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Sample FOIA Letter  

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**About the 2008 Advocates’ Guide**

The National Low Income Housing Coalition's 2008 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 background information on the 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. We hope that both the programmatic information and the advocacy tips will be helpful as you work to create better affordable housing opportunities in your communities and across the country.

The 2008 Advocates’ Guide was compiled with the help of many of our partner organizations. We are deeply grateful to each of the authors for their assistance; the Guide would not be possible without them.
2007-2008 Policy Goals

Mission
The National Low Income Housing Coalition is dedicated solely to ending America’s affordable housing crisis.

Enact a National Housing Trust Fund. The National Housing Trust Fund, with a dedicated revenue source separate from the annual appropriations process, would produce and preserve 1.5 million units of affordable housing, the majority of which would be for extremely low income households, over the next 10 years.

Defend and expand the HUD and USDA housing budgets. HUD and USDA programs that help house the lowest income families must be expanded to meet the massive need for affordable housing. These programs have been cut precipitously in recent years.

Fix and renew the nation's commitment to the housing choice voucher program. The voucher program is in immediate need of a fix to its funding distribution system. The 150,000 vouchers lost since 2004 must be restored and at least 100,000 new vouchers should be added annually.

Invest in public housing. Public housing operating and capital funds must be fully funded. Underfunding cannot be used as an excuse to deregulate 1.2 million units of public housing through an unevaluated “Moving to Work” demonstration program. Public housing authorities must also continue to complete annual and five-year PHA Plans. Any reauthorization of the HOPE VI program must include requirements on no net loss of public housing units and clear language regarding the right of residents to return home if they so choose.

Improve post-disaster housing programs. Continue work toward ensuring that temporary and long-term housing needs are met in an equitable fashion.

Support McKinney-Vento homeless assistance programs. Collaborative work is needed to redefine “homelessness” while making improvements to HUD’s homeless programs.

Preserve affordable housing. Legislation is needed to better preserve federally-subsidized affordable housing units while protecting residents from rising rents and/or displacement.

Improve the Low Income Housing Tax Credit program. Seek deeper income targeting for the program and/or ways to better distribute LIHTC allocations.

Improve the Community Development Block Grant program. The CDBG program should do a better job of targeting its dollars to extremely low income people in every jurisdiction.

Improve access to federal housing assistance for ex-offenders. Support the Second Chance Act, which includes housing funding for state corrections agencies to assist some of the 600,000 people leaving the state and federal prisons (in addition to the many leaving local jails). Defend against housing eligibility screening that unjustifiably keeps some people out of federal housing programs.

Oppose tax cuts that benefit higher income people and reduce revenues to assist low income people. Encourage greater progressivity in homeowner subsidies in the context of any tax reform.

Ensure that “affordable” has a contemporary definition by examining proposals to revamp the concept.

Fully fund housing research by the federal government and seek improved data management.
Alaska
Alaska Coalition on Housing and Homelessness
907-743-5726
www.akcoalition.com

Alabama
Alabama Arise
334-832-9060
www.alarise.org

California
California Coalition for Rural Housing
916-443-4448
www.calruralhousing.org

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

District of Columbia
Advocates for Building Assets and Affordable Housing (ABAAH)
202-832-1845
www.ahadc.net

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.fchonline.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

Indiana Coalition on Housing and Homeless Issues
317-636-8819
www.ichhi.org

Kansas
Kansas Statewide Homeless Coalition
785-354-4990
www.kshomeless.com
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<th>State</th>
<th>Coalition Name</th>
<th>Phone</th>
<th>Website</th>
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<tr>
<td>Kentucky</td>
<td>Homeless and Housing Coalition of Kentucky</td>
<td>502-223-1834</td>
<td><a href="http://www.hhck.org">www.hhck.org</a></td>
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<tr>
<td>Louisiana</td>
<td>Louisiana Housing Alliance</td>
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<td><a href="http://www.lano.org/housingalliance.cfm">www.lano.org/housingalliance.cfm</a></td>
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<td>Massachusetts</td>
<td>Citizens’ Housing and Planning Association</td>
<td>617-742-0820</td>
<td><a href="http://www.chapa.org">www.chapa.org</a></td>
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<td>Maine</td>
<td>Maine Affordable Rental Housing Coalition</td>
<td>207-553-7780</td>
<td><a href="http://www.mainehousingcoalition.org">www.mainehousingcoalition.org</a></td>
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<tr>
<td>Minnesota</td>
<td>Minnesota Housing Partnership</td>
<td>651-649-1710</td>
<td><a href="http://www.mhponline.org">www.mhponline.org</a></td>
</tr>
<tr>
<td>Arizona</td>
<td>Minnesota Coalition for the Homeless</td>
<td>651-645-7332</td>
<td><a href="http://www.mnhomelesscoalition.org">www.mnhomelesscoalition.org</a></td>
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<tr>
<td>Missouri</td>
<td>Missouri Association for Social Welfare</td>
<td>573-634-2901</td>
<td><a href="http://www.masw.org">www.masw.org</a></td>
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<td>North Carolina</td>
<td>North Carolina Coalition to End Homelessness</td>
<td>919-755-4393</td>
<td><a href="http://www.ncceh.org">www.ncceh.org</a></td>
</tr>
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<td>Ohio</td>
<td>North Carolina Coalition to End Homelessness</td>
<td>919-881-0707</td>
<td><a href="http://www.nchousing.org">www.nchousing.org</a></td>
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<td>Nebraska</td>
<td>Nebraska Housing Developers Association</td>
<td>402-435-0315</td>
<td><a href="http://www.housingdevelopers.org">www.housingdevelopers.org</a></td>
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<td>New Hampshire</td>
<td>American Friends Service Committee-New Hampshire</td>
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<td><a href="http://www.hhck.org">www.hhck.org</a></td>
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<td>New Hampshire</td>
<td>Housing Forum</td>
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<td><a href="http://www.housingforum.org">www.housingforum.org</a></td>
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<td>New Jersey</td>
<td>Housing and Community Development Network</td>
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<td><a href="http://www.hcdnnj.org">www.hcdnnj.org</a></td>
</tr>
<tr>
<td>New Mexico</td>
<td>New Mexico Coalition to End Homelessness</td>
<td>505-982-9000</td>
<td><a href="http://www.nmceh.org">www.nmceh.org</a></td>
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<tr>
<td>New Mexico</td>
<td>Supportive Housing Coalition of New Mexico</td>
<td>505-255-3643</td>
<td><a href="http://www.thehousingcoalition.com">www.thehousingcoalition.com</a></td>
</tr>
<tr>
<td>New York</td>
<td>Neighborhood Preservation Coalition of New York</td>
<td>518-432-6757</td>
<td><a href="http://www.npcnys.org">www.npcnys.org</a></td>
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<tr>
<td>New York State</td>
<td>Rural Housing Coalition</td>
<td>518-458-8696</td>
<td><a href="http://www.ruralhousing.org">www.ruralhousing.org</a></td>
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<td>New York State</td>
<td>Supportive Housing Network of New York</td>
<td>212-870-3303</td>
<td><a href="http://www.shnny.org">www.shnny.org</a></td>
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<td>Tenants and Neighbors</td>
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<td><a href="http://www.tandn.org">www.tandn.org</a></td>
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<tr>
<td>Ohio</td>
<td>Coalition on Homelessness and Housing in Ohio</td>
<td>614-280-1984</td>
<td><a href="http://www.cohio.org">www.cohio.org</a></td>
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NLIHC State Coalitions Partners

Oregon
Housing Alliance
(c/o Neighborhood Partnership Fund)
503-226-3001
www.oregonhousingalliance.org

Pennsylvania
Housing Alliance of Pennsylvania
215-576-7044
www.housingalliancepa.org

Rhode Island
Housing Network of Rhode Island
401-521-1461
www.housingnetworkri.org

Rhode Island Coalition for the Homeless
401-421-6458
www.rihomeless.com

Statewide Housing Action Coalition of Rhode Island
401-521-1461
www.shac-ri.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

Virginia
Central Virginia Housing Coalition
540-604-9943
www.centralvahousing.com

Virginia Housing Coalition
804-497-3060
www.vahousingcoalition.org

Vermont
Vermont Affordable Housing Coalition
802-660-9484
www.vtaffordablehousing.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

2008 Advocates’ Guide to Housing & Community Development Policy
NLIHC’s Voterization Project

Part of NLIHC’s program activities since 2003, NLIHC’s Voterization project provides member organizations with a way to assist low income people in becoming effective self-advocates while working to move affordable housing issues higher on the federal agenda. As part of the Voterization project, NLIHC provides member organizations with materials and information to help them register, educate and mobilize their residents, clients and other low income members of their communities.

Why Voterization?
Raising housing on the national agenda will happen only when candidates for elected office understand that the issue of affordable housing is important to voters. At the same time, low income voters must understand how the decisions made by federal elected officials directly affect their lives, and must know how to register to vote and be given ample opportunities to exercise their rights to vote to have their voices heard.

Census data confirm that low income voters are registered and vote at lower rates than their higher-income counterparts. While 86% of people with incomes of $100,000 and higher were registered to vote in 2004, with 81% actually voting, just 61% of people with incomes less than $20,000 were registered, with only 48% actually voting. Low income people face several challenges to voting, such as less-flexible jobs that may not allow time off for voting, transportation impediments that may make getting to the polls more difficult and a greater likelihood of misinformation about their rights as voters that may make people shy away from voting. People experiencing homelessness, ex-felons and survivors of the 2005 Gulf Coast hurricanes may face especially tough barriers to voting.

Nonprofit housing organizations, which benefit from the close ties with and the already-established trust of their clients, are a natural fit in helping people overcome these challenges. By providing member organizations and other allies around the country with the information and materials they need to engage the people they work with in the voting process, NLIHC can further efforts to more fully engage low income people in the civic process and raise affordable housing as a vital issue for Members of Congress and other elected officials.

NLIHC’s Voterization efforts take on an elevated role when considering recent attempts by a number of Members of Congress to restrict the rights of nonprofit organizations. In the 109th Congress, restrictions included in House bill H.R. 1461 prohibited any nonprofit from receiving funds from the bill’s affordable housing fund if the organization had engaged in any nonpartisan elector work – including registering voters or providing rides to the polls – in the previous 12 months or planned to do so in the future. Egregiously, the restrictions as written were not just in relation to the specific use of affordable housing fund dollars, but on any of the organization’s funding, including private dollars. The bill also prohibited any nonprofit organization that applied for funds from associating with any organization that undertook such activities. While the bill did pass the House in that form, the restrictions were not included in the Senate version and the legislation was not passed into law. Though the danger of such Draconian measures is not immediately imminent now, the tactic is clearly on the minds of some Members of Congress. So, NLIHC will also use the Voterization project to educate its members, especially low income people, about these threats to voting and association rights.

What it Means to be Voterized
From 2003 to 2007, NLIHC worked with more than 850 local organizations across the country to help them involve their residents, clients and other low income people in the voting process. In 2006, NLIHC parlayed its successful Voter Registration, Education and Mobilization (VREM) campaign of 2004 into the Voterization Project, a long-term effort that will increase civic participation among low income people, boost our members’ abilities to advocate at the federal and local levels and strengthen the means of low income persons and advocates to influence elected officials.
NLIHC’s Voterization Campaign has several critical components:

1. Helping organizations understand the importance of becoming voterized.
2. Helping organizations understand the legal aspects of what nonprofits can and cannot do around elections.
3. Helping organizations plan and implement their Voterization projects, including planning to register, educate and mobilize clients, and educate candidates.
4. Providing organizations with the tools, materials and information they need to establish successful Voterization projects, including posters, postcards, doorhangers, toolkits, sample press releases, candidate questionnaires and more.
5. Working with organizations to protect the voting rights of clients, especially those who are homeless, ex-felons or hurricane survivors.
6. Working with organizations to ensure that Congress does not restrict the rights of low income people and nonprofit organizations through the adoption of anti-democracy laws.

In 2008, NLIHC will continue to work on Voterization efforts, in preparation for local, state and federal elections. Organizations will be officially voterized once they:

- Develop a policy and a plan that details its commitment to being voterized;
- Set quantitative goals for registration, education and mobilization;
- Assign responsibilities of the Voterization project to one or more staff members;
- Become an active NLIHC member.

NLIHC has available a sample Voterization Plan that agencies can follow in planning their projects for the 2008 elections. Local Voterization plans should include:

1. A plan for one or more staff members to review what, legally, nonprofits can and cannot do in regards to voter engagement.
2. A sustainable method of registering clients that includes keeping records of new and previously registered voters.
3. A plan for educating clients on both voting and their rights as voters, and on the current federal issues that affect them and their communities.
4. A plan for educating candidates on the affordable housing and other issues important to clients and their communities.
5. A Get Out the Vote (GOTV) plan that details how clients will be reminded to vote in the months, days and weeks leading up to Election Day. This element should include plans for helping clients access absentee ballots, early voting opportunities or rides to the polls as needed, and plans to keep records of how many registered clients actually voted.

2008 Preparations
For the 2008 elections, NLIHC aims for several hundred organizations to become “Voterized” to varying degrees. Organizations can register, educate and/or mobilize people in 2008 using NLIHC materials. NLIHC Voterization materials will include; posters, Get Out The Vote (GOTV) postcards, doorhangers, and sample press releases and media advisories. Visit www.nlihc.org/VOTE to get started.

For More Information
National Low Income Housing Coalition • 202-662-1530 • outreach@nlihc.org • www.nlihc.org/VOTE/
Presidential Election

Danna Fischer, Policy Analyst, National Low Income Housing Coalition

The 2008 Presidential election will provide a significant opportunity for advocates to advance housing issues on the national policy agenda.

The Democratic and Republican parties will meet at their respective conventions in late summer and early fall to select their party’s nominees and establish the platform, or statement of issues, on which each set of candidates will run. The Democratic convention will be held in Denver, CO, August 25-28, 2008, and the Republican convention will be in Minneapolis, MN, September 4-7, 2008. Delegates at these conventions from each state will vote to elect their party’s nominees for President and Vice President.

Delegates to the conventions are selected according each state’s Democratic and Republican party rules. The rules vary considerably from state to state, but generally there are two methods of selecting candidates for a party’s nomination (and the delegates that will vote for them at each party’s convention): a primary or a caucus. Advocates should consult the Democratic and Republican state party offices in their states for more information about the selection process in individual states.

The war in Iraq, health care, immigration, and the economy will likely be major issues in the 2008 election. An important component of the economy is housing. The continuing weakness in the housing market has, for the first time in many years, placed housing at the forefront of election year issues. With policymakers’ attention on housing issues, advocates are in position to expand the discussions beyond homeownership and raise issues that highlight the need to expand the supply of affordable rental housing, among other issues.

A National Low Income Housing Coalition website, www.Housing2008.org, will help advocates to keep track of housing issues as they develop in the 2008 presidential campaign. Advocates can use the Housing2008 website to help educate themselves and others in their communities about the positions each of the major candidates holds on these issues. Visit www.housing2008.org to learn what candidates have said on the issues that are important to you.

Advocates can also assist in raising issues during the campaign by taking advantage of opportunities to question candidates about housing and community development issues.

Finally, advocates can also work to ensure that housing issues are included in both the Democratic and Republican party platforms. The platforms are official statements of each party’s position on a wide variety of issues. New platforms are adopted every four years at the party’s convention and are typically developed during the months preceding the convention. Advocates should monitor the activity of the respective parties for opportunities to place strong pro-housing language in each party’s platform. In each case, advocates should be careful to abide by rules governing nonprofit participation.

For more information:
For the 2008 presidential election see www.Housing2008.org

For the 2004 Democratic and Republican platforms see www.presidency.ucsb.edu/platforms.php

The Democratic Party website is www.dnc.org

The Republican Party website is www.rnc.org
Establishing a National Housing Trust Fund (NHTF) in the 110th Congress would:
- Provide a dedicated revenue source to produce, preserve and rehabilitate 1.5 million homes affordable to low income people over the next 10 years.
- Ensure that this new housing resource is targeted for the very lowest income people.
- Include safeguards to guarantee that rural areas receive their fair share of housing funds.
- Allow up to 25% of National Housing Trust Fund dollars to go toward homeownership.

Enacting a National Housing Trust Fund is NLIHC's number one priority for the 110th Congress. On October 10, 2007, the House passed H.R. 2895 by a vote of 264 – 148. Senate legislation, S. 2523, was introduced on December 19, 2007.

Both the House and Senate bills would establish a dedicated source of funds for the production, preservation and rehabilitation of 1.5 million affordable homes over the next 10 years. At least 75% of the funds will be for housing for households that are extremely low income, earning less than 30% of the area's median income.

There are two sets of current legislation that have seen action in the first session of the 110th Congress that establish funding sources for the trust fund. First, the House passed H.R. 1427, a comprehensive reform bill for the government sponsored enterprises (GSEs), Fannie Mae and Freddie Mac, that also calls for providing dedicated funds from the GSEs to the trust fund. In the Senate, Senator Jack Reed (R-RI) has introduced a bill S. 2391, The GSE Mission improvement Act of 2007, that includes funds from the GSEs to support an affordable housing fund. The bill includes a provision that if a National Housing Trust Fund is established in the future, all of the affordable housing program funds would be directed to the NHTF. This measure has been referred to the Senate Committee on Banking, Housing and Urban Affairs. This bill is expected to be included in any comprehensive GSE reform legislation the Banking Committee considers.

A second source of revenue for a Trust Fund is included in House-passed legislation to modernize the Federal Housing Administration (FHA), H.R. 1852. The bill creates new FHA revenue by expanding the home equity conversion mortgage (HECM) program and dedicates some of this new revenue to a Trust Fund. The Senate has passed a similar modernization measure for FHA, S. 2338, but it does not include the fund provision. The two measures now must go to a House/Senate conference committee where differences in bills will be reconciled.

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 a NHTF is established.

Legislation to establish a national housing trust fund dates back to the 103rd Congress when Representative Major Owens (D-NY) introduced legislation, H.R. 5275, to limit deductions for mortgage interest and property taxes for higher income people and other tax changes. The bill would have created a Federal Housing Trust Fund within the Internal Revenue Service with this revenue, which HUD would have administered.

The National Housing Trust Fund Campaign Proposal for Legislation
Goals and Objectives. A NHTF should be established to serve as a source of revenue for the production of new housing and the preservation or rehabilitation of existing housing that is affordable for low income people. The goal of the NHTF should be to produce, rehabilitate and preserve 1.5 million units of housing over the next 10 years.

Dedicated sources of capital. The Trust Fund should be capitalized with ongoing, permanent, dedicated and sufficient sources of revenue to meet the goal of 1.5 million housing units over the next decade. The funds
used to capitalize the NHTF should not be those that are currently funding other federal housing programs. The establishment of a NHTF is intended to generate new, additional dollars for housing and all other housing and community development funding should minimally be at a maintenance of effort level.

**Eligible activities.** The Trust Fund should be used for the production of new housing, preservation of existing federally-assisted housing and rehabilitation of existing private market affordable housing. The Trust Fund should be primarily used for rental housing. The NHTF Campaign supports the allocation of up to 25% of funds for homeownership activities, as long as low income people are served. Funds can be used for both grants and loans. Cooperatives are eligible users of Trust Fund dollars in all cases, as long as income targeting requirements are met.

**Income targeting.** At least 75% of the Trust Fund dollars should be used for housing that is affordable for extremely low income households, that is, those with incomes less than 30% of the higher of state or area median. Of the 75%, at least 30% of total Trust Fund dollars should be used for housing that is affordable to households with incomes at the equivalent of the federal Supplemental Security Income payment level or less. No more than 25% of Trust Fund dollars could be used for low income households with incomes of 31% to 80% of the higher of state or area median, provided these funds are restricted to housing production, preservation or rehabilitation in low income neighborhoods. In all cases, no one should pay more than 30% of their income for housing.

**Term of affordability.** Housing funded through the Trust Fund should be required to remain affordable for 50 years.

**Operating subsidy.** Projects funded through the Trust Fund should assure the provision of an operating subsidy to make the housing affordable for a range of extremely low income people. This could be accomplished by using Trust Fund assistance to underwrite the operating subsidy for new or rehabilitated units for one year, after which the operating subsidy funding should come from other sources.

**Distribution.** Trust Fund assistance should be distributed by formula allocation, based on criteria that assure distribution in proportion to the need for eligible housing, with 60% of Trust Fund assistance allocated to localities and 40% of Trust Fund assistance allocated to states. The distribution of funds should ensure that every type of community – urban, rural and suburban – has access to funds and should encourage regional consortia. Grantees will distribute the funds to eligible entities prepared to conduct eligible activities. If an eligible grantee declines to apply for Trust Fund assistance, an alternative application process should be established so that other entities in the jurisdiction can receive and distribute the Trust Fund dollars. If eligible entities in the jurisdiction do not qualify to receive all unclaimed Trust Fund dollars allocated to the jurisdiction, the unclaimed funds should be used to provide bonus payments to jurisdictions that succeed in expediting development of Trust Fund units or reducing development costs through state or local laws, policies or procedures.

**Rural access to funds.** To ensure rural and non-entitlement areas access to Trust Fund assistance, at least 50% of the 40% to states should be used in rural areas (as defined in Title V of the Housing Act of 1949, as amended). In states where the rural population is greater than 20%, a proportionate amount should go to rural areas. In addition, entitlement areas that include rural areas should use Trust Fund assistance in proportion to identified need in those rural areas.

**Green housing.** Projects that keep costs lower by employing energy efficiency standards and other “green housing” principles would be preferred applicants for Trust Fund dollars.

**Match (monetary).** States, localities, or non-profit organizations receiving Trust Fund assistance should match federal funds in the following manner. If the entity uses state, local or private resources for the match, it would receive two federal Trust Fund dollars for every dollar it provides. If an entity uses state or locally controlled federal dollars for the match, it would receive one Trust Fund dollar for every dollar of match it provides. This match requirement might be waived for jurisdictions that demonstrate fiscal distress. Revenue committed by a jurisdiction to a Trust Fund-assisted project to provide services to residents should qualify as matching funds in the same manner as revenue committed to meet the acquisition, development or operating costs of a property. Additional payments made by a jurisdiction to a locality that would incur additional local education costs as a result of the siting of Trust Fund-assisted units should be considered state or local revenue for the purposes of the match requirement.
**Match (alternative).** Jurisdictions that succeed in siting Trust Fund-assisted units in regions with the potential for displacement, such as those projected to have sharp rises in rental expenses and therefore gentrification or where a zoning variance or other waiver of regulatory barriers was required to site Trust Fund-assisted units in existing communities should, in the following year, be eligible to receive Trust Fund assistance with a reduced match.

**Economic opportunity and integration.** New housing production and financing in urban and suburban areas should be done in a way that assures that extremely low income households are not isolated from economic opportunity, and that units are located in proximity to public transportation, services, economic opportunities or contribute to comprehensive community revitalization. Thus, Trust Fund dollars should be utilized in conjunction with other funds to complete the financing for a new multifamily housing development, with the Trust Fund dollars supporting the construction of housing for extremely low income households. Units for extremely low income households should comprise no more than a minority of the total units in a project. Trust Fund applicants proposing small projects in low-poverty neighborhoods, rural communities or that serve special populations may be able to assure economic integration with Trust Fund dollars alone.

**Compatibility with other housing programs.** The use of Trust Fund funds should be flexible to ensure its compatibility with all federal housing programs.

**Applicability of and consistency with other federal provisions.** All Trust Fund dollars should be allocated and all housing funded with Trust Fund dollars should be built and operated in a manner that is consistent with other federal provisions including, but not limited to: tenant protections and tenant rights to participate in decision making about their homes; required public participation mechanisms such as the Consolidated Plan, the Qualified Allocation Plan and the Public Housing Agency Plan; Section 286 of the Cranston-Gonzalez National Affordable Housing Act (Davis-Bacon); and all fair housing laws and existing laws regarding accessibility in federally-assisted housing, including Section 504 of the 1973 Rehabilitation Act. All Trust Fund assistance should be considered federal financial assistance. In addition, units not required to be accessible should meet basic visitability standards.

**Other housing funds.** In addition to establishing a NHTF, we recommend additional investment in affordable housing with substantial increases in HOME, Community Development Block Grant (CDBG) and U.S. Department of Agriculture (USDA) Rural Housing programs, as well as an examination of ways to reform the Low Income Housing Tax Credit (LIHTC) program to improve access to the program by a wider range of non-profit, community-based housing developers. Substantial increases in the housing voucher program will also be necessary to assure affordability for the lowest income households. NHTF dollars cannot be used to supplant existing federal, state, local and private housing funds.

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**Advocacy for a National Housing Trust Fund in 2008**

House passage of H.R. 2895 in 2007 was a huge victory for the National Housing Trust Fund Campaign. Now, all eyes are on passing the Senate bill, S. 2523, and enacting the NHTF legislation in the second session of the 110th Congress.

In addition to securing Senate cosponsors to S. 2523 and Senate passage, key advocacy will involve support for:

- Maintaining the proposal’s deep income targeting.
- Using some of the new FHA revenue in the House and Senate FHA bills to capitalize the National Housing Trust Fund.
- Enacting GSE reform legislation, with a portion of Fannie Mae and Freddie Mac resources dedicated to the National Housing Trust Fund.
- Identifying additional dedicated funding sources.

Advocates can help enact a National Housing Trust fund by having their organization endorse the Trust Fund at www.nhtf.org and by contacting Senators to voice support for Senator John Kerry (D-MA) and Senator Olympia Snowe’s (R-ME) National Affordable Housing Trust Fund Act legislation, S. 2523.
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
National Housing Trust Fund: Endorsers Form

What is the National Housing Trust Fund?
The National Housing Trust Fund Campaign is working to establish a National Housing Trust Fund with ongoing, permanent, dedicated and sufficient sources of revenue to build, rehabilitate and preserve 1.5 million units of housing for the lowest income families over the next 10 years.

How can we get involved?
Sign on as an endorser! As an endorser, your organization supports the establishment of a National Housing Trust Fund and pledges to work for passage of National Housing Trust Fund legislation. Your organization joins more than 5,600 organizations in being listed as a partner in the national Campaign. In addition to pledging to urge your members of Congress to support NHTF legislation, your organization pledges to participate in the following ways (check all that apply):

_____ We will seek endorsements from ____ other organizations in our geographic or interest area.
_____ We will publish an article about the Trust Fund Campaign in our newsletter.
_____ We will send action alerts and notices to our members and constituents about the Campaign.
_____ We will write a “Letter to the Editor” of our local paper about the Trust Fund.
_____ We will distribute information about the Trust Fund at our meetings and events.
_____ We would like a speaker about the Trust Fund at our meetings or events.
_____ We would like to co-sponsor a Trust Fund “road trip” to our state/area.

We Endorse the National Housing Trust Fund!
Please fill out all of the fields below.

Endorsing Organization ___________________________________________________________ Date ________________________________
Authorizing Contact ___________________________________________________________ Date ________________________________
Title ____________________________________________________________________________________________
Mailing Address ___________________________________________________________ State __________ Zip ______________
City ___________________________________________________________ State __________ Zip ______________
Phone __________________________________ Fax ________________________________________________
Email ____________________________________________________________________________________________

Organizational scope: ☐ National  ☐ State  ☐ Regional  ☐ Local

Type of organization (please choose one):
☐ Public Housing Authority  ☐ Religious  ☐ Financial  ☐ Contractor  ☐ Elderly  ☐ Disability Rights
☐ Child Advocacy  ☐ CDC  ☐ Public health  ☐ Legal  ☐ Trust fund  ☐ Shelter/homeless  ☐ Housing
☐ Other (please describe): __________________________________________________________________________
__________________________________________________________________________________________
__________________________________________________________________________________________

Mail, fax or email to the National Housing Trust Fund Campaign Mail: see above; email: outreach@nlihc.org; fax: 202-393-1973. For a full policy proposal, please contact us or visit www.nhtf.org.
States and local governments must certify that they are “affirmatively furthering fair housing” in their Consolidated Plans 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.

What Is an Analysis of Impediments (AI)?
HUD’s *Fair Housing Planning Guide* defines an AI as:

1. A comprehensive review of a jurisdiction’s laws, regulations and administrative policies, procedures and practices.
2. An assessment of how those laws, regulations and practices affect the location, availability and accessibility of housing.
3. An assessment of conditions, both public and private, affecting fair housing choice for all protected classes. The protected classes are: race, color, religion, sex, national origin, 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.

An “impediment” 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 really do deny or limit the availability of housing. Obvious impediments include outright discrimination based on race or ethnicity, refusal to rent to families with children, and 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.

Affirmatively Furthering Fair Housing
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:

- The Housing and Community Development Act of 1974, which created the Community Development Block Grant (CDBG) program (see Community Development Block Grant chapter).
- The National Affordable Housing Act of 1990, which created the Comprehensive Housing Affordability Strategy (CHAS), a plan that all states and local jurisdictions must complete in order to receive CDBG and HOME dollars (see Consolidated Plan chapter).
- The Quality Housing and Work Responsibility Act of 1998 (QHWRA), which created the PHA Plan that all PHAs must complete (see PHA Plan chapter).

Regulations for CDBG, the Consolidated Plan (ConPlan, which is based on CHAS law), and the PHA Plan implement these requirements.
Affirmatively Furthering Fair Housing is defined in the regulations as:

1. Having an Analysis of Impediments to fair housing choice;
2. Taking appropriate actions to overcome the effects of impediments; and,
3. Keeping records reflecting the analysis and showing the actions taken.

States must assure that units of local government receiving CDBG or HOME funds comply.

The *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.

Where Can Advocates Find the AI?

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. AIs are their own separate documents, which are available to the public. The name of the agency or department which will have an AI varies from locality to locality. The office that primarily runs your CDBG program should have a copy for you. However, if that office fails to provide an AI, ask the Fair Housing and Equal Opportunity (FHEO) staff at your HUD Field Office to help you.

HUD does not prescribe the content of an AI. 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. Examples of barriers to affordable housing given in the law are tax policies and building fees.

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 create 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 that 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.

Is There Any Public Participation With An AI?

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 ConPlan, the citizen participation requirements for the ConPlan 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 decisions [about the problems and their solutions]. 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 ConPlan.”

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 handle 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:

1. Transcripts of public meetings or forums and public comments or input.
2. A list of groups participating in the process.
3. A description of the financial support for fair housing, including funds or services provided by the jurisdiction.
For More Information

[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


Asset Management and Public Housing

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

Asset management in public housing simply means conducting budgeting, management and accounting on a project-by-project basis, instead of on a public housing agency-wide basis.

First, A Few Timely Notes

HUD’s requirement that public housing agencies (PHAs) switch to asset management does not have to hurt the people who live in public housing. What does continue to hurt public housing and its residents is the grossly inadequate funding sought by the Administration and appropriated by Congress year after year.

Some PHAs have been telling residents and advocates that asset management will cause people to lose their homes. This is not necessarily true; however, residents and advocates need to learn the A,B,Cs of asset management, frequently ask their PHA and project manager questions and monitor how asset management is being carried out as their PHA makes changes over the coming months and years. Some potential problems are raised at the end of this chapter.

