining CWLA, she managed the front door family shelter and scattered site transitional housing programs in Columbus, OH. White has a Master of Science Degree in Social Administration from Case Western Reserve University and a Bachelor of Science degree in Social Work from Ohio State University. She is a member of the National Association of Social Workers and Women in Housing Finance. White is currently a Furfey Scholar at the National Catholic School of Social Service at Catholic University of America studying to earn a doctorate in social work.

Fred Zeytoonjian. Fred Zeytoonjian is the Executive Director of the CDFI Coalition. Prior to joining the Coalition, Fred coordinated the $100 million Katrina rebuilding effort for NeighborWorks America. He holds a B.S. in Business Administration from Northeastern University, a Masters in Environmental Law and a J.D. from Vermont Law School. He has held various positions in Washington, DC since 1992, serving as Counsel to the U.S. House of Representatives' Committee on Merchant Marine and Fisheries; Compliance Director for Clinton/Gore '96 and the Maine Democratic Party; Policy and Compliance Counsel for the Democratic Governors' Association; the Washington Office Director for the Governor of Mississippi and Public Policy and as Legislative Affairs Advisor for NeighborWorks America.

National Low Income Housing Coalition

Membership Form

1. Choose one:

☐ Joining NLIHC ☐ Renewing Membership (☐ Current ☐ Past)

2. Provide your member information (please print):

☐ Mr. ☐ Ms. ☐ Other: _______

Name: ____________________

Title: ____________________

Organization: ____________________

Address: ____________________

____

City: ____________ State: ______ ZIP: ________

Telephone: ____________ Fax: ____________

Cell: ____________ Interested in receiving NLIHC alerts via text? ☐

Email: ____________________

Individual members without email may choose to receive Memo by mail: ☐

Organizations may list up to 10 additional people to receive Memo.
Please use space provided on opposite side of page and/or additional sheet.

Let us know who else should be a member. See top of opposite side.

3. Choose a membership type:

Category	***Amount (suggested)***
Individual with low income, or student	$3
Individual	$100
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