Although full compliance is not required until 2011, some PHAs are already operating according to asset management principles, especially PHAs called “stop-loss” agencies (described elsewhere in this chapter). Also, on July 1, 2007, some PHAs started preparing budgets on a project-by-project basis, with more doing so on October 1. All will have to submit project-based budgets by April 1, 2008.

Asset management is still unfolding. HUD will be providing more guidance after this chapter is printed. Therefore, residents and advocates should periodically check HUD’s asset management webpage: www.hud.gov/offices/pih/programs/ph/am/.

This chapter does not discuss features of asset management related to small PHAs, mixed-finance projects or PHAs with Moving to Work agreements.

History

The 1998 Quality Housing and Work Responsibility Act (QHWRA) changed the way PHAs received funds from HUD by creating two grants that use formulas to provide money each year. The operating fund covers costs such as resident services, employees' salaries, utilities, maintenance, etc. The capital fund pays for the modernization and development of public housing, as well as for management improvements.

The Negotiated Rule Making Committee. QHWRA also instructed HUD to create a negotiated rule committee (Neg Reg committee) to advise it about developing a new formula for distributing operating funds to PHAs. In 1999, 25 stakeholders were invited to be on the Neg Reg committee. Most were staff of PHAs and the three national PHA associations, two were representatives of resident organizations and two were from national advocacy organizations (including NLIHC). The Neg Reg committee concluded that there was not enough data to determine how much it should cost to run public housing.

The Harvard Cost Study. Consequently, Congress appropriated $3 million for the Harvard Graduate School of Design (GSD) to determine how much it should cost to run public housing. In 2003, GSD concluded that PHAs were underfunded by 5% ($300 million at the time). GSD also recommended that public housing be managed in a way that is similar to the way that private multifamily housing is run; that is, on an “asset management” model, which focuses on project-by-project budgeting and management, instead of looking broadly at the overall PHA. PHA representatives were concerned about GSD’s estimates because they were based on the costs of managing private, multifamily HUD-subsidized and FHA-insured housing instead of public housing. GSD claimed that the costs of managing both types were similar.
A New Operating Fund Formula. A new 28-member Neg Reg committee required by Congress, which only had one public housing resident and one tenant organization representative, came up with a new formula for distributing operating subsidies to PHAs. A September 19, 2005, final rule sets out the new formula and describes how asset management must be carried out. Details about the new operating fund formula are presented in this chapter, after asset management is described.

What Is Asset Management?
The concept of asset management mirrors private, multifamily rental housing management. The September 19, 2005, final rule requires PHAs with 250 or more units to convert to an asset management model. This means conducting budgeting, management, and accounting on a project-by-project basis (projects being “assets”) instead of on a PHA-wide basis.

The Four Major Elements of Asset Management
Project-based Funding. The old system funded PHAs as a whole. The new system will have project-based funding. For example, if a PHA has 10 projects, then it will get funds for each of the 10 based on a project’s individual characteristics (for details see The New Operating Fund Formula later in this chapter). The money assigned by the formula to a specific project can only be used by that project.

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 and inspections, and routine maintenance will be handled by specific PHA staff who are assigned to, and usually based at, a project.

However, HUD will not require all property management to be based at a property because sometimes it is better to base certain management activities at a central PHA location. Also, HUD will allow some specialized maintenance staff (such as electricians) to be based at a central PHA facility; and, 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.”

Project-based Performance Assessment. HUD will revise the Public Housing Assessment System (PHAS) to focus on project-based performance instead of PHA-wide performance. Each project will be evaluated on its physical and financial condition, as well as on the performance of management assigned to that project. It is not yet clear whether resident satisfaction will be a part of the performance assessment as it was with the Resident Service and Satisfaction Survey under PHAS.

Two Confusing Terms
The new rule uses the term “project-based management” (with a meaning like the one above) and introduces a second meaning for the term “asset management.” If the project is an “asset” then what’s the difference?

Asset management can have two meanings. One meaning refers to the general concept described above. A second, technical meaning in the rule refers to overall PHA tasks that go beyond tasks tied to a particular project (such as deciding whether to set flat rents or ceiling rents, complying with HUD regulations and long-term capital planning).

More is said about these two terms when property management fees and asset management fees are discussed.

Asset Management Projects (AMPs)
There is a new term, asset management project or AMP. The new rule allows a project to 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.
Many existing projects reflect building arrangements set by HUD many years ago, so don't make sense in terms of property management. For example, it might be better if very large or spread-out developments are divided into smaller management groupings. HUD suggests that AMP building groupings reflect the characteristics of the residents, the buildings and their locations. PHAs had to tell HUD the AMP groupings they chose by April 2006.

**Four characteristics are mentioned in HUD guidance:**

**Size:** Many developments in HUD's old data system (PIC) might be too small for effective management, while others might be so large that asset-based management is unwieldy. HUD suggests that PHAs arrange developments so that 80 or more units form a project/AMP.

**Physical proximity:** Buildings that are not close together should not be combined into an AMP unless they are small buildings or single-family homes.

**Building type:** A high rise should not be combined with a townhouse project, unless both are too small to manage separately.

**Occupancy Type:** Buildings serving seniors and/or disabled people have different management needs than those serving families.

**New Fee System for Supporting the PHA’s Central Office**
The new formula does not directly allocate operating subsidy to the PHA's Central Office (now called the Central Office Cost Center or COCC). However, the new rule requires the COCC to charge each project (AMP) “reasonable” fees for "property management" and for “asset management.” (Key parts of the new formula are discussed on page 5, “New Operating Fund Formula.”) Possible fees are described in a HUD Handbook and include:

- **Property Management Fee.** COCCs have two options for charging AMPs a “reasonable” property management fee, both based on figures set at HUD Field Offices. The property management fee is calculated PUM, “per unit per month.” AMPs can only be charged for units that are occupied or have HUD-approved vacancies (that is, units undergoing modernization and units used for resident services).

- **Bookkeeping Fee.** HUD allows a $7.50 PUM bookkeeping fee.

- **Asset Management Fee.** The new formula provides a potential, indirect way of paying for COCC “overhead” costs (general costs not directly tied to specific AMPs, such as the PHA Executive Director’s office, human resources staff, the legal department, etc.) by providing each AMP a $4 PUM “asset management add-on” which the COCC might be able to recoup as a fee if the AMP has enough "excess cash." (Excess cash has a complicated definition in a HUD Handbook.) COCCs can charge an even higher asset management fee, up to a total of $10 PUM, if an AMP has sufficient "excess cash" from the previous year. Such a fee can be based on all units under ACC (Annual Contribution Contract) whether or not they are occupied.

- **Capital Fund Management Fee.** HUD allows COCCs to charge AMPs a fee of up to 10% of their Capital Fund Program formula amount to compensate for long-term Capital Fund planning, monitoring, and reporting.

**Fee-for-Service and "Prorated" Fees**
A HUD Handbook introduces the term “front-line” administrative costs, which relate to the direct operation of an AMP, such as on-site housing management and maintenance. It might be more cost-effective to provide some front-line administrative and maintenance functions centrally from the COCC. If so, HUD requires centralized maintenance services to be charged on a fee-for-service basis, but allows centralized administrative services to be charged on a fee-for-service basis or to be prorated across all or some AMPs.

If a COCC charges an AMP a fee for a front-line administrative service, the cost must be based on a market price that can be documented. An example is the use of a COCC’s Information Technology (IT) staff to upgrade an AMP’s computer system, a service the AMP could also purchase from a private company.
The Handbook gives examples of several types of front-line AMP administrative functions that could be provided centrally from the COCC, with costs prorated back to AMPs, such as: collecting rent, maintaining waiting lists, screening, and leasing. HUD prefers resident services to be site-based; however, if PHAs can’t track personnel costs for resident services to AMPs, then the costs can be prorated.

“Fungibility”

Transferring Operating Subsidy from One AMP to Another AMP. The new rule allows operating subsidy funds to be shifted from one AMP to another, but only if there is “excess cash” as defined by HUD. Starting in Calendar Year 2008, the amount of excess cash required for fungibility will gradually increase until 2011; then, and every year after, an AMP must have excess cash equal to one month of operating expenses before any excess cash can be transferred to a different AMP that needs it.

New Operating Fund Formula

HUD started using the new formula for distributing Operating Fund Program subsidies in Calendar Year 2007 (2008 will be the first year that operating subsidies will be determined on a project-by-project basis). The new formula’s factors are: a Project Expense Level (PEL), a Utility Expense Level (UEL), and nine possible “add-ons.”

Project Expense Level (PEL)

HUD claims that the Project Expense Level (PEL) reflects the normal expenses of operating a public housing project (AMP). But the PEL is not based on actual costs; rather, it is an estimate of AMP-level costs for public housing calculated by statistically adjusting actual costs at FHA-assisted private multifamily housing.

Each AMP has a unique PEL based on: number of units, building age, building type, occupancy type (family or elderly), bedroom mix, location (central city, suburban, rural), neighborhood poverty rate, percentage of households assisted, ownership type (profit, nonprofit, limited dividend), and region of the country.

The minimum PEL is $215 PUM (per unit per month) for a family AMP and $200 PUM for a senior AMP. In general, the maximum PEL is $420 PUM. Each year an AMP’s PEL will be adjusted by a local inflation factor. In 2009 HUD will meet with stakeholders to review this method based on actual cost data, and might adjust PELs in FY 2011.

Utility Expense Level (UEL)

Utility Expense Levels (UELS) are unique to each AMP and are designed to encourage reduced utility use. The rule has many UEL details.

Add-Ons

In addition to using the PEL and UEL to calculate operating subsidy for AMPs, the amount is increased through four “add-ons:”

- Resident participation activities. Each AMP will get $25 per occupied unit per year for resident participation activities, including but not limited to activities described in existing regulations known as “Part 964.” The introduction to the final regulation stresses, “The intent of this language is to allow resident participation funds to be used for a broader range of activities than outlined in Part 964, including resident services.”

  The current Part 964 regulation is still in force, allowing the PHA to retain $10 of the $25 per unit add-on. This $10 must be spent for resident participation activities or resident services, which can either be provided by on-site staff or by staff based at the COCC (with the AMP reimbursing the COCC through a fee-for-service).

- Asset management fee. If the PHA has at least 250 units, AMPs will get a $4 PUM asset management fee.
- PILOT (payment in lieu of taxes). Each PHA will get PILOT money, as it did before, to pay to local government as a substitute for regular property taxes.
- An Information Technology fee of $2 PUM.

A PHA might also be eligible to get one of five other add-ons, such as the cost of running the HUD self-sufficiency program or paying for energy conservation.
New Formula Phase-In
The new Operating Fund formula will result in 814 PHAs getting less operating subsidy and 2,304 getting more. HUD’s list is at www.hud.gov/offices/pih/programs/ph/am/of/transitionanalys.xls.

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) will be applied gradually over six years. Starting on October 1, 2007, a PHA destined to get less operating subsidy had its old 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 will be 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 example, if the new formula results in a PHA being eligible for $100,000 less than it got under the old formula, in the first year it will only really “lose” $5,000, and in the second year it will “lose” $24,000, etc. until the full $100,000 is “lost” in the sixth year.

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 amount. 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. (For example, if the old formula provided $1,000,000 and the new formula will provide $900,000, the difference is $100,000. Five percent of $100,000 is $5,000. The PHA will get an operating subsidy amount equal to the new formula amount [$900,000] plus $95,000 [$100,000 minus $5,000] for a total of $995,000.)

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 eventually 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.

What Might Asset Management Mean for Residents?
As stated at the beginning of this chapter, the concept of asset management is not necessarily bad. However, in combination with years’ of inadequate funding from the Administration and Congress, public housing and the people who call it home might be even more vulnerable to demolition and disposition. Because there is not sufficient funding for the operating subsidy, asset management might mean that there will be some projects that some PHAs will be forced to abandon.

Project-Based Performance Assessment System
At press time, HUD had not yet issued a new performance assessment system to replace the Public Housing Assessment System (PHAS). A new system will shift from assessing the PHA overall toward assessing the physical, financial, and management performance of individual AMPs. Of great concern to many is the extent to which any financial performance assessment leading to poor scores for some AMPs might unnecessarily force PHAs to demolish or sell these AMPs.

Draining Money From AMPs for Non-affordable Housing
HUD has determined that fees central offices charge AMPs are not federal “program income.” Therefore PHAs can use fee revenue in anyway consistent with their bylaws. Instead of keeping scarce operating funds at AMPs for resident services and better maintenance, PHAs will have an incentive to charge AMPs more and higher fees, draining money way from AMPs in order to have more COCC staff and/or to develop properties that do not house extremely low income people.
$25 Per Unit Resident Participation Allocation
The new formula provides each AMP with a $25 per unit “add-on” for resident participation activities. Because the AMP gets the funds instead of the PHA, several questions arise:

- If there is a city-wide resident council, will AMP resident councils agree to share some of their $25 per unit resident participation funds with the city-wide?
- What happens to the funds if an AMP does not have a resident council? (However, recall that this money can also be used for resident services.)
- Because a COCC can keep “fee-for-service” income for itself to use for non-public housing development in order to reap more unrestricted income:
  - PHAs could convince AMP managers to devote less of the $25 to resident participation activities and to budget more of it for resident services provided by the COCC (which would be charged as fee-for-services).
  - PHAs might be more inclined to keep $10 of the $25 as allowed by Part 964 and provide resident participation activities or resident services from the COCC.

Resident Participation
On March 1, 2007, HUD issued a Federal Register notice speeding up the process for PHAs seeking a waiver of the “Part 964” tenant participation regulations relating to: the role of jurisdiction-wide resident councils; the PHA’s role in resident participation activities; requirements concerning resident council membership; resident council election procedures; and, uniform bylaws. Resident leaders from across the nation are resisting any weakening of the Part 964 tenant participation regulations.

HUD has also proposed drastically cutting the PHA Plan template, which would make it far more difficult for residents to learn about PHA policies, practices, and plans to demolish, sell, or convert public housing to vouchers (see PHA Plan chapter).

Resident Services
There is no item in the new formula specifically for resident services. Residents at each AMP will need to convince their AMP manager to budget enough money for the type and level of resident services they need - and then work to convince the PHA Board of Commissioners to approve that budget item.

In the past, some developments might have received a lot of service money from the PHA because residents at those developments needed extra services. The new formula might not provide enough PEL at those developments to cover their historic level of services. Also, the COCC might be less able to transfer funds from other AMPs because those AMPs don’t have enough excess cash.

Operating More Like a Business
Written material suggests that asset management will cause PHAs to think less in terms of residents and force PHAs to act more like a real estate businesses with a focus on balance sheet numbers. Public housing’s traditional social mission could be downplayed.

The Harvard Cost Study noted that “PHAs operate like public agencies and not like real estate businesses,” and that they have “been immune to market forces.” It also urged HUD to “Make it clear that the primary mission of public housing is property/asset management...[not] resident training, economic development, and other non-traditional real estate management ventures.”

HUD’s asset management planning guide claims, “In the long term, asset management also includes the broader strategic examination of a PHA’s portfolio...considering such strategies as...disposition or replacement.”

Role of AMP Managers
Each AMP will have a manager directly responsible for not only the AMP’s budget, but also for the daily operation of public housing residents’ homes. AMP managers will be overseeing resident services, work orders, income reexaminations, evictions, etc.
This has the potential of improving service for residents because there is someone close at hand who has direct authority and responsibility, rather than a distant, unknown staff person at the PHA central office. On the other hand, if there is a tense relationship between residents (especially leaders) and the AMP manager, there might be fewer opportunities for central office staff to step in and resolve difficulties.

**Project-Based Budgeting Can Be an Opportunity For Residents**

The budget process now takes place at the AMP level. The regulations require AMP budgets to be available to the public. This is an opportunity for residents to review their building’s budgets.

However, the regulations do not require resident involvement in advising the AMP manager during the budget planning phase. Residents will only see their development’s budget after it has been set. HUD claims “this decision should be left to PHAs.”

Residents should press their PHA and their AMP manager for a policy that requires AMPS to involve resident councils and other resident organizations in the budget-setting process and to provide draft budgets to all residents in advance of any decision-making.

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**Advocacy on Asset Management in 2008**

HUD’s requirement that public housing agencies (PHAs) switch to asset management simply means that PHAs with more than 250 units must conduct budgeting, management, and accounting on a project-by-project basis, instead of on a PHA-wide basis.

Although full compliance is not required until 2011, some PHAs are already operating according to asset management principles, especially PHAs called “stop-loss” agencies. Also, on July 1, 2007, some PHAs started preparing budgets on a project-by-project basis, with more doing so on October 1. All will have to submit project-based budgets by April 1, 2008.

**Potential HUD Actions**

Asset management is still unfolding. HUD will be providing more guidance after this article is printed. Therefore, residents and advocates should periodically check HUD’s asset management webpage, www.hud.gov/offices/pih/programs/ph/am/.

For example, one change that will be taking place soon relates to the old Public Housing Assessment System (PHAS). HUD anticipates issuing a proposed new PHAS Rule and scoring notice this winter. Also, under the new PHAS the current Management Operations certification submitted by PHAs will be replaced by on-site reviews. HUD is developing the on-site review form, using as a guide the HUD Multifamily Management Review form, or HUD-9834. HUD will post for public comment a review form for public housing.

**Congressional Action**

H.R. 3521, the Public Housing Asset Management Improvement Act of 2007, was introduced by Representative Albio Sires (D - NJ).

Section 4 of this bill is entitled “Tenant Participation.” It would:

- Prevent use of asset management to waive or repeal the existing public housing tenant participation regulations known as Part 964.
- Require HUD to ensure that PHAs encourage the efforts of resident organizations to represent their members, or to encourage the efforts of tenants to organize.
- Require any guidance issued by HUD to encourage resident participation in asset management implementation and the development of local asset management policies.
H.R. 3521 began at the urging of the public housing industry. Therefore, it would exempt from asset management requirements, PHAs with less than 500 units (compared to the current HUD-specified level of 250 units). It would also prohibit HUD from limiting the amount of management fees PHAs could charge individual public housing projects (now known as Asset Management Projects, or AMPs) unless limits were set through negotiated rulemaking. Finally, the bill would prohibit HUD from limiting PHAs’ use of Capital Funds to meet central office expenses (central offices are now known by the term Central Office Cost Centers, or COCCs).

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

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


HUD’s Asset Management e-Newsletter: www.hud.gov/offices/pih/programs/ph/am/newsletter.cfm
Brownfields

By Stephen Sugg, Senior Policy Officer, Local Initiatives Support Corporation

Communities continue to grapple with the challenge of restoring brownfields and returning them to productive use. These abandoned factories, warehouses, gas stations, contaminated properties and other eyesores cause blight to neighborhoods, inhibit economic development, threaten public health and the environment and encourage sprawl. Brownfields are often concentrated in low income communities. A diverse coalition has emerged around brownfields issues and has outlined an ambitious brownfields funding and reauthorization agenda for the 110th Congress. This agenda includes an emphasis on resources on low income communities.

Several federal programs support brownfields reinvestment, but the U.S. Environmental Protection Agency’s (EPA) Brownfields Program is the centerpiece. Despite chronic underfunding, the EPA program has produced dramatic results. The EPA has invested approximately $800 million in brownfields site assessment and cleanup since 1995. This investment has leveraged $8.2 billion in cleanup and redevelopment funding – a more than 10 to one return on public investment. This investment has resulted in the assessment of more than 8,000 properties and helped to create more than 37,000 new jobs nationwide. The 110th Congress has the opportunity to reauthorize and improve the EPA Brownfields Program while enhancing the U.S. Department of Housing and Urban Development (HUD) Brownfields Economic Development Initiative (BEDI) program and tax code provisions that are additional tools for brownfields redevelopment.

Advocates encourage funding the EPA Brownfields and the HUD BEDI programs at the highest authorized levels. Additionally, other federal programs such as Community Development Block Grants (CDBG) often provide support for brownfields-related redevelopment in low income neighborhoods.

Advocacy on Brownfields in 2008
The National Brownfields Coalition expects legislation early in 2008 to reauthorize EPA Brownfields programs. Advocates can follow the legislation’s progress along with other brownfields-related information in the Brownfields Section at www.nemw.org. Nonprofit advocates can contact LISC for additional information on the proposals to ensure additional brownfields resources for qualified non-profit community development entities.

For More Information
EPA Brownfields homepage: www.epa.gov/brownfields/

Local Initiatives Support Corporation (LISC) · 202-785-2908 · www.lisc.org
Budget Primer

By Martha Coven, Senior Legislative Associate, Center on Budget and Policy Priorities

Program

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.

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. Congress is currently trying to live by a “pay-as-you-go” (PAYGO) 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. President Bush does not believe in this standard, however. (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.

After receiving the President’s budget, Congress holds a series of hearings where Cabinet officials testify about the budget request. Congress then turns in March 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 begin work on their tax bills and spending bills.

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, which is what happened in 2007. If that 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.

Advocacy on the Budget in 2008
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

Background on the Budget and Appropriations from the Coalition on Human Needs: www.chn.org/issues/budget/background.html.

NLHIC’s budget chart provides funding levels for all major housing programs and is available at: www.nlihc.org/doc/FY09_BudgetChart.pdf
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 remaining 30% can be used to aid in the prevention or elimination of slums and blight or to meet an urgent need such as hurricane, earthquake or flood relief.

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. It is administered by the U.S. Department of Housing and Urban Development's (HUD) Office of Community Planning and Development (CPD). 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.

Intent
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 low income people is reinforced by the formulas that determine how much money each entitlement jurisdiction and state will receive. The formulas are based on factors heavily weighted by the degree of poverty and indicators of poor housing conditions in a jurisdiction.

Beneficiaries
At least 70% of the CDBG funds received by a jurisdiction must be spent to benefit people with low and moderate incomes. The remaining 30% can also benefit lower income people, 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 $51,700 in 2007. AMI in some jurisdictions is so high (the AMI in the Lowell, MA, metro area was $82,400 in 2007) that HUD caps the qualifying household income at the national median income, which was $59,600 for a four-person household in 2007.

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

- **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 24% of CDBG funds have been used for some type of housing program, which is a decline from 35% in previous decades.

- **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 lower income people, HUD looks at its service area. If 51% of the residents in the activity’s service area are lower income people, then HUD assumes lower income people 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 lower income people.

- **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 who are 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 senior citizens. Advocates can challenge a presumed benefit claim if an activity does not really benefit low income people.

**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 lower income people. Lower income people 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 the elderly and 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 low income people. 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 (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.

**Making CDBG Work in Your Community**
Because only 70% of CDBG funds have to benefit low or moderate income people and because all of the funding could benefit moderate income people, many of the lowest income households never benefit from the program. Locally, people can organize to get 100% of a jurisdiction’s CDBG to be used for activities that benefit lower income people and can strive to have more used to benefit extremely low income people.

The public participation process can be used to organize and advocate for more CDBG dollars to be used for the kinds of projects they really want in their neighborhoods and then 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.

**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 Financial Institutions Fund

By Fred Zeytoonjian, Executive Director, Coalition of Community Development Financial Institutions. Alejandra Lopez-Fernandini, Policy Associate, CDFI Coalition, contributed to this chapter.

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 leverage this federal investment on average 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.

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 operates three main grant programs designed to both build the capacity of CDFIs and increase private investment in distressed communities nationwide. Through these programs, 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. Since its first round of funding in FY95, the CDFI Fund has made more than $820 million in awards to community development organizations and financial institutions. Currently, more than 1,000 CDFIs manage more than $10 billion, more than 10 times the fund’s investment, in predominantly private capital.

In addition, the CDFI Fund administers the New Markets Tax Credit program (see also the New Markets Tax Credit chapter). CDFIs and other Community Development Entities (CDEs) compete annually for allocations of New Market Tax Credits, which they in turn provide to investors to encourage development in low-wealth communities.

CDFI Program. The CDFI Program is comprised of two components: Financial Assistance and Technical Assistance. Through these two components, the CDFI Program provides loans, equity investments and grants to CDFIs to support their capitalization and capacity-building, enhancing their ability to create community development impact in underserved markets. CDFIs compete for federal support based on their business plans, market analyses and
performance goals. Applicants for financial assistance must be certified by the CDFI Fund and provide at least a one-to-one match of non-federal funds.

**Native American Initiatives (NAI) Program.** The NAI Program provides technical assistance and financial assistance to CDFIs serving Native American populations through the Native American CDFI Assistance (NACA) program. NACA supports CDFIs’ expansion of access to capital and financial services in Native American communities nationwide. The NAI 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 FY 2002, then added financial assistance in FY 2004.

**Bank Enterprise Award (BEA) Program.** BEA provides financial incentives to banks and thrifts to invest in CDFIs and support other community development finance work. CDFI banks also receive assistance from this program for increases in their lending and retail financial services in low income communities.

**New Markets Tax Credit Program (NMTC).** NMTC is designed to generate $19.5 billion of private sector equity investments in low income communities by financing neighborhood retail centers, small businesses, charter schools, child care centers and other community facilities in distressed areas nationwide. Congress enacted the NMTC in the Community Renewal Tax Relief Act of 2000, and the CDFI Fund awarded the first round of credits early in 2003. Credits are available to support $16 billion in investment through 2007: $2.5 billion in 2002 (allocated in 2003); an additional $3.5 billion in 2003-2004 (allocated in 2004); $2 billion in 2005; and $3.5 billion in 2006 and $3.9 billion in 2007. In the wake of hurricanes Katrina and Rita, Congress authorized $1 billion of special allocation authority for use in the recovery and redevelopment of the Gulf Opportunity (GO) Zone, which is included in the totals above. The 109th Congress passed legislation in its final hours that included an extension of the New Markets Tax Credit through 2008 with additional credit volume of $3.5 billion. The extension legislation also included a provision to encourage.

Approved Community Development Entities (CDEs), including CDFIs, apply to the CDFI Fund annually for New Market Credits. These entities will sell the credits for cash to corporate institutions and use the proceeds to support their community revitalization projects. Taxpayers will claim credits over seven years, starting on the date when the equity investment is made in the CDE and on each anniversary. The NMTC has a current value of approximately 30% – much smaller than that provided by the Low Income Housing Tax Credit (LIHTC) – meaning that activities it finances generally will have to generate substantial economic benefits on their own to attract investors. It is also important to note that the statute prohibits the NMTC from assisting residential rental property if 80% or more of the gross income from the property is rental income from dwelling units.

**Funding**

The CDFI Fund received $94 million in FY08. This funding level far surpasses the President’s FY08 budget recommendation of $28.6 million which, though low, increased $20.7 million from the previous two proposals and moved away from language suggesting the elimination of the CDFI Fund.

Although the CDFI Fund has enjoyed broad, bipartisan support, the Administration has recently demonstrated opposition to the future existence of the CDFI Fund grant programs. Tight budgetary conditions and stiff competition for federal funds have resulted in lower appropriations levels authorized by Congress. Appropriations for the CDFI Fund reached a high of $118 million in FY01, but had decreased to $54 million in FY06.

At the same time, applications for CDFI Fund awards continue to significantly exceed the supply of funds. Since 1996, applicants to the CDFI Program have requested more than four times the amount awarded.

**Advocacy for CDFI in 2008**

Strong Congressional support for the CDFI Fund will hopefully sustain future attempts by the Administration to eliminate any CDFI Fund grant programs.

The NMTC program will expire at the end of 2008. Senators Jay Rockefeller (D-WV) and Olympia Snowe (R-ME)
and Representatives Richard Neal (D-MA) and Ron Lewis (R-KY) introduced legislation in 2007 (S. 1239 and H.R. 2075, respectively) that would reauthorize the NMTC program for an additional $17.5 billion over five years, from 2008 through 2013. Advocates hope the extension through 2013 will be passed in the 110th Congress.

**For More Information**
The CDFI Coalition  ·  703-294-6970  ·  www.cdfi.org

The CDFI Fund  ·  202-622-6355  ·  www.cdfifund.gov
Community Opposition to Affordable Housing

By Danna Fischer, Policy Analyst, 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 the benefits of your project to the community rather than rely on lawsuits to protect the needed housing.

There several resources listed below that can assist advocates in overcoming community opposition to affordable housing. Generally, as an advocate, you 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, which is required for the receipt of federal housing and community development funds (see Consolidated Plan chapter).
- 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.

A relatively new 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

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.


Building Better Communities Network · 202-467-5730, x117 · www.bettercommunities.org

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

Center for Community Change · 202-342-0519 · www.communitychange.org

Technical Assistance Collaborative · 617-266-5657 · www.tacinc.org

The Campaign for Affordable Housing · 323-330-0540 · www.tcah.org

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/about.html.
Community Reinvestment Act

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

Passed in 1977, the Community Reinvestment Act (CRA) mandates the continual and affirmative responsibility of banks to meet the credit needs of low and moderate income neighborhoods. Four agencies are responsible for ensuring that banks and thrift savings 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). Now, Congress is considering updating this critical law.

Congress implemented CRA at a time when many banks and other financial institutions would routinely “redline” communities they found to be undesirable, refusing to invest in them or extend credit to their residents. CRA legislation imposed an obligation on banks and thrifts to meet the credit needs of the local communities in which they are chartered. For the last 30 years, CRA has been the primary tool that community groups have used to increase the flow of private capital and expand access to banking services in low and moderate income communities and communities of color.

How the CRA Works

CRA Examinations. The CRA directs four federal banking agencies to evaluate the extent to which banks and savings institutions are meeting local credit needs before they grant banks' requests to expand, either by opening new branches or through mergers and acquisitions. A weak CRA record may be grounds for denial of an expansion request.

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 low and moderate income 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 makes. 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. Multi-state banks receive a rating and assessment for each state in which they operate. A narrative report provides details about a bank's home, small business and economic development loans, investments and services. CRA exams are available to the public and can be obtained online via www.ffiec.gov. The banking agencies publish lists of banks scheduled for CRA exams in order to encourage the public to comment on a bank's performance at the time it is being rated. These lists are published quarterly, 30 days before the beginning of the quarter. The lists are available directly from the regulators and are posted on their web sites.

The “CRA Challenge.” Traditionally, CRA has worked because it provides citizens with the opportunity and standing to intervene on CRA exams and merger applications. Banking law provides opportunities for public comment on pending expansion requests by banks, such as mergers and branch openings. Citizens may challenge the approval of an expansion request if they believe that the bank has a weak CRA record. Local community groups, nonprofit affordable housing organizations, small business associations and public agencies have become experienced at monitoring the CRA performance records of banks and challenging those with weak records.

While the CRA challenge is a popular grievance procedure for grassroots organizations, it rarely has worked the way many originally envisioned it would. Only a handful of bank expansion requests have been denied outright by federal regulators. Instead, the challenge process has proven most effective when it works to encourage CRA agreements between banks and local communities. CRA agreements are bank commitments to make a specific number and
specific dollar amount of loans, investments and services in minority and low income communities over a specified time period. The National Community Reinvestment Coalition (NCRC) calculates that since 1977 community groups and banks have negotiated more than $4.6 trillion in CRA agreements. However, local community groups operating in the current banking environment find it increasingly difficult to negotiate these settlements with the banking giants that have come to dominate today’s national financial landscape.

While CRA agreements are harder to obtain they still occur, and community groups should always ask banks to be specific about how they will avoid eliminating branches and how they will instead expand bank lending and investing in minority and low income communities after mergers. In addition, commenting on CRA exams is an effective means of holding lenders accountable. For example, a few years ago, NCRC helped a community group in West Virginia comment on a CRA exam of a regional lender. This lender almost failed its CRA exam and its merger application was held up for about one year. As a result of this pressure, the bank improved its CRA record and made significantly more loans and investments in traditionally underserved communities.

Nonprofit housing advocates and developers should also establish regular dialogues with banks about credit needs. Banks have CRA officers who are eager to finance affordable housing and community development, improve their CRA ratings and revitalize their local communities. Nonprofit community groups, counseling agencies and development agencies should regard banks as valuable resources and should present their ideas for supporting CRA eligible projects to bank CRA officers. Community groups and banks often enter into programmatic partnerships to provide financial education or homeownership counseling or to build/rehabilitate affordable housing. CRA has played a valuable role in stimulating these partnerships.

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 low and moderate income areas and borrowers by 39% from 1993 to 1998, more than twice the increase (of 17%) to middle and upper income borrowers and areas.

An analysis by former Federal Reserve economist Raphael Bostic and his colleague Breck Robinson found that CRA agreements increased bank lending to minorities and low and moderate income borrowers by up to 20%. The Federal Reserve has also demonstrated that CRA-covered banks are less likely to issue high-cost and risky loans than institutions not covered by CRA. CRA is an important antidote to the current foreclosure crisis by encouraging safe and sound lending.

Recent Rulemaking to Amend CRA Regulations
The regulatory agencies recently changed the CRA exam structure for mid-size banks with assets between $250 million and $1 billion and changed the definition of community development for rural areas. Advocates had opposed the rule changes because they were likely to result in a less rigorous CRA examination process, which means less financial investment in underserved areas by banks.

Specifically, the regulators – Office of the Comptroller of the Currency (OCC), Federal Deposit Insurance Corporation (FDIC), the Federal Reserve Board (FRB), and the Office of Thrift Supervision (OTS) – created a two-part test, which will include a lending test and a community development test for mid-size banks. The lending test will count for half of the CRA grade and the community development test will count for the remaining half. The community development test will evaluate a mid-size bank’s provision of community development (CD) loans, investments and services.

The difficulty with the community development test is that it is not as comprehensive as the investment and service tests it replaced. For example, it is not clear how the regulators will scrutinize branching patterns under the new community development test to ensure that a bank is placing a sufficient number of branches in low and moderate income communities. In addition, the regulators deleted the requirement that mid-size banks report CRA small business or farm lending data or community development lending data. Without access to this data there is no way to evaluate whether the mid-size banks are meeting the lending needs for farmers or small businesses. There is also a lack of annual data regarding loans for community development, including affordable housing.
While the final changes made by the agencies were not those sought by advocates, the final changes could have been far worse. For instance, there were proposals to eliminate the investment and service tests altogether for mid-size and large banks.

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<th>Advocacy on the CRA in 2008</th>
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<tr>
<td><strong>Use CRA in Your Work</strong></td>
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<tr>
<td>Advocates should 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, establish and expand upon dialogues with CRA officers of banks in your service area to see how the banks can increase their support of affordable housing.</td>
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<td><strong>Advocate for Updating the CRA:</strong></td>
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<td>Representatives Eddie Bernice Johnson (D-TX) and Luis Gutierrez (D-IL) have introduced the CRA Modernization Act of 2007, H.R. 1289. The CRA Modernization Act would strengthen CRA as applied to banks by repealing the recent regulatory changes that weakened CRA. It would also ensure that the great majority of loans issued by banks are scrutinized on CRA exams. CRA must also be applied to non-bank financial institutions including credit unions, mortgage companies, and insurance firms.</td>
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<td>On February 13, 2008, Chairman Barney Frank of the House Financial Services Committee held a hearing to consider the accomplishments of CRA and to examine ways to enhance the law. This important hearing has started Congressional consideration of updating CRA. Contact your member of Congress to urge them to consider the CRA Modernization Act of 2007 and central elements of that act including applying CRA to non-bank financial institutions and strengthening CRA as applied to banks. Mention that CRA is an important antidote to the foreclosure crisis by encouraging banks to issue safe and sound loans.</td>
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<td><strong>For More Information</strong></td>
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<td>National Community Reinvestment Coalition • 202-628-8866 • <a href="http://www.ncrc.org">www.ncrc.org</a></td>
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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. Annual performance reporting requirements of the four block grant programs are also merged into a set of documents called the CAPER. The ConPlan process is guided by HUD's Office of Community Planning and Development. The ConPlan is a tool advocates can use to influence how federal housing and community development dollars are spent in their communities.

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).

Five Steps of the ConPlan Calendar
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. Another report is called the CAPER (C04PR06), which 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 low income people, 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 related 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 low income people. 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 timely if the jurisdiction gets CDBG).

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 (available at www.nlihc.org) is an excellent source of data, as is NLIHC’s Local Area Low Income Housing Database (www.nlihc.org/detail/article.cfm?article_id=3079&id=21).

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 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 on HUD Table 1A. 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,” HUD memos (September 2, 2004, most recently) relaxed this requirement and merely say that jurisdictions “should…update the AI annually where necessary.”

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.

The ConPlan is a potentially useful advocacy tool for directing funds toward activities more beneficial to low income people because jurisdictions must provide for and encourage public participation, particularly by low income people. 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

The Continuum of Care is the U.S. Department of Housing and Urban Development’s (HUD) local planning process, where government agencies, service providers and advocates 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.

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.

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, 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.

Advocates who participate in the Continuum of Care 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 support their arguments.

In recent years, HUD has required Continuums to coordinate with local planning bodies that are preparing “Ten-Year Plans to End Homelessness.” Ten-Year Plans are intended to provide community-wide strategies for ending homelessness, including use of McKinney-Vento funding but also including use of other HUD funding such as Section 8 vouchers, Community Development Block Grants 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.

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. Depending on the community, this could mean families with children, youth or people living on the street for long periods of time.

Advocates not participating in the Continuum of Care should join as soon as possible. To find out what agency is coordinating a local Continuum, advocates can contact HUD’s Office of Special Needs Assistance Programs (“SNAPS office”). 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.

Last authorized in 1994, the housing title of the McKinney-Vento Act has expired. Accordingly, HUD has implemented the Continuum of Care process through their annual Notice of Funding Availability (NOFA). Legislation to reauthorize these provisions is pending in both the U.S. House of Representatives and Senate; both bills would codify the Continuum of Care process (under a different name) into federal law.
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.

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**Advocacy on the Continuum of Care in 2008**

In February 2007, Representative Julia Carson (D-IN) and Geoff Davis (R-KY) introduced the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act, H.R. 840, a bill to reauthorize the housing title of the McKinney-Vento Act. In May of 2007, Senators Jack Reed (D-RI) and Wayne Allard (R-CO) introduced their version of McKinney-Vento reauthorization legislation, the Community Partnership to End Homelessness Act, S. 1518. Mrs. Carson passed away in December 2007. House Financial Services Subcommittee on Housing and Community Opportunity Chair Maxine Waters (D-CA) is expected to focus on the issue in 2008.

S. 1518 passed through the Senate Committee on Banking, Housing and Urban Affairs and is now pending on the floor. Committee staff have sought to pass the bill by unanimous consent, but it is currently being held up by Senator Tom Coburn (R-OK). The House Financial Services Committee, Subcommittee on Housing and Community Opportunity held hearings on H.R. 840 in October, 2007. Subcommittee and full committee markups are expected in the spring of 2008.

Both the House and Senate bills would codify the Continuum of Care process, with the House bill renaming Continuums of Care as “Community Homeless Assistance Planning Boards” and the Senate bill calling them “Collaborative Applicants.” And each bill would expand the number of stakeholders required to take part in the Continuum of Care process. Advocates should support these provisions.

There are several important substantive differences between the two bills. The House bill would require Continuums to review a number of 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 would not result in people becoming homeless. These provisions are not contained in the Senate bill.
Such a review is a critical part of any substantive community plan to end homelessness. However, McKinney-Vento reauthorization legislation should allow these new requirements to be implemented 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.

The pending House and Senate bills also continue the debate over whether or not to prioritize projects that address long-term homelessness. S. 1518 would continue the current incentives for permanent housing and provide significant additional incentives for the same activities. In contrast, H.R. 840 does not contain incentives for specific housing activities. Advocates are urged to support provisions that would be most beneficial for their local Continuum.

For more information:
National Policy and Advocacy Council on Homelessness (NPACH)  (202) 714-5378
www.npach.org

National Alliance to End Homelessness • 202-638-1526 • www.endhomelessness.org
Disaster Relief and Housing

By Diane Yentel, Policy Analyst, National Low Income Housing Coalition

In August 2005, hurricanes Katrina and Rita devastated the Gulf Coast region. In the ensuing time, the country has been faced with new challenges as federal, state and local groups attempted to re-house more than a half a million people and rebuild the destroyed coast. From continuing temporary housing needs and ensuring the equitable distribution of rebuilding resources for the Gulf Coast to making certain that the housing response in future disasters makes better use of existing resources, the storms created an entirely new area of focus for housing advocates.

Background
While the hurricanes of 2005 displaced more individuals than any other natural disaster in U.S. history, the federal government had dealt with the mass re-housing of disaster victims on several prior occasions. In 1989, the Loma Prieta earthquake hit the San Francisco Bay Area, destroying approximately 12,000 housing units. In 1992, Hurricane Andrew damaged more than 173,000 homes in south Florida. And in 1994, the Northridge earthquake in Los Angeles rendered 25,000 dwellings uninhabitable and left 22,000 people homeless, making it the nation’s most costly natural disaster in history until hurricanes Katrina and Rita. According to experts, the 2005 storms caused more than four times the damage of the Northridge quake. The Federal Emergency Management Agency (FEMA) was a first responder in each of these disasters.

While the California earthquakes and south Florida hurricane affected many people, the damage of those disasters was mostly confined to specific areas of each state. With hurricanes Katrina and Rita, the damage affected more than 90,000 square miles. The evacuation of hundreds of thousands of residents from Louisiana, Mississippi and Texas meant relocation across the country.

Though the scope is perhaps unprecedented in the United States, the issues that have surfaced in the wake of Hurricanes Katrina and Rita are not new. Accounts of the housing disasters following the Loma Prieta earthquake recount the same inequities and problems that victims of the 2005 hurricanes face today. From the disproportionate number of low income individuals who were affected to the restrictions placed on assistance by FEMA, low income individuals, particularly renters, have a significantly harder time accessing the federal assistance for which they are legally eligible.

Compounding the difficult-to-navigate FEMA system is the number of one-time solutions the agency invokes in an attempt to fix the situation quickly. In Loma Prieta, special sources of funding created confusion and inadequate assistance. On the Gulf Coast, ever-changing policies on rental housing assistance create the same confusion. Without clearly stated eligibility and assistance guidelines for all disaster victims, FEMA continues to deal with disasters on a piecemeal basis. Disaster victims in both situations have resorted to lawsuits in an effort to get FEMA to clearly provide due process and complete information.

Another significant issue in both the Loma Prieta earthquake and the Katrina/Rita disaster is the limitations placed on HUD’s federal programs. Choosing not to allocate additional Section 8 vouchers or rental rehabilitation funds to affected individuals or areas complicates the process for many low income individuals and often leaves them stranded with few options. Hurricane Katrina created a new issue as thousands of individuals eligible for HUD assistance flooded PHAs across the country. Mandated by HUD to give preference to these storm victims, individuals not affected by the storms who remained on waiting lists were forced to take a back seat.

Complicating all of these issues is the lack of data and transparency provided by the federal agencies. Advocates, as well as local and state officials, have little or no accurate information about the scope of the problem. Without this data, it is difficult to offer assistance or alternatives to a growing list of issues.
Outlook for Future Disasters

National Disaster Housing Strategy
In September 2006, the 109th Congress enacted the National Disaster Housing Strategy (NDHS) Act. The Secretaries of HUD, Agriculture, Commerce, Transportation and Treasury; the Administrators of the Environmental Protection Agency and the Small Business Administration; the FEMA Director; state and local governments; and representatives from non-governmental organizations must together develop a National Disaster Housing Strategy. This strategy must outline the most cost-effective and efficient federal programs to best meet the short- and long-term housing needs of households after a major disaster and will define the roles, programs and responsibilities of all entities that could provide housing assistance in the event of a disaster.

The NDHS will outline funding issues, detail how responsibilities will be shared and present methods to provide housing assistance where employment and services are available. Programs directed to meet the needs of low income and special needs populations must be identified and planned.

Plans for promoting the repair or rehabilitation of existing rental housing, including lease agreements or other means to improve the provision of housing to disaster victims, must also be described in the strategy.

The FEMA Director must also, as part of the NDHS, develop and make public guidance on all types of housing assistance available after a disaster, including eligibility for such assistance, eligibility for continuation of such assistance and application procedures.

The FEMA Director was required to submit the NDHS to Congress by July 2007. Shortly before the plan was submitted, the story of high levels of formaldehyde creating an unsafe level of toxicity in FEMA trailers broke. Because FEMA had relied heavily on trailers as an appropriate response to housing needs after a disaster in the draft NDHS, they decided to rework the Strategy. FEMA alerted Members to a “substantial delay” in submitting the Strategy; as of press time, the NDHS has not been submitted to Congress.

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 incident – 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 Federal Response Plan, currently being revised to become the Federal Response Framework, includes the contributions of 28 federal agencies as well as non-governmental organizations like the American Red Cross in disaster response and recovery. 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.
U.S. Department of Housing and Urban Development (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.

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.

Advocacy on Disaster Relief and Housing in 2008
H.R. 1227, the Gulf Coast Housing Recovery Act of 2007, passed the House on March 21, 2007. The bill, introduced by Representatives Barney Frank (D-MA) and Maxine Waters (D-CA) would, among other things, require that any redevelopment of public housing owned by the Housing Authority of New Orleans (HANO) or any Gulf Coast public housing agency (PHA) include one-for-one replacement and a right to return for all displaced tenants. Senate companion legislation, S. 1668, introduced by Louisiana Senator Mary Landrieu (D) and Senator Christopher Dodd (D-CT) on June 20, 2007, remains stalled in the Senate due to opposition by Louisiana Senator David Vitter (R).

Advocates should contact Members of Congress, especially members of the Senate Committee on Banking, Housing and Urban Affairs and members of the Gulf Coast delegation, to urge them to support S. 1668 and to request that the bill receive a vote in committee as soon as possible.

And, Senator Mary Landrieu (D-LA) is expected to introduce legislation to revise housing-related provisions in the Stafford Act to insure that low income people’s housing needs are better met in future disasters.

While there is no way to plan for a natural disaster, advocates can be ready to tackle some of the many issues that arise when it comes to re-housing some of a disaster’s most vulnerable victims. Paying particularly close attention to what other players are doing is important. While many will use a disaster to their advantage, advocates can play a critical role in making sure low income individuals are not taken advantage of or forgotten.

Developing a way to streamline and expedite housing assistance is critical. Advocates can work with their cities and states in order to develop an effective re-housing plan. As FEMA is the designated lead in federal disasters, working with regional FEMA offices to build relationships and open a line of communication will make the transition during a time of disaster more manageable. By offering your expertise as housers, you can be a valuable resource to federal agencies.

While Hurricanes Katrina and Rita will certainly not be the last natural disasters the country faces, they continue to provide countless lessons. By remaining vigilant and involved in the re-housing and rebuilding process as it progresses, advocates can learn more about how FEMA and other federal agencies work. This in and of itself will help advocates deal with future housing disasters.

For More Information
Federal Emergency Management Agency · 800-621-FEMA · www.fema.gov

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

By John Wancheck, Earned Income Credit 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. The EITC was designed to offset the payroll and income tax burdens of the working poor, and expansion of the EITC now also provides an income supplement to very low wage workers. Workers received more than $43 billion from the EITC in 2007, exceeding federal expenditures for either Transitional Assistance for Needy Families (TANF) or food stamps.

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. Research findings indicate that the EITC has played a significant role in inducing large numbers of single mothers to enter the labor force. As a result, the EITC has historically enjoyed bipartisan support.

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 overall EITC administration is part of the IRS budget and is not separately appropriated.

Who Benefits from the EITC?
In 2007, more than 22 million low and moderate income workers claimed the EITC. 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. The EITC also reduces the depth and severity of poverty for millions of parents and children who remain below the poverty line. It enables near-poor parents and children to maintain incomes above the poverty line.

Participation in the EITC is higher than in public benefit programs with more burdensome eligibility procedures. Nevertheless, each year several million eligible workers do not claim their EITC. The workers most vulnerable to not claiming tax credits for which they are eligible include those likely to have the most difficulty reading and understanding tax forms and the lengthy instructions for calculating EITC eligibility. For example, an Urban Institute study found that low income Hispanic parents are much less likely to know about the EITC than low income non-Hispanic parents of any race.

How the EITC Works

Earned Income Tax Credit. Congress established the EITC in 1975 under Section 32 of the Internal Revenue Code. As a tax program, the EITC is administered by the Internal Revenue Service (IRS), with federal regulations established by the U.S. Department of the Treasury. The EITC has been expanded by Congress several times with the support of both Republican and Democratic presidents.

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 a family’s earnings and the number of children, but the credit can be relatively large. Workers raising two or more children with income less than $37,783 in 2007 can receive up to $4,716. Workers raising one child with income less than $33,241 in 2007 can receive up to $2,853. For a family with two children and very low wages, the EITC equals 40% of the first $11,790 in earnings in 2007. For example, a family headed by a single parent who works full-time year-round at the minimum wage could receive an additional $4,130 from the EITC.

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. 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 placed with workers.

Also, low income single or married workers who do not claim children for the EITC may be eligible for a modest EITC of up to $428. Such workers must be between 25 and 64 years old at the end of 2007, with income less than $12,590. They are not required to file Schedule EIC with their tax form.

All EITC income limits above are $2,000 higher for married workers, creating a slightly higher EITC for many married workers.

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 2008, 22 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.

Surveys have shown that EITC recipients often use their refunds to pay pressing bills or to help cover child care expenses or the cost of transportation to work. Workers may also improve their housing circumstances by using the EITC for a downpayment on a home purchase or to move into a better apartment. The EITC dovetails well with asset development programs that can help workers purchase a house, save to continue their education or start a small business. An EITC refund deposited into an Individual Development Account is eligible for matching contributions.

**Child Tax Credit.** Many workers who claim the EITC may also qualify for the Child Tax Credit (CTC), which is worth up to $1,000 for each qualifying child under age 17. The CTC was originally designed to reduce income tax liability, which is of benefit primarily to middle and upper income families. However, the CTC was expanded in 2001 to enable many families who earn too little to owe federal income tax to still receive a refund. To be eligible for this “Additional CTC” in 2007, a single or married worker must claim a qualifying child under age 17 on his or her tax return and have taxable earned income above $11,750. IRS Form 8812 must be completed and attached to the tax return to claim this credit. Workers who claim the “Additional CTC” still receive the same amount of the EITC for which they qualify. For example, a single worker in 2007 who earns $18,000 with three qualifying children under age 17 can claim a CTC refund worth $938 and an EITC of $4,166. CTC refunds are also not counted as income in determining eligibility for any federally funded program and do not count immediately toward resource limits.

**Outreach Campaigns**

The Center on Budget and Policy Priorities provides local organizations with training and technical assistance in building tax credit outreach campaigns to help ensure that low income workers are aware of the EITC, CTC and local free tax filing assistance programs. CBPP annually distributes a tax credit community outreach kit with posters and flyers in English and Spanish, fact sheets and examples of effective outreach strategies for these credits. These materials and translated flyers in 19 other languages are posted at the CBPP web site (www.cbpp.org/eic2007). References to other resource materials for specific constituencies and analyses of the EITC are also provided here. Also, the National Community Tax Coalition provides information and technical assistance to help new community programs develop. In addition, information, publications and forms are available from the IRS (www.irs.gov/eitc). The IRS and HUD work in partnership at the national level to promote these credits and free tax filing assistance programs within HUD agencies and programs nationwide.

**Advocacy on the EITC in 2008**

Congressional proposals to expand the EITC most likely to be considered in 2008 include an increase in the benefit of the EITC for workers not claiming a child and an increase in benefits to families with three or more children. Although passage of such expansions is considered less likely before 2009, it is important for advocates to let their members of Congress know that they support such measures. This will be particularly helpful if circumstances emerge in 2008 that provide an opportunity for speedier action. CBPP closely
monitors such congressional action on the EITC, publishes analyses of such proposals and issues legislative action alerts to advocates. Advocates can monitor developments through CBPP’s web site (www.cbpp.org). The National Community Tax Coalition supports expansion of the EITC and provides specific legislative action materials especially designed for state and local use at its website.

**EITC Expansion.** During 2007, considerable attention was given in Congress to proposals to expand the EITC. Most notably, Representative Charles Rangel (D-NY), Chair of the House Ways and Means Committee, included in his comprehensive tax reform package a significant expansion to the small EITC for workers not raising a child. Action on tax reform was postponed by the Committee until 2008. Members of the House and Senate sponsored bills that would create a larger EITC benefit for workers raising three or more children as well as also expanding the credit for those workers not raising children. Senators Barack Obama (D-IL) and Evan Bayh (D-IN) sponsored legislation to provide EITC benefits to certain noncustodial parents who are current in their child support payments. These proposals are discussed in greater detail in the Center on Budget and Policy Priorities’ (CBPP) report at www.cbpp.org/10-25-07tax.htm. There is likely to be further Congressional discussion of such expansion proposals in 2008, with some possibilities of enactment, although the chances of enactment of tax legislation are considered to be greater in 2009, after the Presidential election.

**Controls on Error.** In 2003, the Treasury Department and IRS proposed a new procedure to require EITC claimants in categories presumed to have higher rates of claim error to “pre-certify” their eligibility before claiming a child for the EITC. Claimants who failed to provide sufficient documentation in advance would have their EITC claims delayed until they did so. Advocates argued that such a “pre-certification” procedure would present low income workers with considerable difficulties in obtaining documents, result in the denial of the EITC to eligible workers and deter other eligible workers from submitting a claim. The IRS shelved plans to expand the procedure to the 3 million to 4 million claimants considered in the “high-risk” categories until small-scale tests of pre-certification in 2004, 2005 and 2006 are evaluated to determine if it was successful in blocking erroneous claims without deterring large numbers of eligible workers from receiving the EITC. The IRS is expected to provide in 2008 the results of its evaluation of this and other procedures that have been tested and indicate what measures it intends to implement.

**Links to Housing Policy.** Since the EITC provides a significant boost to the incomes of low income families, it can enable families to cope with high housing costs. Proposals have been made in recent years to broaden this feature of the EITC and to relate it more specifically to housing policy. “The Earned Income Tax Credit as a Housing Policy Instrument” by Michael A. Stegman, Walter R. Davis and Roberto Quercia at the University of North Carolina at Chapel Hill provides an analysis of the connections between the EITC and housing affordability problems affecting low and moderate income families. It details a proposal to expand the EITC to better meet the gaps between family income and housing costs and compares its costs and benefits to two other proposals that have been advanced. The Fannie Mae Foundation paper and three responses to it are available at www.knowledgeplex.org/showdoc.html?id=38357.

The three proposals examined include:

- A legislative proposal to create a “third tier” to the EITC in order to expand its benefits to families with three or more children whose incomes are more likely to fall far short of the federal poverty line and more likely to find housing costs unaffordable.
- A proposal by housing policy expert (and NLIHC founder) Cushing Dolbeare to incorporate a supplemental credit within the EITC for families whose rent payment is more than 50% of the total of a family’s earned income and basic EITC benefit. The credit would be based upon the difference between 50% of a family’s overall income and the local fair market rental value.
- The paper’s proposal to change the structure of the EITC to increase its benefits based on an analysis of national median housing costs. EITC benefits for low wage earners would be considerably increased and EITC benefits phased out more slowly as income increased.
This analysis and the responses to it provide a detailed look at how the EITC is structured and how modifications to it could be approached to target benefits more closely to families with critical housing affordability needs.

**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 Program

By Webb Lyon, Assistant to the President, National Alliance to End Homelessness

The Emergency Food and Shelter Program (EFSP) allocates federal funds to local communities for programs such as soup kitchens, food banks, shelters and homelessness prevention services. Generally, the types of services local agencies provide include groceries or served meals, lodging in a shelter or hotel or housing-related cash assistance such as a month’s rent, mortgage or utility payment.

EFSP is the government’s oldest federal program for serving homeless people. EFSP was originally created in 1983 with a $50 million allocation in an emergency jobs appropriations bill amid concern about the alarming rate of growth in the numbers of homeless people in America. The program existed exclusively through annual appropriations bills until its eventual authorization as a part the Stewart B. McKinney Homeless Assistance Act of 1987.

With the creation of EFSP in 1983 came the establishment of a National Board to distribute funding and ensure the program’s effectiveness. The National Board is chaired by the U.S. Department of Homeland Security’s Federal Emergency Management Agency (FEMA) and includes representatives from American Red Cross, Catholic Charities USA, National Council of the Churches of Christ in the USA, The Salvation Army, United Jewish Communities and United Way of America. The National Board has selected United Way of America to once again serve as its Secretariat and Fiscal Agent. In addition, the authorization as revised (Public Law 102-550) in 1992 requires that a homeless or formerly homeless person be a member of each EFSP local board.

Under the direction of the National Board, the program has largely maintained its original intent to allocate funds to the neediest areas, ensure rapid response, foster public-private sector cooperation, promote local decision making and monitor accountability. EFSP enables local agencies to respond to families who are homeless, but also, and perhaps more importantly, communities can use EFSP resources to prevent homelessness.

According to the United Way, since EFSP was enacted in 1983, local agencies have distributed almost $3 billion in more than 2,500 cities and counties. With the participation of more than 11,500 local non-profit, faith-based and government agencies, it is an extraordinary example of a public/private partnership tailored to the most pressing needs of communities and families.

EFSP is administered through a unique public-private partnership between FEMA and a National Board of private organizations. EFSP funding is allocated by the National Board to local boards and state set-aside committees. Agencies providing emergency services apply to their local board or state set-aside committee for funding. Nationwide, more than 11,000 faith-based, community and government agencies receive EFSP funding to supplement their emergency assistance efforts.

The majority of funding is distributed to local boards according to a formula that is based on local unemployment and poverty rates, the number of unemployed persons in each jurisdiction and the total population in each jurisdiction. The remaining funding is distributed to state set-aside committees who distribute EFSP money to needy areas that are not captured by the national formula. Local service providers determine eligibility for EFSP assistance.

Advocacy on EFSG in 2008

Even in the face of growing need, funding for the EFSP program has been declining since 2003. EFSP, which is funded through the Department of Homeland Security, received more than $154 million in FY03 and then decreased funding each year until receiving just more than $150 million in FY06.

In FY08, EFSP was funded at $153 million. For FY 2009, the Administration proposes the largest cut in the program’s history – a $53 million cut to $100 million.
Clearly, at a time of growing need, funding for EFSP should increase, rather than receive a significant cut. Advocates should work to ensure that EFSP, an efficient and important program, is funded at a minimum of $175 million for FY 2009.

For More Information
National Alliance to End Homelessness • 202-638-1526 www.endhomelessness.org

United Way of America • 703-836-7100 x496 • www.efsp.unitedway.org

Catholic Charities USA 703-549-1390 www.catholiccharitiesusa.org
Employer-Assisted Housing

By Rosalyn Crain, Policy Associate, National Housing Conference

Employer-assisted housing allows the private sector to play a direct role in promoting housing affordability. Additionally, employer-assisted housing programs and proposed federal incentives to offer these programs promote workforce retention and recruitment, while helping to maintain productivity and lower costs related to high employee turnover.

In 2007, legislation was introduced in the House and Senate to provide a federal tax credit for employer-provided employee housing assistance. The Housing America’s Workforce Act (HAWA), H.R. 1850 and S. 1078, was reintroduced in the House Representative Nydia Velasquez (D-NY) along with Representatives Jim Ramstad (R-MN), Charles Gonzales (D-TX), Joe Baca (D-CA), Gwen Moore (D-WI), Silvestre Reyes (D-TX), Loretta Sanchez (D-CA) and Edolphus Towns (D-NY), and in the Senate by Senator Hillary Rodham Clinton (D-NY) with Senators Mel Martinez (R-FL), Edward Kennedy (D-MA), Richard Durbin (D-IL), Joseph Lieberman (I-CT), Jack Reed (D-RJ) and Gordon Smith (R-OR), respectively.

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 receive the tax credit only 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.

Because HAWA is a tax bill, it would mostly require no direct appropriation from Congress. However, the demonstration grant portion of the bill would authorize an appropriation of $5 million for three consecutive years following its implementation.

Many employers are realizing the benefits of employer-assisted housing programs. Current trends in the housing market show low and moderate income families being priced out of the market and fewer lower-cost units being produced. Furthermore, housing production has failed to keep with pace with job growth, also affecting the surge in housing prices. This set of circumstances has left low and moderate-income families in a difficult situation with respect to finding affordable housing, leaving millions of working families with few options to rent or purchase a home, especially close to their employment.
Many of the workers experiencing difficulty securing affordable housing are critical to society. Workers such as teachers, firefighters, police officers, and hotel and restaurant workers often cannot afford to live in the communities in which they work. This has resulted in longer commutes for these employees, and 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.

Currently, there are hundreds if not thousands of employers across the country that offer EAH programs to their employees. (Because of a lack of documentation of EAH programs, it is difficult to ascertain the exact number of programs throughout the country). The public and private sectors are realizing that EAH is a smart strategy for addressing regional jobs-housing imbalances, community revitalization and smart growth. EAH serves 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.

Advocacy on EAH in 2008
During the first session of the 110th Congress, both H.R. 1850 and S. 1078 experienced great support from a variety of national organizations. The Senate bill also garnered bipartisan sponsorship. While no formal action has been taken on either the House or the Senate bill, advocates of the bill hope to see the Housing America’s Workforce Act gain bipartisan support in the House, as well an increase in the support of affordable housing and community development advocates and employers across the country during the second session of the 110th Congress.

For More Information
National Housing Conference • 202-466-2121 • www.nhc.org
Fair Housing

By Nhu-Han Duong, Project Coordinator, National Fair Housing Alliance

The Federal Fair Housing Act, enacted in 1968 and amended in 1974 and 1988, protects individuals and families from discrimination on the basis of race, national origin, color, religion, sex, familial status (children in the home) 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). Fiscal year 2008 funding for FHIP increased from $19.8 million to $24 million, and remained level for the FHAP program at $26 million. The difference between FHIP and FHAP funding is particularly striking considering that nonprofit fair housing organizations funded by FHIP directly process the most fair housing complaints by far – more than 17,000 of the 28,000 complaints filed in 2006.

Currently, through FHIP, fewer than half of eligible fair housing centers are funded to carry out the daunting tasks of educating the community (individuals, organizations and the housing industry) about the Fair Housing Act and administering enforcement tools, including testing. The FHAP program funds state and local governmental agencies conducting fair housing, including civil rights commissions, etc.

The Federal Fair Housing Act protects individuals and families from discrimination on the basis of race, national origin, color, religion, sex, familial status (children in the home) and disability in all housing transactions, public and private. HUD’s Office of Fair Housing and Equal Opportunity (FHEO) is responsible for the administration of fair housing programs and 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.

Private fair housing centers process at least two-thirds of the nation’s more than 28,000 annual fair housing complaints. These organizations fight housing discrimination by providing education and outreach programs for both housing consumers and housing providers, investigating allegations of rental, sales, homeowners insurance and lending discrimination, and conducting studies to determine the nature and extent of housing discrimination in the regions they serve.

The intent of fair housing is the promotion of integration and the elimination of discrimination. Residential segregation contributes to economic disadvantage by reducing home appreciation, access to public benefits and employment opportunities and perpetuating racially separate and unequal schools. Although homeownership rates are at an all-time high, the homeownership gap between whites and blacks is worse than it was in 1940 – 23% in 1940 versus 27% today, according to the Census.

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, almost 4 million fair housing violations are committed against African-Americans, Latinos, Asian Americans and Native Americans alone. Millions more violations are committed against people in all of the seven protected classes: family status, disability, religion, color, race, sex and national origin. The most complaints processed by fair housing centers are based on disability (35%), race (22%) and family status (13%). Because of accurate testing and investigations by fair housing centers, almost no complaints reach the litigation stage. More than 95% are settled through administrative or conciliation processes.

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 Community Development Block Grant (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 (see Analysis of Impediments chapter). Second, each jurisdiction must develop and implement a plan to eliminate the impediments to fair housing that are identified (see Consolidated Plan chapter).
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 Consolidated Plan. 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.) Less than 10% of these recipients actually have programs to address fair housing concerns in their communities.

### Advocacy on Fair Housing in 2008

There are many things advocates can do to promote fair housing locally and nationally, including:

- Advocate for additional funding for the Fair Housing Initiatives Program to reach at least its 1992 authorized level of $26 million.
- Support additional funding for the Fair Housing Assistance Program to enable state and local agencies to respond to the increase in fair housing complaints.
- Ask Members of Congress to co-sponsor the Housing Fairness Act of 2007 – H.R. 2926 in the House or S. 1733 in the Senate – that would double the reauthorization amount for FHIP to $52 million.
- Ask Congress and HUD to support full funding of CDBG.
- Ask HUD to establish and enforce meaningful regulations requiring CDBG entitlement jurisdictions to affirmatively further fair housing.
- Work with the National Fair Housing Alliance, your local fair housing centers and other nonprofit organizations, and state and local civil rights commissions to educate the community at large about its rights under the Fair Housing Act and encourage victims of discrimination to file a complaint with HUD or the state or local fair housing enforcement agency. The initial complaint can be registered at www.hud.gov/groups/fairhousing.cfm or by calling 1-800-669-9777 or 1-800-927-9275 (TDD).
- Find out what your jurisdiction is currently doing to affirmatively further fair housing. Does your jurisdiction produce an effective Analysis of Impediments to Fair Housing Choice? Is it affirmatively furthering fair housing as it must under law? The National Fair Housing Alliance collects Analyses of Impediments from across the country to investigate compliance.

### For more information

National Fair Housing Alliance • 202-898-1661 • www.nationalfairhousing.org
Faith-Based and Community Initiatives
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 decades with the federal government's support. Beginning early in the George W. Bush administration, a determined effort to promote the work of faith-based organizations has been made through a series of federal actions, including changes in the regulations that govern federal housing assistance programs. While this administration was not the first to support the work of faith-based and community organizations, some of its government-wide actions, within what is referred to as “The Faith-Based Initiative,” have been controversial.

The Issue
In January 2001, President Bush issued Executive Orders 13199 and 13198, which established the White House Office of Faith-Based and Community Initiatives and corresponding Centers for Faith-Based and Community Initiatives in five federal agencies, including the U.S. Department of Housing and Urban Development (HUD). Recognizing that faith-based and community organizations play an important role in meeting the needs of poor Americans and distressed communities, these offices were established with the purpose of coordinating a national effort to expand and strengthen the capacity of the faith-based and community organizations that fulfill this role.

Related executive orders followed, including Executive Order 13279, issued in December 2002, which ordered federal agencies to revise their regulations and policies to ensure that faith-based and community organizations would have equal access to federal assistance to support social service programs and to take other steps to strengthen the capacity of these organizations. Implementing this order, HUD promulgated new regulations regarding the participation of faith-based organizations in HUD programs in both September 2003 and July 2004.

The new HUD regulations apply to the following programs: HOME, Community Development Block Grants (CDBG), HOPE 3, Housing Opportunities for Persons With AIDS, Emergency Shelter Grants, Shelter Plus Care, Supportive Housing, YouthBuild, Section 202 Elderly Housing, and Section 811 Housing for Persons with Disabilities.

While the new 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, which includes the right to maintain a religious mission, to control internal governance and to make employment decisions on the basis of religion, so long as there is no federal, state or local law that says otherwise.
• 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 have been pleased by the President’s attention to their work and have appreciated the Administration’s efforts to clarify the conditions under which they may participate in federal assistance programs.

Yet, most advocates and some Members of Congress have been disappointed that no substantial new investment of resources in affordable housing and community development activities has accompanied the Faith-Based Initiative. In
addition, some have raised concerns that while purporting to provide equal treatment to faith-based organizations, the administration has loosened restrictions expanding discrimination against employees on the basis of religion or permitting the use of federal money to promote religious activities.

For More Information

Roundtable on Religious and Social Welfare Policy • 518-443-5014 • www.religionandsocialpolicy.org
Family Self-Sufficiency

By Jeffrey Lubell, Executive Director, Center for Housing Policy

Family Self-Sufficiency (FSS) is a U.S. Department of Housing and Urban Development (HUD) program that helps low income families in public housing and the housing voucher program build assets, increase their earnings and assets and achieve homeownership and other individual goals.

FSS was enacted in 1990, based on a proposal by the first Bush Administration as part of the Cranston-Gonzalez National Affordable Housing Act of 1990. The program is housed in HUD’s Office of Public and Indian Housing.

As of November 2006, there were about 68,000 individuals participating in FSS. Most of these – about 59,000 – were enrolled in Housing Choice Voucher (HCV) FSS programs. Close to 9,000 public housing residents also were participating in FSS.

How FSS Works

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. 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. In the housing choice voucher program, FSS escrow deposits are eligible expenses for reimbursement under the housing assistance payments that HUD makes to public housing agencies (PHAs), 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.

Advocacy on FSS in 2008

The President’s FY09 budget proposes $48 million for Section 8 FSS coordinators and $38 million for the Resident Opportunity and Self-Sufficiency (ROSS) program that funds public housing FSS coordinators. Both of these allocations are extremely close to level funding, and in this tough budget environment, this is an important achievement. Advocates should let Congress know they support continued funding for these important functions.

The bigger problem is that the budget provides too little funding for the major budgetary accounts out of which these line items are carved. Funding for Section 8 FSS coordinators is a set-aside within the account for Tenant-Based Rental Assistance (TBRA), and the overall level of the TBRA account in the President FY09 budget falls well short of the amount needed to fully renew all Section 8 Housing Choice Vouchers. Similarly, funding for ROSS comes out of the Public Housing Capital Fund, which has been proposed in FY 2009 at a level that is down $415 million (about 17 percent) from FY 2008. Advocates that care about FSS should also push for full funding for housing vouchers and public housing.
On a more positive note, the House recently passed (and the Senate will soon introduce) the Section 8 Voucher Reform Act (SEVRA) which would take a major step forward in stabilizing funding for the Housing Choice Voucher program. SEVRA will help FSS in two major respects. First, it reduces the budgetary pressures on the voucher program that have led many agencies to discontinue their FSS programs due to concerns about the costs of FSS escrows. Second, it changes funding for Section 8 FSS coordinators from an annual NOFA to an administrative fee and sets out a formula that will provide more coordinator funding to more agencies. Both of these changes in the funding for FSS coordinators will be extremely positive, leading to greater reliability in funding and allowing agencies to grow their FSS programs.

Accordingly, FSS advocates should work to support passage of SEVRA in the Senate and signature by the President.

For More Information
FSS Partnerships • 202-270-5251 • www.fsspartnerships.org
Family Unification Program (FUP)

By Ruth White, Director of Housing and Community Development Policy, Catholic Charities

Around the country, child welfare agencies and local public housing agencies (PHAs) have formed partnerships to reduce these staggering figures through a program called Family Unification Program (FUP). Signed into law in 1990 by President George H. W. Bush, FUP works through local level partnerships between PHAs and child welfare agencies. FUP provides families with Section 8 housing subsidies and the supportive services (services that are funded largely out of the U.S. Department of Health and Human Services [HHS]) necessary to reunite with their children who would otherwise linger needlessly in foster care. The more than 39,000 FUP vouchers that HUD has awarded since FUP’s inception have enabled more than 200,000 children to reunite with their families from foster care or avoid foster care placement altogether. In October 2000, Congress added youth aging out of foster care as an eligible population for FUP and as a result, more than 500 young people aging out of foster care have received the vital housing resources they needed to avoid homelessness and make successful transitions to adulthood.

In the absence of an adequate supply of affordable housing to intervene 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. As a result, of the more than 550,000 children in foster care today, an average of 30% is there because their parents lack safe, decent and affordable housing.

Equally alarming is the 2007 U.S. Government Accountability Office (GAO) study in which state child welfare administrators identify the lack of affordable housing as the most significant social service factor contributing to the overrepresentation of African American children in foster care.

Issues
Separating families rather than providing more affordable housing opportunities 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 Family Unification Program voucher and supportive services (services which are paid for out of child welfare funding streams – not the U.S. Department of Housing and Urban Development’s (HUD) budget) 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 U.S. $1.94 billion annually.

When children are unable to return to their parents, they are assisted by the child welfare system to find permanency elsewhere, primarily through adoption and kinship care. Unfortunately, many youth are not able to find permanent homes and as a result, more that 20,000 young people age out of foster care. These young people struggle in a number of ways to make the transition to adulthood and as many as 25% experience homelessness.

How FUP Works
FUP is administered through local level partnerships between PHAs and public child welfare agencies. HUD requires that this relationship be confirmed through a memorandum of understanding. FUP vouchers, like all Section 8 vouchers, are administered through the PHA. The child welfare system selects eligible families, refers them to the program and, provided they meet the Section 8 eligibility requirements, assists them in obtaining the voucher and securing safe, decent, affordable housing. Additionally, the child welfare agency provides ongoing case management to help the families by successful in permanent housing. More than 330 communities nationwide administer FUP.

For More Information
www.hud.gov/progdesc/famuni8.cfm
Federal Home Loan Bank System

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

Federal Home Loan Banks (FHLBs) and their members are the largest source of residential mortgage and community development credit in the United States. FHLBs provide advances to their more than 8,100 members, including community banks, thrifts, credit unions and Community Development Financial Institutions, which in turn use their access to FHLB credit to finance affordable mortgages and community development.

The Program
The 12 Federal Home Loan Banks (FHLBs) that make up the FHLB system are government-sponsored housing and community development enterprises (GSEs). Created in 1932 by the Federal Home Loan Bank Act, the FHLBs provide advances to their more than 8,100 members, including community banks, thrifts, credit unions and Community Development Financial Institutions, which in turn use their access to FHLB 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.

Beneficiaries
Once called the best kept secret in Washington, the FHLB system today has over $1 trillion in assets and more than 8,100 members. The banks' AHP is the crown jewel of the system, having leveraged $20 billion in investment. From 1990 to 2006, the FHLB system awarded nearly $3 billion in AHP funding, providing for 575,578 housing units (197,740 owner-occupied and 377,838 rental units). From 1990 to 2006, $47 billion in CICA advances (including CIP advances) for housing have been made system-wide, resulting in 633,387 housing units (431,307 owner-occupied and 202,080 rental units). In 2006, the FHLB system provided cash grants of $295 million for affordable housing development.

Structure
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, low, and moderate income owner-occupied and rental housing. The average unit subsidy is $5,155. 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 banks 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 banks offer additional programs such as the New Market Tax Credit initiative, Economic Development Grants, Urban Development Advances, Rural Development Advances and Letters of Credit. In addition, each bank has been required to develop a Community Lending Plan that explains how the bank will address the needs of the communities it serves.

For More Information
Federal Housing Finance Board • 202-408-2500 • www.fhfb.gov
The Federal Housing Administration (FHA) is a mortgage insurance program that provides single- and multifamily housing for low and moderate income families. 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. In 1965, the FHA was consolidated into the U.S. Department of Housing and Urban Development’s (HUD) Office of Housing. FHA is now the largest part of HUD. The FHA Commissioner reports directly to the HUD Secretary.

The FHA was designed to provide liquidity and stability to the housing finance system. Congress created the program to stabilize the U.S. housing and mortgage-lending markets. The single-family program expands homeownership opportunities for first-time home buyers and other borrowers by enabling them to obtain a mortgage for which they would otherwise not qualify in the conventional mortgage market. Through their multifamily, healthcare and cooperative housing programs, FHA insures lenders against losses in case of mortgage default, enabling private industry to construct and rehabilitate housing and healthcare facilities (e.g., nursing homes and assisted living facilities) for moderate income and displaced families and individuals.

Since its inception, the FHA has insured about 34 million home mortgages and more than 47,000 multifamily mortgages, representing more than 4.1 million rental units. While there are limits on the maximum amount of an FHA loan, there are no income restrictions. FHA provides an avenue for the federal government to help nearly one million low and moderate income families buy homes each year.

The FHA issues more than $100 billion in mortgage insurance annually. 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 FHA to pay the lender a claim amount and take possession of the property underlying the mortgage loan.

**Mutual Mortgage Insurance Fund (MMI).** FHA’s primary single-family program is funded by its 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.

Currently, FHA-insured mortgage loans require only a 3% down payment, have more relaxed credit standards and permit borrowers to carry more debt than typically allowed by private mortgage insurers. Approximately 4% of all home buyers receive FHA loans annually. About 80% of single-family purchase loans go to first-time buyers and 32% to minorities. FHA single-family mortgage limits are annually adjusted for each county, with a minimum mortgage limit for one-unit properties of $200,169 and a maximum of $362,790. Currently, FHA insures more than 4.8 million single-family loans.

When the fund lacks sufficient inflows to cover claims, it must draw from federal appropriations. This has never happened. In recent years, the FHA has far exceeded the Congressionally mandated 2% capital adequacy ratio and has injected billions of dollars back into the federal treasury. When the subsidy runs out, such programs must shut down unless Congress makes a budget appropriation. The MMI Fund is mandated to maintain a 2% capital adequacy ratio, or reserve, to lessen the chances that FHA will have to tap the federal budget to cover a shortfall. The 2006 actuarial analysis shows FHA had a capital ratio of about 6.82% in fiscal year 2005 (FY05) and is expected to have a capital ratio of 6.73% by 2013.

However, FHA has lost market share in recent years due to the proliferation of alternative loan financing options and the growth of the subprime market. While the capital adequacy ratio remains strong, the volume of new business has plunged and the amount of insurance in force has shrunk considerably.
As a result of budget changes made in 2001, the Office of Management and Budget (OMB) now counts the FHA surplus as revenue to HUD to fund existing HUD programs, in effect supplementing existing HUD appropriations.

**Special Risk Insurance and General Insurance Funds.** FHA also operates Special Risk Insurance and General Insurance Funds, insuring home equity conversion mortgages, loans used for the development, construction, rehabilitation, purchase and refinancing of multifamily housing and healthcare facilities, as well as some single-family loans considered more risky, such as for condominiums and rehabilitation loans. Unlike the MMI Fund, these insurance pools have in the past failed to break even and have required subsidies from the federal budget. Since 2002, HUD has set the mortgage insurance premiums on the bulk of multifamily loans so that the programs would break even or generate profits. Currently, only Section 221(d)(3), which insures multifamily loans to nonprofits and cooperatives and some specialty programs, requires an appropriation each year.

**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. Ginnie Mae collected $849 million in fees in 2006 from lenders and investors, which, like FHA surplus funds, are treated as general revenue and returned to the federal treasury.

FHA is a self-sustaining program, covering costs of claims and other costs with inflows of insurance premiums included in the borrowers' mortgage payments. However, FHA’s staffing and administrative expenses are part of the congressional budget process and cannot exceed appropriated funds, even if additional monies are available in the insurance funds.

**Management Challenges**
A focus of FHA activity has been streamlining and automating FHA processes and programs. For example, the agency has recently been able to speed up processing of its multifamily programs through the Multifamily Accelerated Processing (MAP) program, and it has developed an automated underwriting scorecard for single-family loans (TOTAL) as well as a process for good performing lenders to electronically self-endorse loans. However, the Government Accountability Office (GAO) and other observers report that FHA needs to improve its technology and its responsiveness to lenders.

**Asset Control Areas**
HUD's process of selling FHA-foreclosed homes is often criticized for being cumbersome, resulting in vacant homes and depressed neighborhoods. In 1998, Congress created the Asset Control Areas (ACA) program to allow expedited sales of units at low cost to local governments and nonprofits. The ACA and the use of management and marketing contractors has reduced the time that properties remain vacant, but tensions remain between minimizing neighborhood impacts and maximizing returns to FHA.

**Rising Delinquencies and Foreclosures**
The FHA single-family rates of foreclosures started have remained fairly steady over the past few years after reaching a peak of 1.06% in the fourth quarter of 2004. The current rate (as of the second quarter of 2007) is .79%. This compares with a .27% rate for prime loans and a 2.72% rate for subprime loans (both of which are up significantly from 2006). Private single-family mortgage insurance covers a smaller portion of the loan balance, typically 25% to 35% of the home value, compared to FHA, which pays claims on up to 100% of the loan balance. Critics say this high level of coverage reduces lender accountability for poor underwriting decisions, resulting in elevated defaults. Lenders, on the other hand, point to a dramatic increase in indemnification requests over the past several years by FHA, which requires the lender to accept the full risk of loss on a loan for five years. FHA has instituted new quality control methods to screen lenders (Appraiser Watch and Credit Watch), as well as loss mitigation programs designed to better serve troubled borrowers.

**Private Sector Risk Sharing**
Several proposals have been suggested in which FHA or Ginnie Mae could share risks with private mortgage insurers. Risk-sharing could allow FHA to reach customers not currently served by FHA lenders. The details of a risk-sharing
program would have to be carefully developed, however, to expand homeownership opportunity rather than simply enhance private insurers’ profits.

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 home buyers to finance an additional $35,000 into their mortgage to improve or upgrade their homes prior to move-in.

Title I
FHA Title I programs, designed to insure smaller home improvement and repair projects (limited to less than $25,000), have also been modified in recent years. Premiums have been increased and loan brokerage rules have been tightened. However, the program continues to be under-utilized and in need of updating.

Manufactured Housing
Likewise, FHA insurance programs for manufactured homes (Title I and II), especially on leased land, are also cited as being under-used and in need of reform. Representative Joe Donnelly (D-IN) introduced H.R. 2139 in the 110th Congress to reform the manufactured home insurance program. This bill passed the House in June 2007, but its Senate counterpart, S. 1741, introduced by Senator Evan Bayh (D-IN) has not yet been considered by the Senate Banking, Housing and Urban Affairs Committee.

Upfront Grant Program
When HUD sells FHA defaulted multifamily projects at below market prices, HUD provides upfront grants to preserve the projects. Under HUD guidelines, HUD has the discretion to provide to a public entity or other purchasers equal to the lesser of 50% of the total development costs or $40,000 per unit. The program has been an essential part of the preservation effort that has saved thousands of affordable apartments each year. Unfortunately, this program was eliminated for five years by the 2005 Budget Reconciliation measure.

Advocacy on the FHA in 2008
FHA Modernization Legislation
The Administration has expressed concern that FHA is no longer living up to its mission, and a number of reform proposals were included in the fiscal year 2008 (FY08) HUD budget request. Versions of these proposals are also included in the House and Senate FHA modernization bills, H.R. 1852 and S. 2338. The House and Senate both passed their FHA modernization bills in 2007 and enactment is expected in 2008. The Senate bill is similar, but not identical to, the House bill. While the House bill would allow FHA to insure loans up to $700,000, the Senate bill limits them to the Fannie Mae and Freddie Mac limit of $417,000. The Senate bill requires a downpayment of 1.5% for an FHA insured mortgage, while the House bill requires no downpayment. The 2008 economic stimulus package will include a one-year loan limit increase, but the FHA legislation will be necessary to increase the loan limit beyond 2008.

The major difference between the bills, for advocates of a national housing trust fund, is that the Senate FHA bill, unlike the House measure, does not provide for the new FHA revenue from the expansion of the home equity conversion mortgage (HECM) program to be used for a national affordable housing trust fund.

The Millennial Housing Commission recommends in its 2002 report that FHA become an independent, government-owned corporation in order to free the agency from relying on Congress to legislate program changes. However, such a move could relocate a significant portion of HUD’s workforce and budget authority, weakening the department’s overall influence. Other groups have suggested less dramatic reforms, leaving FHA within HUD but allowing it more autonomy in hiring, creating new programs and spending insurance fund monies on technology improvements. Some of these changes would require legislation.
Watch foreclosures in your community. Advocates have successfully worked with FHA to create better loan processes and reduce the number of troubled FHA loans. Advocate to the FHA for better special-risk loan products serving low income families who are not well served by private lenders, such as multifamily housing, as well as home improvement and manufactured housing. Work with lenders to create and use innovative FHA products in your community.

**For More Information**
National Low Income Housing Coalition · 202-662-1530 · www.nlihc.org

HUD Office of Housing · 202-708-2601 · www.hud.gov/offices/hsg/hsgabout.cfm
The Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac), the nation’s two largest housing finance companies, are private companies established by Congress to provide liquidity and create a secondary market for residential mortgages, both single and multifamily. The Government Sponsored Enterprises (GSEs) primarily purchase single-family, 30-year fixed rate mortgages that are not insured by the federal government. At the end of 2006, the GSEs together owned or guaranteed more than $4.3 trillion in mortgages – nearly 40% of all outstanding mortgage debt issued. Through their activities, the GSEs make an important contribution to expanding the mortgage market and increasing homeownership levels.

Background
The GSEs are government chartered, privately owned corporations. Their stock is traded on the New York stock exchange. Fannie Mae was established in 1938, as part of the Federal Housing Administration (FHA) to provide a secondary market for FHA mortgages. In 1968, Fannie Mae was rechartered by Congress as a shareholder-owned company, funded solely with private capital. Freddie Mac was created in 1970, primarily to serve the liquidity needs of the Federal Home Loan Banks (FHLBs). Freddie Mac became privately-owned company in 1989. At that time, both companies were given the mission to (1) provide stability in the secondary market for residential mortgages, (2) respond appropriately to the capital markets and (3) provide on-going assistance to the secondary market for residential mortgages and promote access to mortgage credit throughout the country by increasing the liquidity of mortgage investments and improving the distribution of investment capital for residential mortgage financing. These purposes are viewed as requiring the GSEs to be in all markets, at all times and to take steps to improve the efficiency of the secondary market and lower costs for borrowers. Thus, while the GSEs are publicly-owned, their government charters and public mission give them a responsibility to serve the entire housing market, with a special emphasis on low and moderate income housing and to provide liquidity to the residential mortgage market in both good and bad economic times. The GSEs are regulated by the Office of Federal Housing Enterprise Oversight (OFHEO) for safety and soundness and HUD for mission.

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. By statute, they can only purchase mortgages whose principal balance is equal to or less than the conforming loan limit established annually by OFHEO. The limit is $417,000 for 2008 and is adjusted for property size.

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. 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. By buying mortgages from lenders, the GSEs ensure that lenders always have funds available with which to make new loans.

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

The GSEs are not funded by government appropriations. Instead, Fannie Mae and Freddie Mac raise money funds in the capital markets to fund their activities. The GSEs’ income comes 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.
Their GSE status enables them to obtain funds more cheaply than if they were fully private financial institutions. While GSE debt is not guaranteed by the government, the “government sponsored” status of Fannie Mae and Freddie Mac leads the capital market to put faith in an implicit guarantee, a belief that the U.S. Department of the Treasury will never allow either GSE to default on its obligations. This perception boosts investor confidence in the two GSEs providing them with the funding advantage.

Affordable Housing Goals
In addition to their broad mission to promote liquidity and homeownership, Congress decided more than a decade ago to require the GSEs to focus more of their efforts on low and moderate income families. Fannie Mae and Freddie Mac, by statute, are required to meet three annual percentages of business goals – a low and moderate income goal, an underserved geographic areas goal and a special affordable housing goal directed at very low income and low income households. These mandates were established in 1992 and HUD sets annual goal levels.

HUD reported that Fannie Mae and Freddie Mac both exceeded their 2006 statutory annual housing goals and subgoals. The chart below shows the 2006 goals and each GSE’s performance against those goals:

<table>
<thead>
<tr>
<th>HOUSING GOALS</th>
<th>GOAL</th>
<th>FANNIE MAE</th>
<th>FREDDIE MAC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low and Moderate Income</td>
<td>53%</td>
<td>56.93%</td>
<td>55.88%</td>
</tr>
<tr>
<td>Underserved Areas</td>
<td>38%</td>
<td>43.59%</td>
<td>42.70%</td>
</tr>
<tr>
<td>Special Affordable</td>
<td>23%</td>
<td>27.81%</td>
<td>26.43%</td>
</tr>
<tr>
<td>Special Affordable MF Subgoal</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fannie Mae =</td>
<td>$5.49 Billion</td>
<td>$13.31 Billion</td>
<td></td>
</tr>
<tr>
<td>Freddie Mac =</td>
<td>$3.92 Billion</td>
<td>$13.58 Billion</td>
<td></td>
</tr>
</tbody>
</table>

HUD also established, by regulation, targeted home purchase subgoals to encourage the GSEs to facilitate greater financing and homeownership opportunities for first-time homebuyers and underserved communities targeted by the housing goals. In 2006, both GSEs exceeded those subgoals. The chart below shows how Fannie Mae and Freddie Mac performed against those subgoals in 2006:

<table>
<thead>
<tr>
<th>HOME PURCHASE SUBGOALS</th>
<th>SUBGOALS</th>
<th>FANNIE MAE</th>
<th>FREDDIE MAC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low and Moderate Income</td>
<td>46%</td>
<td>46.93%</td>
<td>47.03%</td>
</tr>
<tr>
<td>Underserved Areas</td>
<td>33%</td>
<td>34.49%</td>
<td>33.62%</td>
</tr>
<tr>
<td>Special Affordable</td>
<td>17%</td>
<td>17.95%</td>
<td>17.00%</td>
</tr>
</tbody>
</table>

According to HUD, in 2006 Fannie Mae and Freddie Mac purchased mortgages that financed more than 3.6 million owner and rental housing units occupied by low and moderate income families, more than 1.7 million housing units occupied by special affordable families (i.e., very-low income families or low income families living in low income neighborhoods) and 2.9 million housing units located in underserved areas. Together, the GSEs' purchases under the 2006 housing goals totaled $370 billion for low and moderate income loans, $133 billion for special affordable loans and $376 billion for underserved area loans.

Safety and Soundness
OFHEO establishes the capital standards for the GSEs and examines the corporations to ensure the GSEs financial safety and soundness. OFHEO reported that both GSEs were adequately capitalized as of June 30, 2007.

Issues
Policymakers have for several years questioned the efficacy of the GSE model. Critics charge that the benefits that Fannie Mae and Freddie Mac derive from their GSE status, primarily lower borrowing costs, are not passed on to borrowers, but instead are used to increase each company’s profits. In addition, these critics argue that Fannie and Freddie are too large and the risk to the economy from a failure of one or both of the companies outweighs any benefits provided by the GSEs. As a result, critics have suggested that Fannie and Freddie should be privatized. Congress, however, has never seriously considered privatization; instead, Congress has been considering proposals to enhance the regulatory structure for Fannie Mae and Freddie Mac.
The need for regulatory reform was strengthened in the past few years by accounting difficulties faced by Fannie and Freddie. In 2003 and 2004 respectively, Freddie Mac and Fannie Mae disclosed accounting and other financial management issues that resulted in top-level management changes in both enterprises and a suspension of quarterly and annual audited financial reports. These revelations combined to weaken the GSEs’ once considerable influence with Congress and bolstered the views of critics who have called for Fannie Mae and Freddie Mac to be downsized.

More recent events have moved the debate away from privatization. Weakness in the real estate market in 2007 and the high foreclosure rates that resulted from the meltdown in the subprime market have pushed some policy makers to call for an expansion of Freddie Mac’s and Fannie Mae’s roles to enable them to provide additional liquidity for the market. However, the high foreclosure rates have taken their toll on Fannie Mae and Freddie Mac as well, making them less attractive solutions to the foreclosure crisis. As their mortgage investments encounter unexpectedly high rates of foreclosure, Freddie and Fannie were forced to raise additional capital to meet regulatory requirements by cutting their dividends and selling preferred stock. The companies also informed investors that higher than expected losses would continue into 2008. With capital constraints setting the parameters for their business, Freddie and Fannie may not, in the short run, be able to step in and provide the additional liquidity the market needs.

While Congress and the Bush Administration share a common desire to reduce the number of potential foreclosures, and both continue to view Freddie Mac and Fannie Mae as part of the solution, the fate of GSE reform legislation remains unclear. A sharp divergence of views on some key issues may prevent GSE legislation from moving forward. One significant point of contention is the amount of discretion the regulator would have to limit the number of mortgages that the GSEs could purchase.

Another aspect of the GSE regulatory reform debate, and the area of interest to low income housing advocates, is the effort to establish an Affordable Housing Fund (AHF) funded by Fannie Mae and Freddie Mac. Under the proposal, Fannie Mae and Freddie Mac would be required to contribute annually to a fund that would make grants for the production of housing affordable to very low and extremely low income households.

**Advocacy on GSEs in 2008**

The U.S. House of Representatives passed a GSE reform bill, H.R. 1427, in the first session of the 110th Congress. This legislation provided for an affordable housing fund and provided that these funds would be transferred to a National Affordable Housing Trust Fund, should one be established.

As of the end of the first session of the 110th Congress, the Senate has not taken up GSE reform legislation. However, legislation introduced by Senator Jack Reed (D-RI), S. 2391, would strengthen the affordable housing mission of Fannie Mae and Freddie Mac and provide that certain funds of the GSEs would be directed to an affordable housing fund, including any national affordable housing trust fund eventually established. It is expected that Senator Reed’s bill will become the affordable housing provisions should comprehensive GSE reform legislation move in the Senate.

The 2008 economic stimulus package will likely include a one-year increase in the GSE conforming loan limits. This is expected to prompt Senate Committee on Banking, Housing and Urban Affairs Chair Christopher Dodd (D-CT) to take up comprehensive GSE legislation in 2008.

**For More Information**

Consumer Federation of America • 202-387-6121 • www.consumerfed.org

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

HUD’s Office of GSE Oversight • 202-708-2224 • www.hud.gov

Office of Federal Housing Enterprise Oversight • 202-414-3800 • www.ofheo.gov

Federal Home Loan Mortgage Corporation (Freddie Mac) • 703-903-2000 • www.freddiemac.com

Federal National Mortgage Association (Fannie Mae) • 202-752-7000 • www.fanniemae.com
Green Housing

By Stockton Williams, Senior Vice President and Chief Strategy Officer, Enterprise Community Partners

Green building practices emphasizing energy efficiency are becoming more widespread among affordable housing providers. Officials at all levels of government are starting to take serious action on climate and energy issues, opening opportunities to create policies and public-private partnerships to increase energy efficiency in affordable housing. Low income families, who already pay disproportionate amounts of their incomes for energy and transportation costs and who suffer from poorer health outcomes, have the most to gain from living in housing that is not only affordable, but energy-efficient, healthier, and located near jobs, transportation and services.

Healthier Homes and Communities
A growing body of research shows how a living environment can have profound physical and mental health outcomes, especially for minority families and low income communities. Low income people and minorities are more likely to live in worse environmental conditions and experience greater rates of disease, limited access to health care and other health disparities. Green development is a holistic approach that provides integrated solutions to housing, health and environmental challenges. Housing conditions have long been seen as important factors influencing health. Environmentally attributable childhood diseases, including asthma, lead poisoning and cancer, cost our nation nearly $55 billion annually. More than 2.5 million families live in substandard housing. More than 4 million children in the U.S. have asthma, and it is estimated that more than 40% of doctor-diagnosed asthma among U.S. children is due to residential exposures. Asthma prevalence is 40% to 50% higher among minority children living in urban areas. Additionally, more than 400,000 children have dangerously high blood lead levels.

Green design and building practices can create healthier home environments through better indoor air quality and healthier building materials. Smarter site planning and development that creates a sense of community, encourages walking and provides access to parks and mass transit is also healthier. Research suggests that people who live in sprawling areas walk less, weigh more and are more likely to suffer from high blood pressure.

Lower Energy and Water Costs
High utility costs often impose a substantial financial hardship on low income households, forcing many to make tradeoffs between heat or electricity and other basic necessities. A recent national study documented the brutal choices that poor families make when faced with unaffordable home energy bills. The study found that during the prior five years, due to their energy bills: 57% of non-elderly owners and 36% of non-elderly renters went without medical or dental care; 25% made a partial payment or missed a whole rent or mortgage payment; and 20% went without food for at least one day.

In addition, energy costs have increased much faster than incomes for low income households in recent years. Today, a family earning minimum wage pays more than four times as much a share of their income for energy as a median income household. Green buildings use a wide range of strategies for reducing energy and water use, including more efficient systems and appliances, smarter construction practices and site improvements to manage storm water more effectively.

Another indicator of potential energy savings in affordable housing is that the U.S. Department of Housing and Urban Development (HUD) spends an estimated $4 billion a year on energy, more than 10% of its annual budget, through utility allowances in connection with rental assistance payments to low income renters and indirect operating subsidies to public housing agencies (PHAs). A savings of just 5% a year over five years could generate $1 billion to invest in affordable housing, including efforts to achieve greater energy reductions.

A Stronger Environment
How and where we build has huge environmental impacts. Buildings account for 38% of annual CO2 emissions, and more than half of that comes from residential buildings. The construction and operation of multifamily residential developments, including affordable housing, generates significant CO2 emissions. More broadly, the manufacturing of conventional construction materials, transportation of supplies and materials to building sites and common construction waste disposal methods also cause CO2 emissions.
Buildings also account for 30% of both raw materials waste and landfill waste and 12% of potable water consumption. The residential building sector accounts for a substantial amount of it. New home construction alone generates nearly 7 million tons of construction waste every year.

Sustainable development of affordable housing can help reverse these trends in a number of ways: achieving greater energy efficiencies through better systems as well as use of renewable resources such as solar and geothermal; reusing and recycling construction materials; capturing and filtering stormwater; and incorporating natural landscaping and irrigation systems, to name just a few.

Green affordable homes and communities can also reduce the environmental impacts of excessive driving and traffic congestions by locating in areas with easy access to goods, services, recreation and mass transit.

These features can also deliver economic benefits to low income families. A study of 28 metropolitan areas found that families with incomes between $20,000 and $50,000 spend an average of 29% of their income on transportation and an average of 28% on housing. More broadly, poorly planned development can isolate low income people in distressed areas and make it harder to get to better schools and job opportunities.

Industry Approaches
The Green Communities Criteria, developed in 2004 by Enterprise Community Partners, the Natural Resources Defense Council (NRDC) and a number of partners, are the basis of the $555 million Green Communities initiative by Enterprise to create at least 8,500 green affordable homes. Green Communities provides funds and expertise to enable developers to build and rehabilitate homes that are healthier, more energy efficient and better for the environment – without compromising affordability. Green Communities also assists state and local governments to ensure their housing and economic development policies are smart and sustainable.

Global Green USA's Greening Affordable Housing Initiative (GAHI) was launched in 1996 and works to educate designers, developers and operators of affordable housing projects to encourage the adoption of green building strategies and materials.

A product of the U.S. Green Building Council, the LEED (Leadership in Energy and Environmental Design) Green Building Rating System™ is a voluntary building certification program that defines high-performance green buildings. USGBC has recently launched LEED for Homes, a rating system for residential homes of three stories or less. USGBC is currently undertaking a multifamily pilot program through the end of 2008.

Advocacy on Green Housing in 2008
State and local governments are leading sustainable development of affordable housing in a number of ways, including providing incentives for green building in their annual qualified allocation plans (QAPs) that govern allocation of Low Income Housing Tax Credits; providing incentives or in some cases making mandatory green criteria for allocation of state housing trust funds; and initiating local green affordable housing partnerships to build interagency cooperation and collectively work to secure resources for affordable housing from new funding sources.

In the 110th Congress, federal policymakers have begun to advance sustainability in affordable housing as well: House HUD Appropriations Subcommittee Chairman John Olver (D-MA) has introduced a bipartisan bill (H.R. 2536) that would require Green Communities Criteria for all housing and U.S. Green Building Council standards for non-residential buildings in HOPE VI projects, which are typically large and involve new construction and substantial rehabilitation at scale. The bill would provide funding for technical assistance as well. Rep. Olver’s bill was effectively incorporated into the HOPE VI Improvement and Reauthorization Act of 2007 (H.R. 2534) to reauthorize and strengthen the HOPE VI program. H.R. 2534 has passed the House.
Additionally, the House-passed national housing trust fund legislation, H.R. 2895, includes green provisions. Among a number of factors states and cities would be required to consider - but not mandate - in allocating funds to developers would be the extent to which proposed projects would meet the Green Communities Criteria. This provision is included both in the House-passed trust fund bill as well as the Senate version of the bill introduced by Senator John Kerry (D-Mass.) and several cosponsors.

**Incentivize the private sector to finance green affordable housing**
A bill passed by the House of Representatives (H.R. 1427) that strengthens the federal financial oversight of Fannie Mae and Freddie Mac includes a provision giving the companies extra credit toward meeting their affordable housing goals for purchasing mortgages on properties that are energy efficient or otherwise environmentally responsible. The bill could start to mainstream mortgage products that recognize and encourage more sustainable homes and developments.

In addition, some advocates, including Enterprise, are encouraging the federal bank regulators to allow banks to receive favorable consideration under the Community Reinvestment Act (CRA) regulations for lending, investments and services that account for the extent to which an affordable housing project incorporates energy efficiency features that lower the housing costs for residents and/or enhance the long-term viability of the project as affordable housing, such as through stronger reserves for maintenance and improvements.

**Ensure planning to support sustainable development and build community capacity**
States and cities should be required to identify and report on strategies for encouraging sustainable development through their HUD Consolidated Plans and annual action plans, with specific benchmarks such as greater energy efficiency, increased conservation and reuse of resources and more effective use of existing infrastructure. This proposal is part of the High-Performance Building Act of 2007 (H.R. 1259), introduced in the House by Representatives Smith (D-WA), Lewis (D-GA), Blumenauer (D-OR) and Gilchrest (R-MD).

**Increase local capacity to develop sustainable projects in low-income communities**
Not-for-profit organizations working to provide the benefits of sustainable affordable housing and economic development in low income communities need seed capital to develop programs, raise additional resources and implement activities. There is no federal program to provide such assistance. Congress should provide funding in the amount of $10 million annually over five years, subject to a dollar-for-dollar match from non-governmental sources by grant recipients. This proposal is also part of H.R. 1259.

**Build on HUD pilot programs and strengthen HUD’s commitment to energy efficiency**
HUD has launched two pilot programs to increase energy efficiency in federally assisted properties: the Multifamily Energy Efficiency Initiative and the Green Initiative. HUD should track and communicate the early experience from these pilots and move aggressively to expand them and similar pilot programs within existing statutory and regulatory authority and current appropriations.

**Improve and expand federal energy tax credits for residential energy efficiency**
Homeowners may claim a one-time federal income tax credit of up to $500 for installing efficient new windows, insulation, doors, roofs and heating and cooling equipment in their home. There are actually two types of Nonbusiness Energy Property Tax Credits, one for energy improvements; such as insulation and energy efficient windows; and one for energy property, such as heating, cooling and HVAC equipment.

The Nonbusiness Energy Property Tax Credit should be extended until 2011 and increased to $2,000 for homes and apartments serving people earning 80% of area median income or less. The credit should be modified to support costs associated with installation as well as materials and a broader range of energy improvements, specifically including with air infiltration and air infiltration duct sealing.

Another federal income tax credit of up to $2,000 is available to contractors for new energy-efficient homes, including manufactured homes constructed in accordance with the Federal Manufactured Homes Construction and Safety Standards. The New Energy Efficient Homes Credit is available for homes of up to three stories, regardless the number of residential units.
The New Energy Efficient Homes Credit should be extended until 2011 as well, with a more flexible energy performance standard applied for homes serving low-income people, and modified to support affordable rental, multifamily properties.

To tie public subsidy directly to public benefit and to limit the cost to the federal government, the revised tax credit should provide only enough incentive to cover the incremental costs associated with energy efficiency improvements that would not otherwise be feasible, i.e., only up to an additional $3,000 per unit in costs. In addition, this credit should not reduce basis for the purposes of claiming the Low Income Housing Tax Credit or other tax incentives.

**Establish more accurate utility allowances for Housing Credit properties**

Developers of Low Income Housing Tax Credit properties must reduce rents by the amount of a resident “utility allowance,” established in most places by local public housing authorities and in some areas by utility companies. In many areas, the utility allowance estimates for tax credit developments are based on older properties with much higher energy costs due to less efficient design and construction than is possible and increasingly common today. This results in higher than necessary utility allowances for many tax credit properties and reduces the incentive for developers to incorporate energy and water efficient features into their developments. Developers generally are not able to use alternative sources or methodologies to establish more accurate utility allowances.

More accurate utility allowances would encourage affordable housing developers to make their projects more efficient by enabling them to increase rents by some or the entire amount of utility cost savings. Increased cash flow from rents would accelerate the payback of any efficiency features that had higher upfront costs as well. Projected higher cash flows could be the basis for financing a portion of the technical work associated with the energy upgrades themselves.

In response to recommendations by a number of housing organizations, the IRS issued proposed regulations in June providing developers and owners greater flexibility to calculate more accurate utility allowances in LIHTC properties. The proposed regulations would allow owners to use a new publicly available online HUD computer model (www.huduser.org/resources/utilmodel.html) to calculate utility allowances even if the local housing agency does not. Owners also could use a utility allowance estimate that the state housing agency provides.

The proposed regulations also would require a building owner to review, at least annually, the basis on which utility allowances have been established and update the applicable utility allowance. The proposed rule requires the review take into account any changes to the building such as any energy conservation measures that affect energy consumption and changes in utility rates.

The IRS should adopt its proposed regulations for LIHTC-financed properties as soon as possible, allowing local agencies additional flexibility in setting more accurate allowances through state-approved energy modeling, among other approaches. HUD and national housing organizations should strongly encourage local agencies to utilize the new flexibility the final regulations will provide when approved and should proactively offer assistance to agencies, developers and property managers in utilizing the new approaches in the proposed rule. HUD also should apply the IRS proposed approach to utility allowance policies in other housing programs it administers.

**For More Information**

Enterprise Community Partners • 202-842-9190 • www.greencommunitiesonline.org or www.enterprisecommunity.org

US Green Building Council • 800-795-1747 • www.usgbc.org

Global Green USA • 310.581.2700 • www.globalgreen.org
The HOME program is designed to expand the supply of decent, affordable housing for lower income people. States and localities use the funds for a variety of rental and homeownership activities, such as constructing new units, rehabilitating existing units, offering down payment assistance and providing tenant-based rental assistance. In general, all HOME money must benefit low income people, rents must be affordable and units must remain affordable for a period of time.

Distribution of HOME Funds
Authorized by Congress in 1990, the HOME program is administered by the Office of Affordable Housing Programs in the U.S. Department of Housing and Urban Development's (HUD) Office of Community Planning and Development (CPD). HOME is a federal block grant to “Participating Jurisdictions,” (PJs, which include all states and certain localities) that use the funds to provide affordable low income housing.

All states are PJs, but not all localities are. 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. States receive their 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 CDBG), 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 very low income households, 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.

Eligible Activities
HOME 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 down payment 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 PJ’s HOME funds must be spent for housing that is developed, sponsored or owned by a community-based housing development organization or CHDO. 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. See the next section for more about CHDOs.

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 on public or assisted housing modernization, operation or preservation.

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.

HOME Production Accomplishments
To monitor your PJ’s accomplishments, there are four 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, introduced in 2006, 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.

Nationally, since 1992, HOME has delivered 804,483 completed physical units and provided 170,530 tenant-based rental assistance contracts. Out of the 804,483 physical units, 37.8% were rental units, 20.2% were homeowner units and 42% were home buyer units. Households with incomes below 30% of AMI occupied 25.5% of the physical units, 43.2% of the physical rental units, 31.7% of the homeowner units and 6.5% of the home buyer units. Seventy-nine percent of the tenant-based rental assistance units were occupied by extremely low income people.

Funding
In FY08, Congress appropriated $1.629 billion for HOME formula grants, less than has been provided since FY04.

Advocacy on HOME in 2008
The major responsibility of advocates is to continue pushing for increased appropriations and continue pointing out the Administration’s neglect of rental housing production needs for extremely low income households. 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
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
Homeownership Tax Credit

By Stephen Sugg, Senior Policy Officer, Local Initiatives Support Corporation

The Homeownership Tax Credit would enable development of affordable for-sale housing for low income people in low income and rural communities.

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. Despite widespread support, the HOTC was not enacted.

A HOTC would enable development of affordable for-sale housing for low income people in low income and rural communities, which many see as 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 in many low income communities. 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 serves upper-income buyers but not lower income community residents. The HOTC would provide a resource to fill these gaps. There are more than 4 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.

In the bills introduced in the 109th Congress, 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.

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 a half-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.

Advocacy on the HOTC in 2008

Advocates should contact their Members of Congress to provide information on how a homeownership tax credit would help low income families become homeowners, especially in their districts and states. A version of the Homeownership Tax Credit bill will likely be introduced in the 110th Congress. At the appropriate time, advocates should request that their Members of Congress co-sponsor the HOTC legislation.
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
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 Administration has 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. There is also assistance available for smaller communities in order to develop affordable housing for low income families in connection with a main street revitalization or redevelopment project.

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.

Unfortunately, many families are being displaced and low income housing units are being lost under the HOPE VI program. In September 2005, HOPE VI grantees planned to replace approximately half of the public housing units demolished. The remaining redeveloped units are intended for higher income residents who can pay more in rent or purchase some of the redeveloped units.

HOPE VI grants are awarded annually on a competitive basis through HUD’s Office of Public and Indian Housing. 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.

While most of the funds are to be used for capital costs, a portion of the grant may be used for community and supportive services. HOPE VI increases private investment in communities and creates mixed-income housing. But critics point to the loss of housing stock affordable and available to the lowest income people. Public housing is in desperate need of increased capital and operating funds. The HOPE VI program as it currently exists has negative consequences for low income households that must be addressed if the program is to be...
reauthorized. While the reforms that were enacted in the 2003 reauthorization of the program were positive, advocates continue to have concerns.

Advocates’ concerns with HOPE VI fall into two major categories. The first is what happens to the existing residents of public housing developments that become HOPE VI projects. The second is the contribution that HOPE VI makes to the loss, nationally and locally, of housing that is affordable to the lowest income households. NLIHC and other resident advocates are deeply concerned about the problems associated with HOPE VI.

HOPE VI Reauthorization
In a major victory for low income housing tenants and advocates, the House passed, by a vote of 271 to 130, the HOPE VI Improvement and Reauthorization Act of 2007, H.R. 3524, on January 17, 2007. The bill was supported by 53 Republicans and all Democrats. The bill would make major improvements to the HOPE VI program, including requiring the one-for-one replacement of units revitalized through HOPE VI 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 one-for-one replacement requirement would be retroactive to units on the revitalized site on January 1, 2005, capturing units already lost.

H.R. 3524 provides for a limited waiver of the one-for-one replacement requirement. Public housing agencies can seek a waiver for up to 10% of the units in their revitalization plan because they lack the land to rebuild, because a court order limits their ability to comply with one-for-one replacement or they appeal to the HUD Secretary for a waiver on a case-by-case basis.

H.R. 3524 would also establish “mandatory core components.” These are criteria required to be included in 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 also require that PHAs 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. The temporary relocation plan for each displaced household must include replacement housing; relocation expenses; information on all relocation options and strategies that assist displaced residents to use vouchers, including in communities with lower concentrations of poverty and in situations that will not result in a financial burden to the family and that will promote long-term housing stability.

Senator Barbara Mikulski (D-MD) introduced HOPE VI reauthorization legislation in the 109th and 110th Congresses. S. 829 was introduced on March 8, 2007, and the Senate Banking Committee held a hearing on the bill in June 2007. S.829 fails to establish one-for-one replacement and tenant right to return rules. In addition, the bill codifies but does not strengthen how a public housing agency certifies that the public housing in its HOPE VI application is indeed severely distressed. The bill would continue to give HUD the discretion on which HOPE VI application selection criteria should be considered to determine the granting of HOPE VI funds.

S. 829 also requires that HOPE VI grants be linked to places where the grant recipient has established a comprehensive educational reform and achievement strategy in partnership with the local school system. If a HOPE VI applicant can certify that schools that serve the HOPE VI site are high-performing, then the HOPE VI applicant must show a commitment to the educational achievement of students in HOPE VI sites.

Advocacy on HOPE VI in 2008
Advocates should contact their Senators and request that S. 829 be improved to better reflect important provisions in H.R. 3524, such as requiring one-for-one replacement of demolished units and a right to return for residents in good standing. Advocates should also ask their Senators to request that improved HOPE VI legislation receive a vote in the Banking Committee this year.
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.

Once a HOPE VI project is funded, advocates should work to see that the interests of low income people who face displacement are met. Relocation services and alternative housing should be provided in the project plans, and the PHA should keep track of displaced residents and give them priority for available housing.

For More Information
National Low Income Housing Coalition • 202-662-1530 • www.nlihc.org
National Housing Law Project • 510-251-9400 • www.nhlp.org
Housing and Health

By Megan Sandel, Alliance for Healthy Homes and the Medical Legal Partnership for Children/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 2008, the three key legislative issues related to health and housing remain the same as in 2007: the introduction of comprehensive healthy homes legislation in Congress; increasing funding for the Centers for Disease Control and Prevention’s (CDC) primary prevention of lead poisoning; and maintaining funding for lead hazard control and healthy homes programs in the U.S. Department of Housing and Urban Development (HUD).

Background
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 billion. 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.

Outlook
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.
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.

No federal standards similar to those used to fight lead-based paint exposure exist for other indoor environmental hazards, but responses are emerging. The U.S. Environmental Protection Agency (EPA) is working on a voluntary program for builders to meet an indoor air quality standard and is expected to turn soon to requirements for testing for radon. Supporters are clamoring for the various standard-setting bodies to address monitors as well as alarms for carbon monoxide.

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. 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 More Information**
- Alliance for Healthy Homes • www.afhh.org
- Alliance for Healthy Homes’ Community Environmental Health Resource Center • www.cehrc.org
- The Medical Legal Partnership for Children • www.mlpforchildren.org
- Boston Medical Center – Pediatrics
Housing as a Right

By Eric Tars, Human Rights Staff Attorney, National Law Center on Homelessness & Poverty

The homelessness crisis in the United States serves as an indicator of violations of internationally recognized human rights, including the human right to adequate housing. Since Roosevelt's famous “Four Freedoms” speech, Americans have declared freedom from want as a national ideal, and we have signed several international treaties and declarations maintaining that housing is a human right. These can serve as a powerful tool for advocates in the U.S. to reframe public debate, craft and support legislative proposals, supplement legal claims in court, advocate in international fora and support community organizing efforts.

Recent polling indicates that more than 50% of Americans strongly believe that adequate housing should be considered a human right, and two-thirds believe that government programs may need to be expanded to ensure this right. However, government policies have not traditionally treated housing as a right, but as a fiscal development tool or charitable policy consideration at best, and thus housing policy often meets other needs before meeting the needs of the most vulnerable Americans. A number of organizations are challenging this view at the national and local level, using standards drawn from the international level, but implemented domestically, as part of their advocacy strategies.

The Issue

In the human rights framework, every right creates a corresponding duty on the government to respect, protect, promote and fulfill the right. In the U.S., we value the right to a fair trial, so for those who cannot afford it, the government pays for a lawyer. 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 put ultimate responsibility on the government for ensuring all people have access to adequate housing. Under human rights law, adequacy of housing is more than just a roof over your head. The right is broken down into seven elements: Security of Tenure; Availability of Services, Materials, and Infrastructure; Affordability; Accessibility; Habitability; Location; and Cultural Adequacy. The government can choose whether these elements should be satisfied through public housing, voucher programs such as Section 8, incentives for private development of affordable housing like inclusionary zoning, or other means, but it has to fulfill all of these elements.

The Potential

We have many of these frameworks in place already – but they are being inadequately funded and implemented, and the human right to housing gives us the tool to hold the government accountable. The right to housing is recognized in several other countries in ways that point to the difference this accountability can make.

The Homeless Etc. (Scotland) Act of 2003 brought Scotland into the forefront of countries recognizing a right to housing and taking affirmative measures to prevent and address homelessness. This law creates an immediate right to placement in temporary housing with the assumption that people will be moved within a year to permanent housing. Placement into housing is combined with a right to “Any service which provides support, assistance, advice or counseling to an individual with particular needs, with a view to enabling that individual to occupy, or to continue to occupy...residential accommodation.” Additionally, families with children must be placed in housing appropriate for the entire family (children are not separated from their parents, as in many U.S. jurisdictions). This framework has much in common with the “Housing First” model being promoted across the U.S., but with the additional component of having a legally justiciable right to the services.

In South Africa, the right to housing is a Constitutional right, informed by international law, and has been the subject of several landmark judicial decisions. In August 2007, the Safety and Security Minister was held personally responsible for the destruction of a shanty village of twelve homeless persons residing in a park. The police had earlier burnt down the shacks, and physically abused the residents. A judge ordered the minister to rebuild the shacks, and when this order was ignored, imposed a fine and a warrant for the minister’s arrest for contempt of court.
The Framework
The right to housing is recognized in a number of international treaties and documents. First embodied in the Universal Declaration of Human Rights, adopted by the United States in 1947 and the United Nations (U.N.) in 1948, everyone has the right to an adequate standard of living, including the right to adequate housing. The International Covenant on Economic, Social and Cultural Rights (ICESCR) is the treaty that most significantly refers to the right to housing and elaborates on its content. Currently, the U.S. 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 U.S. has ratified the Convention on the Elimination of All Forms of Racial Discrimination (CERD) 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. In ratifying these treaties, the Senate attached reservations to both these documents preventing their direct use in court. Despite the hurdles to its use, advocates are still employing the language of the human right to housing in multiple venues, as will be described below.

Advocacy on Right to Housing in 2008
Important issues to watch in 2008 for promoting a right to housing:

Committee on the Elimination of Racial Discrimination
In February 2008, the UN Committee on the Elimination of Racial Discrimination (CERD) will review the performance of the U.S. government in upholding the rights under the International Convention on the Elimination of All Forms of Racial Discrimination, including the right to housing. The government issued a report to the CERD in April 2007, available at: www.state.gov/g/drl/rls/cerd_report/, but failed to address the fact that a disproportionate number of minority groups experience homelessness and housing difficulties. Under human rights law, a policy counts as discrimination if the impact is discriminatory – even if that impact was unintentional. A “shadow report” prepared by U.S. housing and homelessness organizations, available at: www.nlchp.org/view_report.cfm?id=232, points to the lack of funding for affordable housing and laws that criminalize homelessness as examples of such discriminatory practices. The National Law Center on Homelessness & Poverty will lead a delegation of housing experts, activists, and those directly affected by lack of affordable housing to Geneva in February to testify before the CERD and ensure the U.S. is held accountable to these human rights standards. The CERD will issue Concluding Observations following the hearings in March, which can be used in litigation and policy advocacy.

Right to Return for Katrina Victims – Gulf Coast Recovery Housing Act S. 1668
Senate Bill S. 1668 presents an important step for the recognition of the right to housing in the U.S. After Hurricane Katrina, lack of protection and services under the Stafford Act led a number of U.S. activists to turn to the UN Guiding Principles on Internally-Displaced Persons, available at: www.unhchr.ch/html/menu2/7/b/principles.htm, to provide a more comprehensive, rights-based framework for meeting people’s needs. Among the rights in this document is the “right of return” for all victims of natural disasters, renters and homeowners. S. 1668 provides for the right of return to for residents of public housing to their previous units, or if that housing is destroyed, one-for-one replacement of each destroyed unit of public housing with a new unit. A companion bill, H.R. 1227, has already passed the House, but as of this writing, the bill is stuck in the Senate Banking Committee due to the intransigence of Sen. Vitter (R-LA).

Local housing rights action
Activists in Los Angeles are working on a resolution committing L.A. City and County to the principles of the International Covenant on Economic, Social, & Cultural Rights. In Minneapolis, advocates are fighting a “lurking” ordinance, essentially criminalizing homelessness, using human rights standards and messaging. Advocates in Chicago are fighting destruction of public housing using human rights strategies. And all of them, together with others, will be coming together for the annual National Forum on the Human Right to Housing, in the fall of 2008 to discuss local and national strategies for implementing housing rights.

For More Information
National Law Center on Homelessness and Poverty • 202-638-2535 • www.nlchp.org
Housing as Economic Stimulus

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

Building and rehabilitating more affordable housing not only meet a demonstrated need, but are also major components of the larger economy, providing significant short-term and long-term economic benefits.

Effect on the Economy. Housing contributes significantly to the national economy. In recent years, with the increase in building and home prices, housing’s economic impact has been growing. Residential investment grew substantially between 2002 and 2005, often showing double digit growth. More recently, however, the trend has reversed almost completely with residential fixed investment showing double digit declines. By the second quarter of 2007, it had decreased 15% from a year before. As a percentage of GDP, it declined to 4.9% from a historic high of over 6.0%. While GDP continued to rise, according to a Harvard University report, the drop in home building in 2006 was so drastic it shaved more than a full percentage point off national economic growth.

There continues to be a heated debate about whether the economy will experience a “hard” or a “soft” landing from the decline in the housing sector that turns primarily around the role of housing as an economic stimulus. Moreover, there is increased interest in public investment in housing to provide stimulus for the slumping sector. While advocates must be careful that calls and plans for publicly-subsidized housing production meet demonstrated needs effectively and efficiently, the data in this section can help them make their case.

Jobs and Wages. The most immediate impact of housing on the economy is that construction, upkeep and renovation of housing create jobs. In advocating for the National Housing Trust Fund, the Center for Community Change estimated that a $5 billion investment in housing production for low income people could directly result in the creation of 184,300 jobs. When the potential leverage of these funds is taken into account, an investment of $5 billion in affordable housing production of 1.5 million new or rehabilitated homes would create 1.8 million new jobs and $50 billion in wages.

The National Association of Home Builders (NAHB) reports that in 2005 across all industries, building 100 single-family units generates 347 jobs and $19 million in new income, while 100 multifamily units generates 129 jobs and $10.2 million in new income.

The impact of housing on the job market has been significant in recent years with the torrid pace of construction and the hot housing market. With the surge in residential investment between 2002 and 2005, housing and related industries produced nearly one in four new jobs over this period. Home construction alone added more than 600,000 jobs between 2003 and 2005. By the end of 2006, however, the slowdown in the housing market was clearly translating into significant losses of construction jobs. While in the second half of 2006 the economy continued to create jobs, housing-related employment saw a net loss of more than 70,000 jobs. The rate of job loss appears to be accelerating. In September and August of 2007, the residential construction sector lost 46,500 jobs, nearly half the 108,500 jobs it had lost over the previous 10 months.

Demand for Goods and Services. The purchase of goods and services that accompanies the construction, furnishing and decoration of affordable housing also has an economic effect. The U.S. Department of Commerce estimates that approximately 30% of the total investment in the production of housing is devoted to building materials. Additionally, the NAHB reports that home buyers and renters spend a significant amount of money on furnishing and improvements after moving into their new homes. The NAHB states that in the first 12 months after buying new homes, owners spend $8,642 on furnishing and improvements. Buyers of existing homes spend $3,408 more than non-moving households in the 12 months after purchase. For this reason, there is considerable expectation that the weakness in the current housing market is likely to spread widely to other areas of the economy.

Funds Leveraged. When state and local jurisdictions contribute to the creation and rehabilitation of affordable
housing, they can anticipate attracting additional resources that may not otherwise be available to the community. Different housing activities and projects leverage at different rates. These leveraged resources can come from financial institutions, equity from the developer, foundation funds and many state and federal programs. The NAHB estimates that even small incentives (housing production tax credits, first time home buyer credits) cause "an expenditure that is 50 to 75 times the size of the tax incentive."

**Tax Revenues.** Residential construction and rehabilitation contribute to city, county or state tax revenues in a number of ways. Housing production results in income taxes from increased wages through the jobs that construction creates, sales taxes from items purchased for construction as well as for furnishing and renovation and property taxes from the improvements made on a property and the revitalization of neighborhoods. The NAHB estimates that home building generates $82,269 in tax and other government revenue for an average single-family unit, and $30,807 in tax and other government revenue for an average multifamily unit.

**Income Tax.** To calculate the income tax base for labor wages directly related to housing activities, multiply the total number of construction jobs estimate by the average wage rate for the geographic area of the construction.

**Sales Tax.** The revenue generated by the sales tax on building materials is calculated by multiplying the sales tax rate by 30% of the total investment dedicated to the production of new housing. On average, the cost of building materials is 30% of the total investment in the creation of a new house.

**Property Tax.** To calculate the property tax benefits of affordable housing, multiply the total dollar investment by the property tax rate that can then be extended 20 or more years for the life of the property.

**Fiscal Impact and Affordable Housing.** It should also be noted that there are other facets to the economic impact story. While the production of housing can lead to jobs and greater revenues locally, it can also eventually lead to greater expenditures for local government, such as on education, transportation and social services. Also, advocates should note, simply maximizing the economic and fiscal impact of housing construction often becomes an argument against the production of affordable housing. This is because the direct tax and economic benefits associated with low income households and their housing are lower and the expenditures for education and other services to serve this population, particularly families with children, are often assumed to be greater. As a result, using a simplistic analysis can lead to the conclusion that if building low income housing has a positive effect on the local economy, upper income housing will have an even greater positive effect. Clearly, providing housing for low income people is not only a necessary service, it provides other benefits and rewards that must be taken into account.

**For More Information**
National Low Income Housing Coalition • 202-662-1530 • www.nlihc.org

There is a guide to generating local economic impacts at www.nahb.org/generic.aspx?sectionID=784&genericContentID=35601
Housing Bonds

By Peter Lawrence, Legislative and Policy Associate, National Council of State Housing Agencies

Housing bonds are used to finance low-interest mortgages for low and moderate income homebuyers and the acquisition, construction and rehabilitation of multifamily housing for low income renters. Investors purchase housing bonds at low-interest rates because the income from them is tax-free. The interest savings made possible by the tax exemption is passed on to home buyers and renters in reduced housing costs.

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. 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. There are two main types of housing private activity bonds (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.

Intent
Both MRBs and multifamily bonds allow state and local governments to access private financing to support housing. By lowering the interest rate, MRBs make homeownership affordable for families who would not be able to meet mortgage payments on a conventional loan. Multifamily bonds provide funding for multifamily housing development that reaches income groups the market might not otherwise serve.

Beneficiaries
MRBs support below-market mortgages for first-time homebuyers with incomes no more than the state or area median income. Congress limits MRB mortgages to first-time homebuyers who earn no more than the greater of area or statewide median income. Larger families can earn up to 115% of the greater of area or statewide median income. Congress 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 housing bond-financed developments must set aside at least 40% of their apartments for families with incomes of 60% of area median income (AMI) or less, or 20% for families with incomes of 50% of AMI or less. 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, elderly housing, assisted living housing, housing for people with disabilities, housing for people with AIDS, migrant worker housing and rural housing.

Using MRBs, Housing Finance Agencies (HFAs) have made homeownership possible for more than 3.6 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. Almost 50% 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.

Structure
To support housing, state and local governments sell the tax-exempt bonds to investors, who are willing to purchase bonds paying lower than market interest rates because of their 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. Multifamily housing bonds finance the acquisition, construction or rehabilitation of affordable rental housing.

Under law, the annual issuance of private activity bonds, including MRBs and multifamily bonds, is capped based on population. In 2000, the cap for the issuance of private activity bonds was increased by 50% and indexed to inflation. The 2007 cap is $85 per capita, with a minimum of $256 million in private activity bonding authority allowed each state. In the case of multifamily bonds, the income-restricted apartments financed by those bonds must remain affordable for at least 15 years.

Funding
In 2006, the most recent year for which data are available, MRBs provided $15.4 billion to support the purchase of nearly 120,000 homes nationwide. States issued more than $3 billion in multifamily bonds, and those bonds financed more than 53,000 units in 2006.
Housing Choice Vouchers

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

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.

Federal tenant-based rental assistance was established as part of a major restructuring of federal housing assistance for low income families in 1974. Today, about 1.8 million households have U.S. Department of Housing and Urban Development (HUD) rental assistance vouchers, also called Section 8 tenant-based assistance and formally referred to as Housing Choice Vouchers. The Housing Choice Voucher program provides flexibility and options by issuing vouchers to eligible households to help them pay the rent in privately owned units of the households’ choosing. 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. 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.

In FY04, HUD recalibrated how it funded voucher administrators for vouchers and imposed tight restrictions on the availability of funds for vouchers that were not in use before the beginning of the fiscal year. In FY05, Congress again tied a PHA's voucher funding to past voucher costs with very little room for adjustments for legitimate voucher program costs. A PHA's voucher funding was based on average May, June and July 2004 voucher costs plus adjustments for tenant protection vouchers and for an annual adjustment factor. Coupled with this faulty funding distribution system, Congress underfunded the voucher program for FY05 by $570 million. Thus, about 80,000 authorized vouchers were not available to low income people in need of housing assistance in FY05 because of the combined pressure of the funding shortfall and the flawed funding distribution system.

In FY06, Congress approved sufficient funding for for the voucher program but continued the inefficient voucher funding distribution system, causing the loss of additional vouchers in FY06.

The FY06 funding allocation mechanism was based on FY05 funding, which, in turn, was based on the three month (May, June and July) 2004 snapshot. So, the policy that cost the country 80,000 vouchers in FY05 was again used to determine future funding mechanisms. The Center on Budget and Policy Priorities (CBPP) estimates that more than 150,000 vouchers have been lost nationally since the funding distribution system change in 2004.

There were two basic problems with the funding distribution system. First, some PHAs received more than they needed, resulting in pure waste since PHAs can only administer up to their authorized number of vouchers. Second, some PHAs received less than what their actual voucher program costs were and were left to figure out to how to fund vouchers without sufficient federal funding. Many PHAs had to freeze their housing assistance waiting lists because they could not afford to reissue a voucher that had been turned in by a household. Some PHAs adjusted voucher payment standards downward and/or restricted portability. Adequate payment standards and the portability of vouchers bring mobility to the voucher program.
The voucher funding system, as provided in H.J. Res. 20, the FY07 funding resolution, distributed funds based on the most recent 12 months of voucher cost and leasing data, plus reasonable adjustments. The resolution also provided $100 million for underfunded PHAs. The FY08 housing appropriations bill provided sufficient funds to renew all vouchers in use as well as additional resources for approximately 15,000 new vouchers for homeless veterans, non-elderly disabled people and the Family Unification Program.

The U.S. House of Representatives’s Section 8 Voucher Reform Act, H.R. 1851, would base each PHA’s annual voucher appropriations on its actual leasing and costs in the last completed calendar year with various adjustments to ensure actual legitimate costs are met.

**Section 8 Voucher Reform Act.** The House's Section 8 Voucher Reform Act, H.R. 1851, passed the House on July 12, 2007. This legislation addresses 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, the moving to work/housing innovation program and the family self-sufficiency program, among other voucher issues. The bill also authorizes 20,000 new, incremental vouchers each year for FY08-FY12.

**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.

**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’s Section 8 Voucher Reform Act would make 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’s Section 8 Voucher Reform Act would require 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 percent of adjusted gross income. That said, some simplifications are included in the House’s Section 8 Voucher Reform Act. 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.

**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. (See the chapter on the Moving to Work program.)

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**Advocacy for Housing Choice Vouchers in 2008**

In 2008, advocates will continue to seek sufficient funding to renew all vouchers in use and funding to issue already-authorized yet unused vouchers. And, pressure will remain to authorize and appropriate funding for at least 100,000 new incremental vouchers in FY09 compared to the $125 million appropriated for about 15,000 new vouchers in FY08. These were the first new vouchers appropriated since FY02 but more are desperately needed.

Enactment of the Section 8 Voucher Reform Act (SEVRA) will be important in 2008. Since the bill passed the House in 2007, focus will be on Senate action. The Senate’s bill is expected to be introduced very early in the
second session of the 110th Congress by Senate Banking, Housing and Urban Affairs Chair Christopher Dodd (D-CT). Housing advocates should urge speedy Senate consideration, passage and negotiation with members of the House to ensure enactment in 2009. The bill would make many long-lasting improvements to the housing choice voucher program.

In the Senate, SEVRA must have the support of the Senate Committee on Banking, Housing and Urban Affairs so the full Senate can then consider the measure. Then, the differences between the Senate and House bills will have to be negotiated by a conference committee.

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 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. The purpose of the 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 necessary medical care and other services.

AIDS is still a crisis in America. Despite the newfound optimism surrounding treatment options, every year an estimated 40,000 people are infected with HIV. The Centers for Disease Control and Prevention (CDC) estimates that there are now 1.2 million people living with HIV/AIDS in the United States. For people struggling with the disabling and impoverishing effects of HIV/AIDS, housing is the cornerstone of health and stability. Maintaining health and stability is essential when managing HIV. For people living with HIV/AIDS, housing is healthcare.

It has been estimated that as many as half of all people living with HIV/AIDS will need housing assistance at some point in their illness. For many 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. Housing Opportunities for Persons with AIDS (HOPWA) facilitates community efforts in developing comprehensive strategies to address HIV/AIDS housing need. The highest level at which HOPWA has been funded is $295 million in fiscal year 2004 (FY04). The program is rebuilding from a significant cut in fiscal year 2005 (FY05) with the President’s fiscal year 2008 (FY08) recommendation and both Senate and House-passed appropriation of $300.1 million, which would permit service to only 75,000 households.

HOPWA was created in the AIDS Housing Opportunities Act, a part of the Cranston-Gonzales National Affordable Housing Act of 1990. HOPWA provides funding to eligible jurisdictions to address the housing needs of persons living with HIV/AIDS and their families. It is administered by the Office of HIV/AIDS Housing (OHH), which is located in the Office of Community Planning and Development at the U.S. Department of Housing and Urban Development (HUD).

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. HOPWA assists communities in devising long-term housing strategies for persons living with HIV/AIDS that prevent them from becoming homeless. As a supportive housing program, HOPWA helps to ensure that persons living with HIV/AIDS have access to necessary medical care and other services. 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 and 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 and all families are low income. HUD expects to assist 75,000 households in 2007. According to the CDC, there were an estimated 956,019 cumulative AIDS cases in 2005. 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 reporting 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, 120 formula
grantees in 39 states, 80 cities and one county receive funding. 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. For 2007, HUD funded a total of 31 competitive projects operating in 21 states for three-year grants. This included funding for 27 permanent housing renewal projects as well as four new projects demonstrating model, replicable approaches to providing either permanent or transitional housing services. 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 community strategies to address HIV/AIDS housing need.

For FY08, Congress approved $300.1 million for HOPWA, an increase of $14 million above the FY07 funding level.

**Advocacy for HOPWA in 2008**

For FY09, the National AIDS Housing Coalition (NAHC) requests $470 million for HOPWA, an increase of $170 million above the FY08 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. HUD anticipates up to four additional jurisdictions may become eligible for funding in FY09. HOPWA remains sorely underfunded relative to the need. HOPWA would need $3.6 billion to serve all those living with HIV/AIDS and in need of housing assistance.

**For More Information**

National AIDS Housing Coalition • 202-347-0333 • www.nationalaidshousing.org
Housing Plus Services

By Diane Yentel, Policy Analyst, National Low Income Housing Coalition

Housing Plus Services is 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 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.

Programs

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 the U.S. Department of Housing and Urban Development's (HUD) 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 above definitions of design and implementation aspects of housing plus services programs in an effort to find common ground.

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 U.S. 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.

For More Information
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Housing Tenure

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

In housing, tenure primarily refers to whether one owns or rents one's home. For individual households the decision whether to own or rent can be based on a host of factors, not least their financial resources and prospects, their preferences and the costs of rental and ownership housing where they wish to live. Policy makers, however, are also often asked to support or oppose housing or housing policies according to tenure, irrespective of these other considerations.

A Focus on Ownership
The quest for "ownership" has been part of American politics since the country's inception, and homeownership is now widely considered the cornerstone of the "American Dream." As a result, across all levels of government a high proportion of homeowners is treated as an indicator of well being and successful housing policy. Conversely, growth in the proportion of renters is seen as indicating a problem.

After a significant decline in homeownership during the Great Depression, a variety of government loan programs and other interventions in mortgage markets contributed, along with economic conditions, to a steady increase in the homeownership rate as primarily middle income Americans moved from renting in urban areas to owning homes largely outside of central cities. By the middle of the last century, the majority of American families owned their own homes.

After the percentage of homeowners hovered in the low 60s for much of the second half of the 20th century, a proliferation of private mortgage products and an intensified government focus on homeownership all played a part in pushing homeownership to a historically high rate of 69% in the third quarter of 2006.

The family home is now by far the largest and most important asset that the vast majority Americans own. As of 2004, primary residences made up more than half of the value of the non-financial assets owned by American families and roughly a third of all their assets numbers that have likely increased in the intervening years. While the rate of homeownership among lower income households is lower, home equity makes up 77% of their total assets and 55% of total assets for all non-Hispanic white families. For this reason, though nearly 30% of American households still rent, the country is often accurately described as a nation of homeowners.

Addressing a History of Discrimination
However, not everyone who has wanted to or been able to own a home has been allowed to do so. In particular, racial discrimination in access to government programs, private financing and housing markets has 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. Even where direct discrimination is not at play, this historic lack of housing wealth can limit the choices of minority home buyers today. The Housing Vacancy Survey for second quarter of 2007 shows white homeownership rates at 75.4%, with blacks at 46.3% and Hispanics at 50%. In the recent housing boom, Hispanic rates of homeownership grew most quickly.

The political popularity of homeownership and the broad recognition by politicians of historical (though not always current) discrimination have made homeownership programs, particularly for excluded or disadvantaged populations such as lower income and minority households, one of the few areas of housing or social policy with nearly universal political support in recent years. Low income homeownership as an alternative to renting for racial and ethnic minorities has been the rhetorical center of the Bush Administration’s housing policy.

Has Support for Homeownership Become Unbalanced?
While there is strong and broad support for removing the barriers and easing the financial transition for those making a family-, time- and place-specific choice to invest in a home instead of renting, there is increasing concern that government homeownership programs and boosterism are contributing to unsustainable tenure and financing
choices by American families and an unhealthy imbalance both in housing policy and the nation’s housing stock.

While new mortgage products and low rates appeared to be helping millions “achieve the dream” of homeownership, higher prices, riskier mortgages and pervasive predatory lending practices were undermining the stability that had become thought of as part and parcel of homeownership during the 20th century.

This has become evident in the last few years with the continued stagnation of wages and the upper adjustment of interest rates, particularly for loans without fixed interest rates. In the last year, stagnant or falling home prices have increased the pressure on homeowners in most parts of the country.

According to the Mortgage Bankers Association, the percentage of loans in the foreclosure process in the second quarter of 2007 was 1.4% of all loans outstanding, an increase of 12 basis points from the first quarter of 2007 and 41 basis points from one year before. (A basis point is 1/100th of a percent.)

Much of the attention in the “credit crisis” emerging in late 2007 has been focused on sub-prime loans. From the second quarter of 2006, the foreclosure rate increased 196 basis points for these loans compared to 18 basis points for prime loans and a decrease for both Federal Housing Administration (FHA) and Veterans Administration (VA) loans (though the overall foreclosure rate for these more risky government-sponsored loans remained above the rate for prime loans.)

The foreclosure rate does not, however, indicate the breadth of the distress. For example, the national delinquency rate, which includes those failing to meet the terms of their loans but does not include units already in foreclosure, stood at 5.12% of all loans outstanding on a seasonally adjusted basis in the second quarter of 2007. This was up 73 basis points from the same time the previous year. Again the increase was 15 basis points for prime loans but a significantly higher 105 basis points for subprime loans (from 13.77% to 14.82%). The delinquency rate increased 43 basis points for FHA loans but decreased 34 basis points for VA loans.

Not only has the share of subprime loans increased in recent years, but research has clearly shown that low income households, minorities and women are most likely to receive subprime and predatory loans. Thus, low income homeowners, particularly those in the subprime market, have borne the brunt of the trend toward greater delinquency and foreclosure. While, with few degrees of freedom in their budgets, low income households are always at greater risk, the problem becomes acute when they are unable to sell their home for a price that covers the outstanding balance and costs of their loans, something that appears more likely with prices trending down nationwide.

Yet, while increases in delinquency due in part to current market conditions, predatory loan terms and economic circumstances are a major concern, a more fundamental concern has arisen about the push for low income homeownership. Many of the assumptions on which public policies encouraging low income homeownership are based have been projected from the historical experiences of the “average” homeowner in the post World War II era. Evidence from datasets that track households over time, however, shows that the historical experience of the higher income, average homeowner does not adequately describe the typical experience of lower income homeowners. For example, the high fixed costs of a home purchase leads most financial advisors and housing counselors to recommend a family stay in their home at least five years to recapture that investment. Short tenure can reduce or even negate the financial returns from homeownership. Yet, the data suggest that greater income and employment uncertainty leads to more frequent moves for new low income owners and the old adage “once an owner always an owner” seems particularly unsuited for this group.

Today, questions about the emphasis put on homeownership in the last decade are coming from a wider set of stakeholders as housing values and credit look increasingly uncertain and delinquencies and foreclosures are on the rise. For the first time since the late 1980s, national homeownership rates started to trend downward in 2007.

The State of Renters
One clear casualty of the recent focus on overcoming the barriers to low income homeownership has been that affordable rental production and assistance programs, even politically popular Housing Choice Vouchers, have
experienced cuts in recent years despite rents that continue to outpace wages. In general, in zoning, in permitting and in other policies, rental housing is being neglected in favor of ownership units. A Harvard study estimated that between 1993 and 2003, the supply of rental units affordable to those earning $16,000 or less (in constant 2003 dollars) shrank by 13%. More recently, the U.S. Department of Housing and Urban Development (HUD) estimated the rental stock affordable to very low income (VLI) and extremely low income (ELI) households decreased by 10% between 2003 and 2005.

Despite this environment, 37 million increasingly low income households (more than 30% of the nation’s households) continue to rent their housing, with the total number of renters increasing each year. The result is that there is a measurable increase in the gap between the rental housing that is available and what the growing numbers of renters can afford. NLIHC estimates that in 2005 there were only 6.2 million affordable rental units for the nation’s 9 million ELI renter households. Among other things, this affects the ability of the rental market to serve as a stepping stone into or out of homeownership.

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 rural America, which can leave households in a rather precarious position.

Programs
Federal government support for homeownership is evidenced by its involvement in the mortgage market, as a provider of mortgage insurance and sponsor of mortgage market liquidity, and in policies subsidizing homeownership through tax expenditures and housing production and loan programs.

**Insurance Reduces Lender Risk.** 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 (see Federal Housing Administration chapter). The U.S. Department of Agriculture (USDA) and the U.S. Department of Veterans Affairs (VA) also provide federal government-backed mortgage insurance.

**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 more risky loan if it can be reasonably certain that it can sell the loan if it needs to, Congress established a number of Government Sponsored Enterprises (GSEs) to buy and sell mortgages and thereby facilitate the “secondary market” for mortgages. While these institutions are not funded by government appropriations, government sponsorship and oversight have implied a government guarantee and amount to government intervention on behalf of homeownership (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 (see Federal Home Loan Banks chapter). The departments of Agriculture and Veterans Affairs also provide direct loans.

**Tax Expenditures Assist Homeowners.** The government provides incentives for homeownership through tax expenditures based on the value of a home or the size of a mortgage, providing greater benefits to owners of more expensive homes and larger mortgages. Mortgage interest and property taxes can be deducted from a homeowner’s federal income tax. 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 $144 billion in 2005, tax expenditures for homeowners...
cost the federal Treasury more than three times the cost of direct low income housing assistance ($39 billion). There has been considerable criticism of what can be viewed as a tax subsidy benefiting primarily wealthy homeowners. The most recent prominent criticism came from the President’s Advisory Panel on Federal Tax Reform in November 2005, which recommended modifying the home mortgage interest deduction. Currently, the deduction is available for interest on up to $1.1 million of mortgage debt. The panel recommended instead having a Home Credit equal to 15% of the mortgage interest paid, with mortgages limited to the average regional price of housing. The panel said linking the limit to average regional home prices would effectively lower the limit from $1.1 million to between $227,000 and $412,000.

Other federal programs support homeownership. A first-time home buyer may withdraw, without penalties, money from a tax-free individual retirement account for a down payment. Additionally, through the support of the federal tax system, state housing agencies issue mortgage revenue bonds and mortgage credit certificates to subsidize first-time home buyers 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, which can now be applied to monthly mortgage payments. Federal housing counseling funds are most often used for homeownership counseling.

Federal programs in support of affordable rental. The federal programs supporting rental units for low income households include the Low Income Housing Tax Program, the Section 8 programs and Public Housing, to name a few. The cost to the federal Treasury of low income rental assistance is less than a quarter of the all homeownership programs.

For More Information
National Low Income Housing Coalition • 202-662-1530 • www.nlihc.org
Housing Trust Funds (State and Local)

By Mary E. Brooks, Director of the Housing Trust Fund Project, Center for Community Change

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.

With 30 years of experience in creating and implementing more than 600 housing trust funds, 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 dedicate public revenues by ordinance or legislation to the production and preservation of needed affordable housing. 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.

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.

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.

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 designating 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 in order 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 document recording fees. This is not only the best source for a county housing trust fund, it is also 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.

Outlook
Housing trust funds can be created in a wide variety of situations, but finding significant sources of public revenue that can be dedicated to a trust fund is a challenge. There are a number of strategies that help these campaigns. Housing advocates need to be creative, if not stubborn, in seeking new revenues for affordable housing. 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.

What Was Won in 2007
In 2007, housing advocates won advances in housing trust funds in Indiana, Iowa, Louisiana, Maine, Massachusetts, Michigan, New Mexico, Oregon, South Carolina, Texas, Washington, and West Virginia. Indianapolis; Kalamazoo, MI; Austin, and Washington, DC, all added funds to their local housing trust funds. Bend, OR, created a new housing trust fund and Charlottesville, VA, approved the concept of a housing trust fund and is still working on dedicating public revenues to it.

An Overview of a Housing Trust Fund Campaign
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.). Pinpointing the public revenue source(s) to commit to the fund will probably take some research to find out what is possible, which sources are best to pursue, and what can be done politically. 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 50 housing trust funds underway in cities, counties and states across the country. Some are to create 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, Arkansas, Colorado, Minnesota, Mississippi, New York, Pennsylvania, Rhode Island, Tennessee, and Virginia.

States where there is interest in increasing funding for an existing state housing trust fund include: California, Delaware, Florida, Kansas, Louisiana, Maryland, Missouri, Montana, New Mexico, North Carolina, Ohio, Oregon, South Carolina, Texas, and Utah.

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. Everyday, a new housing trust fund campaign seems to appear.

Advocacy on State and Local Trust Funds in 2008

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, specifically the “Housing Trust Fund Progress Report 2007,” “Winning at the Local Level: 5 Housing Trust Fund Campaigns Tell Their Stories,” and “A Workbook to Create a Local Housing Trust Fund.” These reports, available by contacting the Housing Trust Fund Project at the address below, provide an excellent overview of the various types of housing trust funds and funding sources that other communities have established and what is required to wage a successful campaign. The project also produces a quarterly newsletter on current housing trust fund events that is free and is available by contacting the project with a mailing or email address.
Virtually all housing trust funds require a campaign. You can begin by talking with other local advocates. But 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.

**For More Information**
The Housing Trust Fund Project, Center for Community Change • 661-245-0318 • mbrooks@communitychange.org; www.communitychange.org/issues/housingtrustfunds
Individual Development Accounts

By Keven Cotton, Policy Associate, and Carol Wayman, Senior Legislative Director, Corporation for Enterprise Development

Individual Development Accounts (IDAs) were created to enable low income working families to save for an asset, build wealth, and enter the financial mainstream. IDAs supplement the savings of low income households with matching funds that typically come from a variety of private and public sources. These matched savings accounts are typically restricted to three uses: 1) purchasing a first home; 2) pursuing a 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 financial education course, payments from the IDA are made directly to the asset provider to complete the asset purchase.

The U.S. Department of Health and Human Services (HHS) currently funds the majority of IDAs through the Assets for Independence (AFI), a competitive grant program. AFI is run by the HHS Office of Community Services (OCS) through the Administration for Children and Families (ACF).

While anti-poverty policy makers have traditionally focused on issues of income, spending and consumption, an expanded vision is steadily emerging - one that encourages savings, investment and asset accumulation in conjunction with, not instead of, traditional anti-poverty programs. Although this trend toward asset accumulation can be traced back as far as the Homestead Act, only recently has the savings and asset base of the poor gained any attention.

The role of assets in poverty alleviation can be simply stated: assets matter. Assets provide more than just an economic cushion; they provide a psychological orientation that income alone cannot provide. Increasing the assets of low income families helps to address the growing wealth gap and the racial disparities of asset ownership.

Public policy plays a large role in determining the levels of household wealth. CFED’s recent study concludes that annually, “Federal asset policies cost $367 billion.” Federal policies disproportionately benefit those who already have assets and analysis of the largest spending categories shows that 45% of the benefits go to the wealthiest 1% of Americans – those who typically earn more than $1 million per year. In contrast, less than 12% of the benefits go to the bottom 60% of taxpayers.

Nationally, there are more than 50,000 IDAs operated by more than 500 community-based programs and organizations.

According to OCS’ 2005 Report to Congress and CFED’s 2005 IDA Program survey, (the most recent data available) at least $264.5 million has been invested in IDA asset purchases since 1999, including more than $145 million in federal and state appropriations, $24.8 million in participant personal savings, and $94.7 million in non-federal, matching funds.

Advocacy for IDAs in 2008

IDAs are incorporated into several pieces of enacted or proposed federal legislation

Assets for Independence Act: In 1998, the Assets for Independence Act (AFI) authorized HHS to establish and administer a five-year, $125 million demonstration of IDAs. Congress authorized $10 million per year for fiscal years 1999 and 2000 and roughly $25 million for each subsequent year. In order for participants to be considered eligible for an IDA through AFI, participants must be TANF eligible, earned income tax credit (EITC) eligible, or have income at or below 200% of the poverty level. CFED is working with the 110th Congress to reauthorize and improve this legislation.
Savings for Working Families Act of 2007: If enacted, the Savings for Working Families Act (SWFA) (S. 871/H.R. 1514), would offer a one-to-one tax credit for 900,000 accounts. The IDA Tax Credit would encourage savers to deposit up to $500 per year for four years into an IDA account, and financial institutions would provide deposits into a separate, parallel account that matches what the individual saves dollar for dollar. Financial institutions would receive a tax credit for the matching funds that they provide as well as a $50 annual credit for each IDA account that they administer. The bill also benefits nonprofits, tribes and community organizations by providing $20 million for these groups to provide financial education to participants.

The Beginning Farmer and Rancher Opportunity Act of 2007: This legislation (S. 1460) would provide $5 million for savings matches and financial education.

The Office of Refugee Resettlement IDA: The Office of Refugee Resettlement (ORR) provided 10 to 15 new grants totaling $2.8 million to help refugees build wealth, attain financial self-reliance and ease their integration into American society. The grants will range from $200,000 to $400,000 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.

Other Legislation
Saver’s Credit: The Retirement Savings for Working Americans Act (H.R. 2724) would extend retirement savings incentives to the lowest income Americans by making the Saver’s Credit fully refundable, thereby expanding it to more than 60 million American households. The legislation would expand the income eligibility levels to single filers earning up to $30,000 and joint filers earning up to $60,000, thus expanding the availability of the credit to additional middle-income working families. It would require the credit to be deposited directly into a retirement account as a matching contribution and indexes the contribution amounts to inflation. It also would expand the credit to 529s and Coverdells.

Raising Asset Limits in Food Stamps: This legislation (S.591) would index the asset limit to inflation and would exempt all retirement accounts from asset limit inclusion for food stamps.

Advocates are also encouraged to join CFED’s IDA Tax Credit Alliance, a consortium of philanthropic organizations, businesses, industry associations and organizations of elected officials created to champion tax credit legislation for IDAs.

For More Information
The U.S. Interagency Council on Homelessness (ICH) is composed of 20 cabinet secretaries and agency heads whose policies and programs have some responsibility for homeless services, including the U.S. Department of Housing and Urban Development (HUD), the U.S. Department of Health and Human Services (HHS), the U.S. Department of Labor (DOL) and the U.S. Department of Veterans Affairs (VA). ICH has effectively promoted the goal of ending homelessness at the state and local level, while making progress on coordinating efforts at the federal level.

The Interagency Council on Homelessness (ICH) was created in 1987 in the Stewart B. McKinney Homeless Assistance Act. Its mission is to coordinate the national response to homelessness. ICH is composed of the leaders of 20 federal departments and agencies whose policies and programs have some responsibility for homeless services, including HUD, HHS, DOL and VA.

The federal government allocates about $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 large, 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. The council’s mission is to develop a comprehensive federal approach to end homelessness.

The chair of the council rotates among the secretaries of HUD, HHS, DOL and VA. After a long period of inactivity, ICH was reactivated in 2002, with a full-time executive director for the first time in many years. 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.

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 ten-year plans to end long-term homelessness and encourage states to create interagency councils on homelessness.

Appropriations legislation for fiscal year 2007 (FY07) includes $1.8 million in administrative funding for ICH. For FY08, $2.3 million was requested by the Administration. This would provide the means for ICH to continue its activities to coordinate the national response to homelessness. The appropriations bill passed by the House of Representatives included $2 million, and the bill passed by the Senate included $2.3 million.

While the revived ICH has substantial achievements around ending homelessness, there remains a great deal to be done. The availability of supportive services, particularly through HHS programs, is an important issue where ICH could be of assistance. In general, there is a need for an explicit federal government plan for ending homelessness.
Intermediary Organizations

By Angela Flores, Deputy Director of Public Policy, 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. Intermediaries arose primarily to 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, social service providers and for-profit entities.

Several well known national intermediaries include the 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, the Housing Assistance Council (which has an explicitly rural focus), the Housing Partnership Network (which generally serves larger partnership groups), Local Initiatives Support Corporation, the National Community Capital Association (which assists CDFIs), Neighborhood Reinvestment Corporation (doing business as NeighborWorks America and mainly funded by the federal government) and YouthBuild USA. Most of the resources that intermediaries raise come from the private sector. However, many national intermediaries receive HUD funding as well.

Intermediaries 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.

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 the 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 that had less advanced systems and sources of support, including many rural communities. Intermediaries have helped grassroots groups expand from housing into economic development and other activities to meet the needs of low income families and to 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
Local Initiatives Support Corporation · 212-455-9800 · www.liscnet.org
NeighborWorks America · 202-220-2300 · www.nw.org
Lead Poisoning Prevention

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

The Residential Lead-Based Paint Hazard Reduction Act, also known as “Title X” of the Housing and Community Development Act of 1992, established the U.S. Department of Housing and Urban Development’s (HUD) Lead Hazard Control Grants Program; directed HUD to develop technical guidelines for hazard evaluation and control practices; directed HUD and the U.S. Environmental Protection Agency (EPA) to overhaul regulations related to lead-based paint; directed EPA to define hazards and set other standards; and required disclosure of lead hazards to ensure that any knowledge is shared with the potential renter or purchaser of a pre-1978 home.

The purpose of Title X was to redirect the national approach from reacting to poisoned children to prevention. The 1992 law moved beyond preoccupation with the presence of lead-based paint to focus on short- and long-term strategies to make housing safe for children.

More than 80,000 homes have been directly impacted by hazard assessment and remediation activities since Title X was passed, though this represents just a fraction of the estimated 25 million U.S. housing units with lead hazards. Since the program's inception, more than 40,000 individuals have been trained in lead safety or other skills related to controlling lead hazards.

HUD's Lead-Related Efforts

Lead Hazard Control Grants Program. To support the control and removal of lead hazards, Title X authorized a categorical HUD grant program, 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 a line for a grant program called Operation LEAP (Lead Elimination Action Program), which provides funding to projects that use federal funds to leverage private sector investments to prevent lead poisoning. In 2003, Congress added a line for Lead Hazard Reduction Demonstration Grants to target additional grants to the nation's highest risk cities. All of these programs are housed in the HUD Office of Healthy Homes and Lead Hazard Control.

Lead-Safe Housing Regulation. To prevent lead poisoning in federally assisted housing, per Title X, the Lead-Safe Housing Rule (24 CFR Part 35), which took effect in 2000, defines how lead-based paint hazards should be addressed by each type of federal assistance. The requirements are calibrated to reflect the extent and duration of particular types of federal housing assistance toward the dwelling unit.

Lead Hazard Disclosure. HUD, EPA and the U.S. Department of Justice share responsibility for enforcing Title X requirements for disclosure of lead hazards to ensure that any knowledge of lead-based paint or lead-based paint hazards is shared with the potential renter or purchaser of a pre-1978 home.

The Lead Hazard Control Program consists of three major sub-programs:

Lead Hazard Control. This competitive program awards grants for lead hazard control in private housing to states, counties and cities. The typical award of $3 million has addressed hazards in 300 homes; since 2006, 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. More than $1 billion has been awarded since the program started in 1993.

Lead Hazard Reduction Demonstration Grants. This five-year-old sub-program targets funds for lead hazard control to the nation's highest risk cities as defined by the prevalence of lead poisoning and the number of pre-1940 rental housing units.
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.

For More Information
Alliance for Healthy Homes • 202-739-0882 • www.afhh.org
Low Income Home Energy Assistance Program

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

The Low Income Home Energy Assistance Program (LIHEAP) is a federally funded and locally administered program that was established by Congress in 1981 to help households at risk – particularly the elderly, disabled, working poor and low income families with small children – meet their home energy needs. While roughly 37 million households would be eligible under these guidelines, limited funding means that just 16% of households (roughly 6 million) receive assistance. At a time when home heating costs are at record levels, the need for increased LIHEAP funding is greater than ever.

LIHEAP was created in response to the energy crisis of the late 1970s to provide help to low income households with a minimum of government bureaucracy and a maximum of involvement by civic institutions. The program as we know it today expanded upon a national program first created by Congress in 1977.

For more than 25 years, LIHEAP has helped at-risk households meet their heating and cooling needs. States can set eligibility at 150% of the federal poverty level or 60% of state median income, whichever is greater. Currently, approximately 70% of families receiving LIHEAP have incomes below the federal poverty level. Though what is required differs from state to state, eligibility for the program tends to be determined annually based on the simple presentation of proof of income and recent utility bills at the time of need.

LIHEAP is administered at the state and county levels by governmental agencies and implemented primarily at the local level by community action programs, and local welfare and aging agencies. LIHEAP funds are supplemented to a limited extent by additional state appropriations, and funds from energy suppliers and utilities, church donations and local charitable “fuel funds” administered by the Salvation Army, Catholic Charities and other organizations.

The U.S. Department of Health and Human Services (HHS) distributes LIHEAP dollars to the states based on a block grant formula. Therefore, LIHEAP funding takes shape as part of the Labor, Health and Human Services, and Education appropriations process.

The core of the program is the block grant program to states, which states can use to provide help with heating and cooling costs on an emergency or regular basis. The funding formula for the block grant program is weighted based on cold-weather conditions and households living in poverty. States disburse the money under programs of their own design. In these programs states can spend up to 25% of their allocation on weatherization (15% without a waiver from HHS) and up to 5% on other types of technical assistance to reduce home energy needs such as counseling.

In addition, the program budget contains emergency contingency funds that can be released by the President if weather or economic conditions warrant. The so-called Residential Energy Assistance Challenge (REACH) program provides competitive discretionary grants to states to assist households with weatherization and reduction of their heating cost burdens. The final component of the program is leveraging grants meant to provide incentives to states to raise non-federal funds for energy assistance.

Funding
The President’s budget request for the LIHEAP program in FY09 is $2 billion, which would be a cut of 22% from $2.57 billion the program received in FY08. The President’s FY09 Budget would reduce the block grant from $1.98 billion to $1.7 billion. It would also reduce the emergency contingency fund from $590.3 million to $300 million, despite the fact that on January 16, 2008, the Administration announced the release of $450 million of the FY08 emergency contingency funds to address high home heating fuel costs.

Under the President’s budget, state programs would either have reduce the share of winter home costs covered from 36% to 28% or reduce the number of households in the program from nearly 6 million to 5 million. Already, the average grant has declined as a percent of home heating costs from 47% to 36% from FY06 to FY08.
In FY07, the program received $2.162 billion. In FY06, Congress provided $2.183 billion for LIHEAP, which after a 1% across-the-board reduction in federal spending became $2.161 billion. However, in March 2006, an additional $1 billion in supplemental LIHEAP funds was released - $500 million for block grant funds and $500 million for emergency contingency funding. The total of $3.1 billion in FY06 was a record funding level.

While in recent years such a precipitous drop in funding has been averted, and funds have been supplemented, even at current levels LIHEAP funding continues to fall far short of the level necessary to serve even one in five eligible households. Throughout its existence, LIHEAP has faced financial threats. In the summer of 1998, for example, the House of Representatives voted to eliminate its funding altogether. But after an intense grassroots communications effort by advocacy organizations, social services providers, utilities, consumer groups and LIHEAP recipients, money was restored by an appropriations conference committee.

Advocacy for LIHEAP in 2008
Funding. The most immediate focus for LIHEAP advocates is securing additional funding for FY08, as home energy prices have continued to rise and the existing FY08 funding is diminishing at a rapid clip. Longer term, advocates are fighting for adequate funding for LIHEAP in the FY09 budget cycle that is just ramping up, seeking $5.1 billion for LIHEAP in FY09 and advance funding of the same amount for 2010.

Reauthorization. When Congress passed the Energy Policy Act of 2005, it reauthorized LIHEAP at an annual funding level of $5.1 billion per year. This authorization expired in FY07 and it is unclear whether there will be an opportunity to reauthorize the program this year.

For More Information
Campaign for Home Energy Assistance · 202-429-8855 · www.liheap.org

National Energy Assistance Directors' Association · 202-237-5199 · info@neada.org

LIHEAP Coalition · c/o Olivia Wein, National Consumer Law Center · 202-452-6252
Low Income Housing Tax Credit

By Danna Fischer, Policy Analyst, National Low Income Housing Coalition

The Low Income Housing Tax Credit (LIHTC) program is designed to expand the supply of affordable housing by encouraging private investment in such housing. The encouragement comes in the form of a tax credit to the investors. Investors 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 is often used to support housing for the elderly and disabled. Tax credit projects are found in all parts of the country, including rural areas.

This program is administered by the Treasury Department’s Internal Revenue Service (IRS). As of 2005, the LIHTC program had created 1.382 million units. The LIHTC is a tax expenditure, which does not require an appropriation. The Joint Committee on Taxation estimates that the program cost $5.1 billion in tax expenditures in 2007.

Structure
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.

Allocation of Credits
Tax credits are allocated to states based on their population. In 2007, each state’s credit cap (as the state allocations are called) was $1.95 multiplied by the state population, with a minimum of $2.275 million. The IRS also reclaims credits from states that did not use all of its credits and redistributes them to states with full utilization.

In turn, states, through their Housing Finance Agency (HFA), allocate credits to specific projects according to the state’s Qualified Allocation Plan (QAP). Both for profit and nonprofit developers can apply for credits, but a minimum of 10 percent of an HFA’s total tax credits must be set aside for nonprofits. Most investors are corporations and many are financial institutions that receive Community Reinvestment Act credit for these investments.

Project Structure
Once awarded tax credits, a developer then sells them to investors, usually to a group of investors pulled together by a “syndicator.” The cash (equity) that the investors put up is used by the developer, along with other resources such as conventional mortgages and state loans, to construct new affordable housing or to substantially rehabilitate affordable housing.

The developer and investors form a limited partnership in which the developer is the general partner and the investors are limited partners. The general partner owns very little of the project (perhaps as little as 1%) yet has a very active role in construction or rehabilitation and day-to-day operation of the completed project. The limited partners own most of the project (perhaps up to 99%) but play a passive role. They are involved only to provide equity and reap the benefits of tax credits.

Eligible Projects and Amount of Credit
Tax credits are only available 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 the rent and utilities for a unit do not exceed 30% of the income limitation applicable to that unit, i.e. 50% or 6% 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.) The 9% tax credit is generally available for new construction and substantial 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 placed in service, i.e. 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.

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

Rent Restrictions, Occupancy Requirements and Affordability Period
Tax Credit units are available to those 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.

Using the LIHTC with Other Programs
LIHTC credits can be, and often are, 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.
The Qualified Allocation Plan (QAP)
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.

Advocacy on LIHTC in 2008
Legislation to revise the LIHTC credit program may be introduced in second session of the 110th Congress. This legislation could contain potentially favorable revisions to make the LIHTC program and other housing programs to work together better. However, unfavorable amendments, such as reducing the income targeting and decoupling rents from income could also be considered. Advocates should closely monitor the development of any legislation revising the LIHTC program to ensure the continued viability of the program for lower income tenants.

Advocates can use the LIHTC public hearing and comment requirements to convince their HFA to better target tax credits to priority populations and locations. The QAP is a tool advocates can use each year to influence how their state’s share of annual tax credits is allocated to affordable housing projects.

For More Information
Basic Descriptions
Opening Doors, Issue 26, April 2005, “Using the Low Income Housing Tax Credit Program to Create Affordable Housing for People with Disabilities.” www.tacinc.org/Pubs/ODpubs.htm.
HUD’s HOME program web page has a good, basic tutorial at www.hud.gov/offices/cpd/affordablehousing/training/web/lihtc/.

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/pubsguides/lihtc/toc.htm.
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.
A good two-page overview is available from Joe Guggenheim’s web page: www.housingtaxcredits.net/housing_tax_credits_description.html.
Subscribers to Housing Development Reporter can get a good overview from Chapter 26 of its Reference File.

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.
HUD’s HOME program web site has links to a firm which lists the HFAs in all states at www.novoco.com/stcaa.shtml.
That HOME program link also is a source of state QAPs at www.novoco.com/QAP.shtml#2006.

Sources of LIHTC data
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 2003, is at www.huduser.org/datasets/lihtc.html.
Novogradac & Company maintains a web site with extensive LIHTC information, including hard-to-find IRS guidance: www.novoco.com/low_income_housing/lihtc/other_guidance.php.
Manufactured housing, home to approximately 10 million American families, represents an important resource when it comes to expanding homeownership opportunities for low income families. It can offer significant cost savings on the production end, and the quality of many of today’s homes is comparable to site-built housing.

Despite the prevalence of manufactured housing and its importance as a source of affordable homeownership, however, the sector continues to face challenges. These undermine its ability to provide the same opportunity to build wealth, as well as the financial security, offered by traditional, site-built homeownership. These problems, while surmountable, must be addressed if advocates are to ensure that manufactured housing is not only affordable, but also a sound investment for low and moderate income families.

**Issues for Manufactured Housing**

**Sales and Financing.** Over time, the manufactured housing sector has developed a delivery and financial system that operates parallel to the mainstream real estate market. For example, most manufactured homes are sold by “side of the road” dealers, who may employ unsavory sales tactics. Most manufactured housing dealers offer in-house financing, simplifying the deal, but discouraging buyers from comparison shopping for the best terms. Because neither mainstream lenders nor government sponsored entities (GSEs) have traditionally been actively involved in manufactured housing lending, a parallel personal lending industry has developed. Loans frequently feature very high rates and fees and may include provisions that could be considered predatory. In addition, owners of these loans do not have access to the same federal tax benefits that are available to traditional mortgage holders.

**Quality of Construction.** Just as with site-built homes, manufactured homes can vary widely in quality. One unique characteristic of this sector, however, is that manufactured homes are the only homes in the U.S. regulated by a federal building code. By and large, most homes built since this code was introduced have been of generally good quality. Some problems remain: if not transported properly, well-built homes can be damaged in transit on their move from the factory to their permanent location. Homes not anchored well and affixed to a permanent foundation can lead to problems down the road. And many substandard homes, especially those built before the advent of the code, still exist.

**Security of Tenure.** Site control of the land beneath the homes is an issue of key importance. Many manufactured homes are owned by residents but sit on rented land. This gives residents little control over their future and seriously erodes the value of their investment. In most states, little or no notice needs to be given to residents of leased land if the lease is cancelled or a manufactured home community (“park”) is to be sold or closed. There are few controls, so rents may be raised excessively, and conditions in manufactured housing communities may be unsafe and unhealthy. This issue does not apply to the many owners of manufactured homes sited on owned land, but for those in parks, land tenure is a significant issue.

**Consumer Protections.** Many consumer protections afforded buyers of site-built homes do not apply to owners of manufactured homes. Despite their permanent nature once sited, many states still title them as vehicles rather than real property. This further encourages personal, rather than mortgage, lending. Many manufactured housing loans are thus not subject to the Real Estate Settlement Procedures Act (RESPA), the Home Ownership Equity Protection Act (HOEPA), the Truth In Lending Act (TILA) or to reporting under the Home Mortgage Disclosure Act (HMDA).

CFED launched a manufactured housing initiative, Innovations in Manufactured Housing (I’M HOME), in 2005. The multi-year, multimillion dollar initiative supports organizations around the country that are testing innovative solutions to these problems.

The U.S. Department of Housing and Urban Development (HUD) developed a building code for manufactured...
housing (as opposed to other types of factory-built housing such as modular or panelized housing). The Federal Manufactured Construction and Safety Standards, known as the HUD code, were established in 1976 and constitute the only federal building code. The 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.

The code evolves over time. Following Hurricane Andrew in 1992, the HUD code was strengthened with regard to wind resistance, and these changes took effect in 1996. In December 2000, President Clinton signed the Manufactured Housing Improvement Act (MHIA). The legislation established a process to update the HUD code and called for the development of new model standards for installation of manufactured housing units and for dispute resolution to help consumers get redress from manufacturers, retailers and/or installers in the case of defects. Additionally, MHIA reinforces the preemption of the HUD code over state and local building codes.

Each state had until December 27, 2005, to implement an installation program and dispute resolution process that meet or exceed the federal standards. States that failed to do so, so-called “default states,” will be subject to the HUD installation and dispute resolution program. HUD issued a final rule on dispute resolution in May 2007.

Advocacy for Manufactured Housing in 2008

National Advocacy. With the exception of the HUD code, most of the policies that govern the effectiveness of manufactured housing as a source of affordable and appreciating housing are determined at the local and state levels. However, manufactured housing finance has recently been a topic of federal interest. Legislation to revamp the Federal Housing Administration Title I loan insurance program, which is largely used for manufactured housing on leased land, passed the House in 2007 (H.R. 2139) and Senate companion legislation was included in the Senate's FHA modernization bill, S. 2338, which passed the Senate in 2007. The Government Accountability Office was commissioned to conduct a study of issues raised in hearings on these bills. The GAO report was released in August 2007, recommending that the FHA conduct a thorough risk analysis before implementing any changes to the program. In the 110th Congress, advocates are working to ensure that manufactured housing dealers are included in the definition of loan originators in the Mortgage Reform and Anti-Predatory Lending Act of 2007. In addition, advocates want to ensure that cooperative conversions of manufactured housing communities are an eligible use for the proposed National Housing Trust Fund.

Control of the land beneath these homes is essential for homeowners' security and opportunities for asset building, and several actions at the federal level can support this goal. IRC section 216 should be amended to extend the rights of cooperative members to deduct mortgage interest and real estate tax deductions to homeowners in resident-owned manufactured housing communities, who own their homes individually but own the land under their homes as a cooperative. FHA Title II should be revised to insure mortgages in resident-owned manufactured housing communities as well. Finally, advocates should press for the continuation of the Manufactured Housing Census, a key source of national data.

State Advocacy. States should enact clear legislative definitions of manufactured housing as real estate and a clear voluntary process for conversion of manufactured housing from personal to real property to improve access to mainstream mortgage financing and to support asset appreciation.

States are also the primary regulators and enforcers of consumer protections for residents of manufactured housing. More visible consumer protection entities, well-staffed and funded, and with consumer representation in addition to industry representation, can decrease the opportunities for abuse in the industry. State and local governments can help reduce the problems inherent in parks by requiring significant notice of change-of-use or park closure, providing park residents a right of first refusal, and enforcing health and safety requirements. States can further support resident ownership of manufactured housing communities by providing capital gains or other tax incentives to park owners who sell to residents or by supporting technical assistance for residents who wish to purchase their communities.
Local Advocacy. Many communities have zoned out all manufactured homes – prohibiting not only older and substandard homes, but also newer, good quality, affordable homes. Local governments should seek to exclude all substandard and dangerous homes, but on their merits, not on the construction method. Some states, such as California, have gone a step further, passing anti-discrimination laws that prevent municipalities from banning homes solely because they were built mainly in factories instead of on-site. Localities can also implement many of the same policies as states to preserve manufactured housing communities as a source of affordable housing and to promote resident ownership.

For further information and additional suggestions, please refer to the I’M HOME Policy Agenda, available at www.cfed.org.

For More Information
CFED/Corporation for Enterprise Development · 202.408.9788 · www.cfed.org

National Consumer Law Center · 617.542.8010 · www.nclc.org
Congress enacted the Stewart B. McKinney Homeless Assistance Act in 1987 in response to the homelessness crisis that had emerged in the 1980s. Renamed the McKinney-Vento Act in 2000, the act authorizes funds for a small set of federal homeless assistance programs, including four administered by the U.S. Department of Housing and Urban Development’s (HUD) Department of Housing and Community Development: 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. HUD’s Office of Community Planning and Development administers the programs.

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 problems. While providing enough supportive housing for those who are homeless the longest (proposed by the Administration in several forms, including the Samaritan Initiative) is 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.

At least 3.5 million people, 39% of whom are children, are likely to experience homelessness in the United States in any given year. This translates to approximately 1% of the U.S. population experiencing homelessness each year. Families with children are among the fastest growing segment of the homeless population, comprising approximately 40% of the homeless population in 2004.

Emergency Shelter Grant (ESG) funds are granted on a formula basis to states and communities for 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.

Advocacy on McKinney-Vento Reauthorization in 2008
Bills have been introduced in both the House and Senate to reauthorize McKinney-Vento homeless programs. The bills would consolidate all HUD McKinney-Vento housing programs, except Emergency Shelter Grants, into one competitive program with a broad set of eligible activities, including homelessness prevention, permanent or transitional housing for any homeless population, and supportive services.

On February 6, 2007, Representatives Julia Carson (D-IN), Geoff Davis (R-KY), Barbara Lee (D-CA) and Rick Renzi (R-AZ) introduced H.R. 840, the Homeless Emergency Assistance and Rapid Transition to Housing Act (HEARTH). Ms. Carson passed away on December 15, and Representative Maxine Waters (D-CA) is expected to carry McKinney-Vento legislation through the Financial Services Committee. Ms. Waters, chair of the House Financial Services Subcommittee on Housing and Community Development, held two hearings on the bill in October, 2007.
S.1518, the Community Partnership to End Homelessness Act of 2007, was introduced by Senators Jack Reed (D-RI) and Wayne Allard (R-CO) on May 24. The Senate Committee on Banking, Housing, and Urban Affairs voted in favor of S. 1518 on September 19.

Each bill would expand the definition of homelessness, to different degrees. In S.1518, households would be considered homeless for the purposes of receiving services if they: are living in somebody else’s housing because they do not have the resources to obtain other housing; have been notified that the arrangement is short-term; have moved either three times in the past year or twice in the past three weeks; and are not contributing significantly to the cost of the housing. The definition would also include people who have moved frequently (three times in the past year or twice in the past 21 days) and are currently living in a hotel or motel in which they will not be able to stay for more than a brief period. The definition of homelessness in H.R. 840 would be expansive, and more closely aligned with the definition used by other federal agencies by including people who are living in doubled-up situations or in hotels/motels due to lack of adequate alternatives.

A Senate floor vote on S. 1518 is as yet unscheduled. The House Financial Services Subcommittee on Housing and Community Opportunity is expected to mark up a manager’s amendment of H.R. 840 in the spring of 2008.

For More Information
National Law Center on Homelessness and Poverty · 202-638-2535 · www.nlchp.org

National Alliance to End Homelessness · 202-638-1526 · www.endhomelessness.org

National Coalition for the Homeless · 202-462-4822 · www.nationalhomeless.org
Minimum Wage

By Liana Fox, Economic Analyst, Economic Policy Institute

In 1938, Congress passed the Fair Labor Standards Act (FLSA) establishing, among other things, a minimum wage. The law sets a wage floor below which workers cannot legally be paid. In 2007, Congress passed a three-step increase, raising the minimum wage for the first time in over a decade, from $5.15 to $7.25 per hour. While an important step to regaining the purchasing power of the minimum wage, this increase still falls short of historical standards. Today, a full-time, minimum-wage worker earns $12,168 annually, less than the poverty line for a family of two. The minimum wage was instituted to protect workers from exploitation and because Congress determined that poor labor standards adversely affected commerce.

Over the last 25 years, the federal government has failed to make regular increases in the minimum wage. Unlike other federal programs such as Social Security, the minimum wage does not automatically adjust for increases in the cost of living. Therefore, the onus to maintain value of the minimum wage lies on Congress. In 2007, the minimum wage set two dubious records: first, it hit its lowest real value in over 50 years; secondly, it went the longest period of time since its enactment in 1938 without being raised. As a result of growing pressure at the state and federal level, Congress passed a three-step minimum wage increase, raising the minimum wage by $2.10 over three years. On July 24, 2007, the federal minimum wage increased for the first time in more than a decade, rising from $5.15 per hour to $5.85 per hour. On July 24, 2008, the minimum wage will increase to $6.55 per hour and then to $7.25 per hour on July 24, 2009.

Due to Congress’ failure to raise the minimum wage, many states and cities have taken it upon themselves to provide a higher wage floor for many of the nation’s poorest households. Prior to the federal increase, 32 states and the District of Columbia had raised their minimum wages above the federal level. In some cases, the federal increase will surpass state minimum wages and in some cases it will not. By September 2009, the number of states with minimum wages above the federal rate will be down to 12, with several states tied with the federal rate of $7.25 per hour. (A complete account of the impact on the federal increase on the states can be found here: www.epi.org/content.cfm/ib234). As of January 1, 2008, 10 states will annually adjust their minimum wages to keep pace with the rising cost of living.

Although popular with the public, minimum wages are often fought by low wage employers using pro-worker language. They argue that minimum and living wages cost jobs, without effectively targeting the people who need the wage increases the most. The first argument, that such laws cost jobs, relies on a simplistic economic theory which states that firms pay workers exactly what they are worth and a government-mandated wage hike will force employers to lay off workers they can no longer afford. Years of empirical research has shown that the actual jobs lost to wage mandates are few to none. One explanation for this, consistent with economic theory, is that low wage workers are paid below what they are worth to the employer because they lack the bargaining power to negotiate a wage that fairly compensates them for their labor.

The second argument is that many workers earning the minimum wage are teenagers living in wealthy families and do not need higher incomes. The primary response to this argument is that the minimum wage should not be judged solely on how efficiently it targets low income families. Rather, the main purpose of the minimum wage is to guarantee a fair wage for everyone, whether they are a teenager saving for college or a single mother. Also, opponents greatly exaggerate the extent to which benefits from the minimum wage flow to people at the upper end of the income scale. Sixty percent of the gains from an increase in the minimum wage go to households in the bottom 40% of wage earners. Moreover, the earnings from minimum wage workers are important to their families. More than one-third of families with workers who will benefit from the $2.10 per hour increase in the minimum wage rely solely on the earnings of the workers who would get raises.
The planned increase in the federal minimum wage from its current $5.15 per hour to $7.25 per hour will provide a much needed wage increase for 13 million workers. Eighty percent of those workers are adults age 20 or older. More than 6 million children would see their parent's income rise. The income of minimum wage workers is very important to their families. Families with affected workers rely on those workers for more than half their earnings.

Advocacy on the Minimum Wage in 2008

In 2007, Congress passed the first federal minimum wage increase in over a decade. While this increase helps to partially restore lost purchasing power, additional action is needed to raise the minimum wage to historical standards. Several bills have been proposed to raise the federal minimum wage to its historical standard of half of average worker wages and then index it to inflation. Senators Kennedy (D-MA) and Clinton (D-NY) have separately proposed bills that raise the minimum wage to $9.50 by 2011, and then annually index the minimum wage to keep pace with the rising cost of living.

While state minimum wage action tapered off towards the latter half of 2007—as many states had already taken the action they were going to take, and the federal increase reduced the sense of urgency in others—several states are still working to raise or expand their state minimum wage. In 2007, four states raised their minimum wages above the federal rate for the first time: Iowa ($7.25 by 2008), New Hampshire ($7.25 by 2008), Kentucky ($7.25 by 2009), and New Mexico ($7.50 by 2009). Recent action has coupled a higher state minimum wage with an increase in tipped worker wages or an expansion of coverage to workers who are exempt from federal law. States are also increasingly considering indexing their minimum wage to the cost-of-living. Indexing takes future minimum wage increases out of the political realm and ensures that the future value of this important wage floor will not be diminished by increasing costs.

For More Information
Economic Policy Institute • 202-775-8810 • www.epi.org
Moving to Work/Housing Innovation Program

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

Moving to Work (MTW) is a U.S. Department of Housing and Urban Development (HUD) public housing agency (PHA) demonstration program. 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. The fiscal year 1999 (FY99) HUD appropriations bill then authorized another two agencies to be MTW sites, the Charlotte, NC, Housing Authority and the Housing Authority of the City of Pittsburgh.

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 25 PHAs still performing their demonstrations out of a total of 28 of the 30 authorized to participate. At least three PHAs have completed their demonstrations. Many demonstrations will expire in 2008 and 2009 and some will expire in 2010-2012 (Atlanta; Baltimore; Chicago; King County, WA; Oakland, CA; and Washington, DC). According to HUD’s website, most demonstrations are more than half completed and some are just getting started. Initially, MTW demonstrations were to last three years but were extended to last at least five to seven years.

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.”


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.

The House’s Section 8 Voucher Reform Act would authorize the MTW demonstration program for 10 years. The bill would rename the program to become the Housing Innovation Program. The bill would expand the number of participating PHAs from 32 to 60, plus another 20 PHAs that could only have access to limited flexibilities and could not change rent rules or impose time limits or work requirements. Housing Innovation Program PHAs would have to assist not less than substantially the same number of eligible low income families, existing income requirements would be maintained and residents would have additional participation opportunities than in MTW. Sites could reform how rents are set and establish work requirements and time limits.

Advocacy on Moving to Work in 2008
The Moving to Work public housing demonstration program is expected to continue in some form, like through a refashioning of it in the Section 8 Voucher Reform Act (SEVRA) (see also the section on Housing Choice Vouchers).

In the House’s SEVRA bill, the Moving to Work program is renamed the Housing Innovation Program. Whatever the name, any extension of existing Moving to Work sites should be based on how each site’s MTW plan impacts current and future residents’ housing choices and rents. The Senate’s SEVRA bill, expected to be introduced in early 2008, is expected to include a more modest Moving to Work expansion.

There are two main issues: 1) thresholds and standards for existing MTW demonstration sites to stay in the MTW program, and 2) whether and how new public housing agencies will be able to become MTW sites in the future. NLIHC is committed to identifying and advocating for new resources and new ideas to ensure that public housing remains an affordable housing option for the lowest income households. Deregulating public housing through the MTW program will not save these units for the lowest income groups in a way that is affordable for them.

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. Advocates should be communicating with their Congressional offices that sufficient protections for current and future residents are not in place to continue or expand this program.

For More Information
National Low Income Housing Coalition • 202-662-1530 • www.nlhcb.org
National Housing Law Project • 510-251-9400 • www.nhlp.org
Overcrowding, poverty, unemployment, low household incomes, a rapidly increasing population and a lack of infrastructure are just some of the problems that continue to plague Native Americans and Alaska Natives. 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.

The Native American Housing Assistance and Self-Determination Act (NAHASDA) has facilitated the construction, rehabilitation or development of more than 60,000 units since 1997, but current estimates indicate an immediate need for at least another 200,000 units to support an American Indian and Alaska Native population that is approaching 3 million.

Enacted by Congress in 1996, NAHASDA addresses the need for affordable homes in safe and healthy environments on Indian reservations, in Indian communities and in Alaska Native villages. NAHASDA provides assistance to Indian tribes or tribally designated housing entities to provide affordable housing for low income families residing on reservations and in other tribal areas. Federally recognized Indian tribes, on behalf of their tribal members, are the beneficiaries of this federal housing program. The act reflects a new attitude toward federal Indian housing policy because it recognizes the right of Indian self-determination and tribal self-governance.

Before NAHASDA, Indian tribes received funding from the U.S. Department of Housing and Urban Development (HUD) under the 1937 Housing Act. NAHASDA replaced multiple competitive grant programs with a non-competitive, formula-driven block grant based on need. NAHASDA provides tribes greater autonomy to administer their housing programs, allows greater tribal participation in the development of implementing regulations through the negotiated rule-making process and encourages increased leveraging of federal funds. HUD's Office of Public and Indian Housing, through its Office of Native American Programs, administers NAHASDA. Tribes still receive various federal housing and infrastructure funds from programs from HUD, the Bureau of Indian Affairs, the Indian Health Service and the U.S. Department of Agriculture (USDA).

NAHASDA funds must be spent to benefit people with low incomes, although the Secretary may make exceptions if there is a need that cannot be met without assistance. Approximately $650 million per year has been appropriated toward Native American housing over the last few years. Funds are distributed to 575 housing entities, amounting to an average of $1.1 million per tribe. Of that funding amount, about 40% (or $440,000 per tribe) goes toward new housing construction.

NAHASDA provides assistance in the form of the Native American Housing Block Grant Program (NAHBG), made available on an annual basis using an allocation formula for Indian tribes with approved Indian Housing Plans. To ensure Indian self-determination, NAHBG funds are designed to have as few restrictions as possible. The six eligible affordable housing activities are broad. They are: 1) acquisition, new construction or rehabilitation of affordable rental or ownership housing; 2) housing-related services such as housing counseling, self-sufficiency services, energy auditing and establishment of resident organizations; 3) housing management services; 4) crime prevention and safety activities; 5) rental assistance; and 6) model activities. Administrative expenses are also allowed.
Advocacy on Native American, Native Hawaiian and Native Alaskan Housing in 2008

NAHASDA Reauthorization
In September 2007, H.R. 2786, the Native American Housing Assistance and Self-Determination Reauthorization Act of 2007, passed the House with a vote of 333-75. Representative Dale Kildee (D-MI) introduced the bill on June 20, with Representatives Dan Boren (D-OK), Barney Frank (D-MA), Maxine Waters (D-CA), Rick Renzi (R-AZ), Tom Cole (R-OK), and Steve Pearce (R-NM) as original cosponsors.

The bill would provide $2.2 billion to tribes for housing construction, setting aside up to $1 million for housing rehabilitation. Improving upon the existing program, H.R. 2786 would: remove competitive procurement rules for purchases under $5000; recognize tribal preference laws for NAHASDA hiring and contracting; permit tribes to carry over funds to a subsequent grant year; and establish a reserve account for up to 20% of tribes’ annual NAHASDA grant amount.

Senate companion legislation, S. 2062, was introduced in September 2007 by Senators Byron Dorgan (D-ND), Jeff Bingaman (D-NM), Pete Domenici (R-NM), Tim Johnson (D-SD), Harry Reid (D-NV), Jon Tester (D-MT), Maria Cantwell (D-WA), Daniel Inouye (D-HI), Lisa Murkowski (R-AK), and Debbie Stabenow (D-MI). The bill was favorably reported out of the Senate Committee on Indian Affairs on September 27; it has now been referred to the Senate Committee on Banking, Housing and Urban Affairs.

Housing Block Grant Programs
In his proposed FY09 housing budget, the President proposes cutting the Indian Housing Block Grant (IHBG) program by $3 million, to $627 million, and the much smaller Native Hawaiian Housing Block Grant program by $3 million, a 33% cut.

Other Bills
Native American Economic Development and Infrastructure for Housing Act of 2007
Representative Steven Pearce (R-NM) introduced H.R. 3002, the Native American Economic Development and Infrastructure for Housing Act of 2007, on July 11, 2007. This bill would expand housing and community development loan programs to include Indian tribes to support the development of affordable housing for American Indians and Alaska Natives. On October 2, 2007, H.R. 3002 passed favorably out of the House Financial Services Committee.

H.R. 1676, introduced by Representative Dan Boren (D-OK) on March 26, 2007, reauthorizes loan guarantees for Indian housing through the Section 184 program until 2012. The bill was signed into law by the President and became Public Law 110-037 on June 18, 2007.

The Hawaiian Homeownership Opportunity Act of 2007
Representative Neil Abercrombie (D-HI) introduced H.R. 835, The Hawaiian Homeownership Opportunity Act of 2007, on February 6, 2007. The bill would reauthorize housing assistance programs under HUD for Native Hawaiians until 2012. H.R. 835 passed the House on March 28, 2007, and was referred to and reported out of both the Senate Committee on Indian Affairs and Senate Committee on Banking, Housing and Urban Affairs. The bill has been placed on the Senate calendar for an as-yet unscheduled vote.

The Alaska Native Self-Governance in Housing Demonstration in Housing
Representative Don Young (D-AK) introduced the Alaska Native Self-Governance in Housing Demonstration Program Act, H.R. 3349, on August 2, 2007. The bill would establish a five-year demonstration program for Alaska Self-Governance in housing. HR 3349 was referred to the House Committee on Financial Services.

A decade has passed since the passage of NAHASDA, which is up for congressional reauthorization in 2008. Tribes have found it to be a vital tool in addressing acute housing needs. As with any law, amendments can
improve its value, utility and effectiveness, and tribal input is an important component to such amendments. Tribes will be proposing amendments that would provide tribes greater flexibility in administering their programs, increasing their efficiency and effectiveness. A broad base of housing and social and economic justice advocates can support tribes in their efforts to get NAHASDA reauthorized and amended.

Advocates should also ask Congress and HUD to support full funding of the Indian Housing Block Grant and the Native Hawaiian Housing Block Grant programs.

For More Information
National American Indian Housing Council • 202-789-1754 • www.naihc.net

New Markets Tax Credit Program

The New Markets Tax Credit Program (NMTC) 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 was enacted in December 2000 as part of the Community Renewal Tax Relief Act. 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 Federally designated “GO Zones” devastated by Hurricane Katrina. In December 2006, Congress passed the Tax Relief and Health Care Act of 2006, which extended the NMTC through 2008 with an additional $3.5 billion in NMTC authority.

The 110th Congress signaled its intention to extend the New Markets Tax Credit further by including a five-year extension in the Senate’s Fiscal 2008 Budget Resolution. The House and Senate then introduced five-year NMTC extension bills in April. The New Markets Tax Credit Extension Act of 2007 (S. 1239/HR 2075) was introduced by Ways & Means Committee members Representatives Richard Neal (D-MA) and Ron Lewis (R-KY) in the House and by Finance Committee members Senators John Rockefeller (D-WV) and Olympia Snowe (R-ME) in the Senate. This legislation would reauthorize the NMTC program with $3.5 billion in allocation authority made available per year from 2009-2013. The estimated cost of the extension is $850 million over five years.

The NMTC has performed very well over its existence. NMTC investments in low income communities total over $7.7 billion and over 200 CDEs are using the NMTC to support a wide variety of community and economic development initiatives. These range from an investment by a faith-based CDE in a new childcare facility on the west side of Chicago, to the creation of the first new supermarket and shopping center in inner-city Cleveland in 30 years, and to a loan to a small business located in low income area of West Louisville, KY. Through FY 2005, the NMTC had generated financing for the construction or rehabilitation of over 43 million square feet of real estate, and had helped to create or retain 72,000 construction jobs and 20,000 full time equivalent jobs in low income community businesses.

A recent report by the New Markets Tax Credit Coalition, New Markets Tax Credits: Progress Report 2007, shows how CDEs continue to raise capital and deploy funds faster than required by law and regulation. The report also demonstrates how CDEs are targeting areas with poverty rates higher than 30%, incomes less than 60% of area or statewide median income, and unemployment greater than 1.5 times the national average, far beyond what is required by law.

A 2007 GAO report on the NMTC 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, suggesting greater efficiency.

NMTC Quick Facts

- Authorizing legislation (PL 106-554) signed into law as part of the Community Renewal Tax Relief Act of 2000
- NMTC is the largest federal economic development initiative to be launched in 20 years with $19.5 billion in NMTC investments being generated by 2008
- NMTC is administered by the CDFI Fund within the Treasury
- The CDFI Fund accepts CDE Certification Applications on a rolling basis and issues NMTC Allocation Applications annually
- To date, the CDFI Fund has made over 200 allocation awards which have been used to raise over $7.7 billion in private equity investment targeted to low-income communities.
- Under current law, the last $3.5 billion in NMTC allocations will be awarded by the CDFI Fund in 2008.
Advocacy for NMTC in 2008
The NMTC is slated to expire December 31, 2008 after the CDFI Fund makes allocations for the sixth allocation round. In order to afford the Treasury adequate time to administer future NMTC rounds and ensure there is not a disruption in availability of NMTCs, the New Markets Tax Credit program needs to be extended. If not, the program will come to an abrupt halt, adversely impacting community development and job creation initiatives across the country.

Senators Jay Rockefeller (D-WV) and Olympia Snowe (R-ME) and Representatives Richard Neal (D-MA) and Ron Lewis (R-KY) introduced legislation in 2007 (S. 1239 and H.R. 2075, respectively) that would reauthorize the NMTC program for an additional $17.5 billion over five years, from 2008 through 2013. Advocates hope the extension through 2013 will be passed in the 110th Congress.

For more information:
New Markets Tax Credit Coalition · 202-393-5225 · www.newmarketstaxcreditcoalition.org
Plans to End Homelessness

By Mary Cunningham, Director of Homelessness Research Institute, and Webb Lyons, Assistant to the President, National Alliance to End Homelessness

Until recently, many thought the problem of homelessness was an unsolvable one. Communities across the country struggled with getting homeless people off the street by building shelters, transitional housing and soup kitchens. Although these strategies help address the immediate needs of our nation’s homeless people by providing food and temporary shelter, they have not been successful in decreasing homelessness, leaving communities frustrated and hopeless.

Yet, over the last several years, the focus has shifted from managing the problem of homelessness to planning to end it.

In 2000, the National Alliance to End Homelessness released A Plan, Not a Dream: How to End Homelessness in Ten Years. Drawing on research and innovative programs from around the country, the plan outlined key strategies for addressing the issue. In 2002, the U.S. Department of Housing and Urban Development (HUD) and the Bush Administration endorsed the idea of planning to end long-term (chronic) homelessness in 10 years, and the U.S. Interagency Council on Homelessness (USICH) challenged 100 cities to create their own plans to end homelessness. The momentum built across the country – to date, more than 300 communities have undertaken efforts to end homelessness and more than 180 communities have completed plans to end homelessness. These plans represent a critical, collective effort to end homelessness nationwide.

Planning efforts to end homelessness have taken root in rural communities and in the largest cities alike. Creating a plan to end homelessness begins by collecting local data to understand the nature of homelessness and the solutions that follow from knowing how people become homeless, why they stay homeless, what programs are most successful and what systems homeless people interact with along the way.

After data is collected the next step is creating the plan. To be most effective, the planning process should be participatory and involve support and input from the broad range of public, nonprofit and private partners necessary to implement the plan. Of the 200 completed plans, a wide range of stakeholders were involved in the community planning process, with the strongest representation from the nonprofit sector and the weakest representation from the private sector. Although some plans (28%) involve currently or formerly homeless people, their participation in the development of plans is lower than that of other stakeholders.

Though the plans share similar elements, there are a number of different types of plans. A majority (66%) of plans targets all homeless people, and 34% focus on chronically homeless people in particular. Many plans lay out strategies for specific subgroups of homeless people, including families, youth, veterans and the elderly. Forty-one percent of plans outline strategies to end family homelessness, 49% outline efforts to end youth homelessness, and 31% address the housing needs of former prisoners in order to prevent them from becoming homeless.

Communities have outlined a wide range of strategies in these plans. Almost all of the plans (91%) outline strategies to create Homeless Management Information Systems (HMIS). An overwhelming majority of the plans (79%) address emergency prevention (e.g., one-time rental or utility assistance, help negotiating an eviction with a landlord, etc.), and 91% of the plans outline systems prevention activities, such as discharge planning from correctional facilities, foster care systems or mental health facilities.

Almost 80% focus on outreach efforts to engage people living on the streets. Also, shortening the time that people spend homeless by providing permanent housing to homeless people is included in 67% of the plans; 57% call for rapid re-housing. In total, the plans call for creating approximately 196,000 units (or subsidies), of which 80,000 units are permanent supportive housing. Once individuals or families are in housing, 81% of the plans outline strategies to link them with mainstream services so they can earn enough money to pay rent and avoid homelessness.
There is much more to be done, as communities must now move from planning to implementation, but despite these challenges, for the first time in two decades communities have a plan and homelessness is a problem with a clear solution. The problem of what to do about homelessness is no longer viewed as an unanswerable question.

**For More Information**


“A New Vision: What is in Community Plans to End Homelessness?” [www.endhomelessness.org/content/article/detail/1397](http://www.endhomelessness.org/content/article/detail/1397)

National Alliance to End Homelessness • 202-638-1526 • [www.endhomelessness.org](http://www.endhomelessness.org)
Prisoner Re-entry

By Steve Berg, Vice President for Programs and Policy, and Webb Lyons, Assistant to the President, National Alliance to End Homelessness

Each year, 600,000 people leave state and federal prisons, and many times that number leave local jails. Some 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.

The federal government has made some efforts to deal more effectively with re-entering prisoners, including their housing problems. However, other federal enactments have actually made problems more difficult.

Five years ago, 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 SVORA grants have been completely expended by most states.

The one other federal effort has been a series of grants by the U.S. Department of Labor (DOL) to local faith-based and community organizations, largely for mentoring programs designed to assist people returning from prison with employment. Housing has not been a focus of these grants. The future of this initiative is uncertain.

Obstacles

There are a number of obstacles facing individuals re-entering from the prison system. Federal law has placed restrictions on the ability of people returning from prison to utilize Section 8 and public housing and has authorized public housing agencies (PHAs) to impose substantially more restrictions. These restrictions are often supported by tenants’ groups. People about to leave jail or prison with no place to live are generally eligible for services from the U.S. Department of Housing and Urban Development’s (HUD) homelessness programs, but HUD has decided that they will not be eligible for permanent housing through these programs in an attempt to discourage corrections agencies from “dumping” into the homelessness system.

Outlook and Legislation

Over the last several years, a number of states have focused on improving housing outcomes for individuals coming from the prison system. In Ohio, for example, the Ohio Department of Rehabilitation and Corrections has partnered with homeless service providers in provide housing and services for individuals most likely to need supportive services in order to stay housed. This effort and other innovative solutions are designed to not only to prevent homelessness and improve housing outcomes, but also to prevent recidivism.

In addition to these state efforts, Congress has recently taken an interest in re-entry efforts. For the past three years, Congress has worked on a bill, the Second Chance Act, which would provide more resources to states to deal with this issue. If passed, the Second Chance Act would provide funding to state corrections agencies to fund a number of different re-entry activities, including housing. Given the findings of previous research that housing is a difficult issue, most expect that housing would be a large piece of what states would do with this money. Continued funding will be dependent on achieving good outcomes. Additionally, the Second Chance Act would fund research on a number of topics, including the relationship of housing to successful re-entry. And it would require study of government-imposed barriers to successful re-entry, including those in federally funded housing programs.
The Second Chance Act has been explicitly billed as a first step in developing a more effective federal response to the problem of people leaving corrections without adequate support. There are a range of ideas for additional policy steps beyond the Second Chance Act to improve housing outcomes. The most important policies involve promoting effective re-entry planning well before someone leaves corrections and making a range of housing options available. While barriers to the use of regular HUD housing programs must be addressed (especially for people seeking to live with their families who are in public or subsidized housing), there is also an understanding that as long as these resources are in short supply people with criminal records will likely be at the end of the list. In these circumstances, it is important to promote the idea that successful re-entry is part of the job of the corrections system, and this may include paying for housing until people are on their feet and earning a wage.

Advocacy on Prisoner Re-entry in 2008
Advocates should contact their Members of Congress and request that they communicate with their leadership the importance of passing the Second Chance Act, H.R. 1593, early in this year. This bill has enjoyed bipartisan agreement in both House and Senate, but a few Senators have used procedural roadblocks to hold it up. Leadership can get the bill passed by making it a priority. The bill would provide resources to states to fund housing assistance for people leaving prison, and make other improvements to solve this problem.

For more Information
Project-Based Rental Assistance

By Tracy Kaufman, Director, National Preservation Initiative, and Todd Nedwick, Assistant Director, National Preservation Initiative, National Housing Trust

Project-based housing assistance makes 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. Today, more than 1.4 million households live in homes with project-based assistance, two-thirds of which include elderly or disabled family members.

Original Section 8 project-based assistance contracts were entered into between the U.S. Department of Housing and Urban Development (HUD) and project owners for up to 40 years. As contract terms expire, the contracts are renewed on an annual funding cycle and additional renewal budget authority is required to maintain the project-based stock.

Tough budgets for the next few fiscal years could impact project-based housing. Most project-based Section 8 contracts are funded every year. As the years go by, more and more contracts expire for the first time. Thus it is no surprise that more Section 8 contracts will expire in FY08 than in FY07.

Initially, project-based assistance was provided through the Federal Housing Administration (FHA) in the form of a mortgage subsidy. Under the Section 221(d)(3) Below Market Interest Rate (BMIR) mortgage insurance program established under the National Housing Act of 1961, below-market loans were made by private lenders that were purchased in turn by the federal government. Another mortgage insurance program, the Section 236 program, was authorized under the Housing and Urban Development Act of 1968 and combined FHA mortgage insurance on private loans with an interest rate subsidy to effectively lower the interest rate of the mortgage to 1 percent. In exchange for participating in these programs, owners were required to make units available to low and moderate income families at HUD-approved rents for the term of the mortgage. More than 600,000 units of affordable housing were built under the 221(d) (3) and 236 programs.

In addition to these mortgage subsidy programs, HUD provided rental assistance payments to owners for some tenants of 221(d) (3) and 236 insured properties through the Section 101 Rent Supplement program, authorized by the Housing and Urban Development Act of 1965. Most rent supplement contracts were converted to Section 8 rental assistance in the 1980s, though about 17,000 units are still under rent supplement contracts.

The Section 8 New Construction and Substantial Rehabilitation program, established under the Housing and Community Development Act of 1974, provided long-term contracts between owners and the federal government that made rents affordable to low income families. Under “project-based Section 8” assistance, as it has come to be known, the federal government entered into 20- to 40-year contracts with property owners to serve low income tenants. More than 800,000 units were developed under this program from 1974 to 1983.

Another form of rental assistance is the Section 8 Moderate Rehabilitation (Mod Rehab), which was designed in 1978 to be an expansion of the rental certificate program and to stimulate moderate levels of rehabilitation to upgrade and preserve the nation’s housing stock. It provides project-based rental assistance for low and very low income residents but, unlike other project-based Section 8, the agreement is between the owner and a local housing agency. Like project-based Section 8, residents pay 30% of adjusted income in rent and the rental assistance pays the remainder of the unit rent. The program was repealed in 1991 and no new projects are authorized for development. Unlike other project-based programs, properties with Mod Rehab Section 8 may not be recapitalized with low income housing tax credits.

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 later discontinued in 1973 by President Nixon's moratorium on all subsidized housing programs. Authorization for the Section 8 New Construction and Substantial Rehabilitation program was repealed by the Housing and Urban-Rural Recovery Act of 1983.
Project-Based Rental Assistance

Project-based housing assistance, both through federal mortgage subsidies and rental assistance, was created to encourage private developers to build rental housing affordable to low and moderate income families. According to the Code of Federal Regulations, the goal of the Section 8 program is “to provide low income families with decent, safe and sanitary rental housing.”

Today, more than 1.4 million households live in homes in more than 19,000 projects with project-based assistance, two-thirds of which include elderly or disabled family members. 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. New residents in units receiving project-based Section 8 assistance, whether combined with these two mortgage programs or standing alone, can have incomes of no more than 80% of AMI, with 40% of new admissions required to have incomes below 30% of AMI.

Structure
Under the project-based Section 8 program, tenants pay 30% of monthly adjusted income in rent. The property owner has a Housing Assistance Payments contract with HUD, under which HUD pays the owner the difference between the contract rent and the tenant’s portion. Unlike the tenant-based Section 8 program, subsidies in the project-based Section 8 program are tied directly to the property and not an individual apartment.

Most properties insured under the Section 236 and Section 221(d)(3) programs also have some form of rental subsidy. Many of these properties received Loan Management Set-Aside (LMSA) Section 8 contracts due to rapidly rising operating costs in the mid-1970s. In addition, some of these properties had rental assistance through the Section 101 Rent Supplement program, most of which were converted to Section 8 LMSA contracts in the 1980s. Also, some Section 236 properties were provided with additional rental assistance payments through the Rental Assistance Payments (RAP) program, authorized by the Housing and Community Development Act of 1974 on behalf of very low income tenants unable to afford the basic rent with 30% of their income. Under the RAP program, rent is reduced to the highest of 10% of income, 30% of adjusted income, or the designated portion of welfare assistance. Like the Rent Supplement program, most of these were converted to Section 8 LMSA contracts.

The prepayment restrictions on the Section 236 and Section 221(d)(3) mortgages began to expire in the mid-1980s, allowing owners to prepay the mortgages, which would result in the termination of the property’s use restriction. After a period in the late 1980s and early 1990s when prepayment of Section 236 and Section 221(d)(3) BMIR mortgages was prohibited, owners of those properties were again permitted to prepay their low-interest mortgages and convert the property to market rate or another use. To the extent that those properties had some form of Section 8 contract that was still binding on the property, prepayment was unlikely to have appeal because the Section 8 contract would require the owner to continue to serve low income tenants.

The Section 8 contracts themselves, however, began expiring in the mid-1990s. Upon expiration, owners may choose to discontinue (or “opt out”) of their contracts or to renew them on a year-to-year basis. Some longer-term contracts are also possible, though funding for these is also done on a year-to-year basis. Since the mid-1990s, more than 200,000 units of housing with project-based assistance have been lost from the overall portfolio of project-based units as owners have prepaid their mortgages and have opted out of their contracts. In areas with tight and expensive rental markets, owners may receive higher rents than they would receive from HUD once they are not constrained by the requirements of HUD-subsidized mortgages and Section 8 contracts, making prepayment and opt out appealing. While there are some tools to help “preserve” this housing stock as affordable, properties continue to leave the project-based Section 8 and Section 236 and 221(d)(3) BMIR programs every year.

Enhanced Vouchers. Voucher assistance is provided to tenants who face dislocation as a result of actions taken by project owners or by HUD that are beyond the tenant’s control. This occurs as a result of owners opting out of the project-based Section 8 program or when HUD terminates the project-based contract. If an owner prepaies the mortgage or does not renew the project-based Section 8 assistance, the owner is free to increase rents on the units formerly assisted under the project-based subsidies. When properties have left the subsidy program, rents have increased dramatically, with an average increase of more than 40%. HUD is required by statute to provide current residents with tenant-based housing vouchers to enable them to remain in their housing.
The new rents set by the owner, however, may exceed the usual payment standard for vouchers in the community. To protect tenants from displacement in this case, the local public housing agency (PHA) issues “enhanced” vouchers to the tenants in the former project-based units. The enhanced vouchers will pay the difference between 30% of the tenant’s income and the new rent, even if that rent is higher than the payment standard, subject to a “rent reasonableness” evaluation by the PHA. The enhanced vouchers cover the initial increase and subsequent increases in rent. If a tenant with an enhanced voucher moves to another property, however, he or she will receive a voucher that will pay only the PHA’s usual payment standard.

**Above-Market Properties.** While many project-based Section 8 units have rents that are below market, a substantial number of units have rents that exceed market rents. Over the term of the original Section 8 contracts, rents were increased by an annual adjustment factor that resulted in many cases of Section 8 rents above comparable market rents. In 1997, Congress enacted the Multifamily Assisted Housing Restructuring and Affordability Act (MAHRAA), under which properties with above-market rents that have both HUD-insured mortgages and expiring Section 8 contracts have their rents reduced to market and, in many cases, have their mortgages restructured. This program is known as Mark-to-Market. Ultimately, more than 200,000 apartments are expected to be restructured or refinanced under this program.

Owners with above-market rents and HUD-insured mortgages must go through the Mark-to-Market program or opt out. In the Mark-to-Market program, the owner has three options. The owner may choose to have the mortgage financing on the property restructured so that he or she is able to operate and maintain the property while receiving lower market rents. In exchange for this mortgage restructuring, the owner agrees to accept Section 8 rent subsidies for 30 years. Alternatively, the owner may choose to renew the Section 8 contract for a year, with Section 8 rents reduced to market without undergoing a mortgage restructuring. In other cases, the property may not stay in the Section 8 program at all because the mortgage restructuring is not feasible or the owner does not agree to the reduced rents, or for other reasons.

In January 2002, the Mark-to-Market program was reauthorized through the end of FY06. The Office of Multifamily Housing Assistance Restructuring (OMHAR), created to oversee the Mark-to-Market program, was originally authorized through the end of FY01 and was set up as a separate office under the HUD Secretary and later converted to an office under HUD's Office of Housing. The authorization for OMHAR expired at the end of FY04, and OMHAR was replaced by the Office of Affordable Housing Preservation (OAHP), under the Office of Housing, which continues to administer the Mark-to-Market program through the program’s sunset. Since the end of FY06, Congress extended the program in two separate continuing resolutions, and the program has now been extended through FY11.

**Below-Market Properties.** In 1999, HUD issued a notice, subsequently codified by Congress, requiring HUD to “mark up to market” rents in project-based properties owned by for-profit owners where subsidies have not kept pace with local housing markets. Under this policy, renewed contracts for eligible below-market developments are now subsidized at market rent levels, with five-year Section 8 contract renewals required (subject to appropriations). Prior to this policy change, renewals were offered at below-market rents, making owners more likely to opt out of the Section 8 program. In 2000, HUD began providing for rent increases for below-market properties being purchased by a nonprofit or where a property owned by a nonprofit would be undergoing capital improvements. Tens of thousands of Section 8 apartments have been marked up to market.

**Troubled Properties.** HUD has not pursued preservation policies adequately in its treatment of privately-owned properties with mortgage insurance or project-based rental insurance that become seriously financially or physically troubled. Rather than trying to ensure ongoing restrictions and subsidies, among other beneficial requirements, as part of the disposition of these properties, HUD’s goal has tended to be disposition of as many properties as possible, even in cases where a purchaser would be willing to maintain the Section 8 contract.
Advocacy on Project-Based Rental Assistance in 2008
The current FY08 budget for project based Section 8 is approximately $1.9 billion short of what is required to maintain the program for the current fiscal year.

In order for federally assisted housing to stand the test of time, the federal government must act as a fair and consistent partner by honoring the contracts it has entered into with property owners. If Congress fails to provide a full year's funding for Section 8, it is a “lose-lose-lose” situation: owners will choose the unregulated private market and tenants will be displaced en masse. Contact your Congressperson and/or Senator and ask him or her to support the following solutions:

1. Providing $1.9 billion in an emergency supplemental appropriations for project based Section 8, the preferable alternative; or
2. Providing an additional $1.9 billion in Advance Appropriation for fiscal year 2009 for the project based Section 8 account.

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

The U.S. Department of Housing and Urban Development’s (HUD) public housing program is administered by the Office of Public and Indian Housing. Public housing was created in the 1937 Housing Act, one of the landmark legislative victories of the New Deal. Public housing is owned and operated by public housing agencies (PHAs) that are chartered by the states in which they operate and are governed by locally appointed or elected Boards of Commissioners. There are nearly 14,000 public housing developments operated by 3,050 PHAs containing almost 1.2 million units.

Public housing was established by the 1937 Housing Act; a moratorium on public housing was declared in 1974. At that point, housing policy shifted to subsidize the private sector’s involvement in affordable housing through the Section 8 program. 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. Federal law capped the number of public housing units at the number each PHA operated on October 1, 1999. In 1998, the Quality Housing and Work Responsibility Act reformed various aspects of public housing, including public housing’s two main funding streams, the operating and capital subsidies. Today, units are being lost through PHA demolition and disposition of units, the HOPE VI program that removes more units than it replaces, 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.

Public housing is home to more than 2 million people. About 41% are 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 plans detailing many aspects of their housing programs, who is assisted and how the programs will be administered. These plans are submitted to HUD. The five-year plan must include the PHA’s mission and a statement of goals and objectives to meet its mission. The annual plans must be developed in consultation with a Resident Advisory Board (RAB) (see Resident Participation in Subsidized Housing chapter) and be consistent with the applicable Consolidated Plan. Notice of plan development and a public hearing are required before a plan can be submitted to HUD.

PHAs receive two annual grants from HUD – operating and capital subsidies. The 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 FY07 operating subsidy appropriation was $3.8 billion, about 84% of what it actually costs to operate public housing. The fiscal year 2006 (FY06) appropriated level only funds PHAs at about 84% of their actual operating needs. Such continual and historic underfunding will continue to undermine the viability of these homes.

The operating subsidy is in the midst of a major change. As a result of the 1998 Quality Housing and Work Responsibility Act, HUD published a final new operating subsidy formula in September 2005. (The transition of the operating subsidy to an asset management tool is discussed in a separate chapter on asset management). Asset
management will require each public housing development to operate and survive as a stand-alone property, as opposed to all public housing units being administered on a PHA-wide basis.

The new operating formula 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 FY07, level with FY06 funding, and the president only requested $2 billion for FY08. There is a more than $20 billion backlog for capital fund repairs in public housing. The Senate’s FY08 HUD funding bill would direct HUD to do a capital needs assessment and to determine a projected annual cost to adequately maintain the public housing portfolio. The last capital needs assessment was done in 2000.

Since FY01, funding for public housing has decreased by more than $1 billion. This includes cuts to operating, capital and HOPE VI funds and the elimination of the drug elimination program.

In the 110th Congress, several provisions of the House’s Section 8 Voucher Reform Act would significantly impact public housing. For public housing, the Section 8 Voucher Reform Act proposes the following changes:

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 percent of adjusted gross income. That said, some simplifications are included in the House’s Section 8 Voucher Reform Act. These provisions would apply to voucher holders, public housing residents and to project-based Section 8 residents.

Among these rent simplification proposals, for example, are 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 percent 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 or more. 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 percent of income (from the current 3 percent of income). The bill would also allow 10 percent of all employment earnings to be deducted from income.

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. (See the chapter on the Moving to Work program.)
Advocacy for Public Housing in 2008

The biggest challenge facing public housing in 2008 will be sufficient funding to operate and maintain existing public housing units. Funding for both functions in recent years has lagged well behind need. Today’s public housing authorities are operating on only 85.4% of what HUD knows they need to operate and their more than $20 billion backlog of capital needs is widely known. At least $5 billion is needed for public housing operating subsidies in FY09 and at least $3.5 billion is needed to begin to adequately address public housing capital needs in FY09.

Legislation to reauthorize the HOPE VI program is likely to receive additional attention in 2008. The House is expected to take up its HOPE VI reauthorization bill in January 2008. The bill, introduced by House Financial Services Subcommittee on Housing and Community Opportunity Chair Maxine Waters (D-CA), passed out of committee on September 26, 2007.

The Senate bill, S. 829, introduced on March 6, 2007 by Senator Barbara Mikulski (D-MD) received a hearing in the Senate Banking, Housing and Urban Affairs Committee on June 20, 2007 but it remains uncertain when the banking committee will mark up the bill.

The bills are very different from one another. The House bill requires one-for-one replacement of units, a right to return by former residents and many other protections and improvements long sought by advocates. The Senate bill does not contain any of these improvements and reverses some of the gains won Representative Mel Watt (D-NC) when the program was last reauthorized in 2003. As the bills move forward, advocates will work to ensure that the provisions in the House bill prevail.

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

National Housing Law Project • 510-251-9400 • www.nhlp.org
The Public Housing Agency Plan

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

The Public Housing Agency Plan (PHA) Plan is the collection of all of a public housing agency’s key policies (such as admissions policies) and program intentions (such as demolition). Each year, all PHAs must submit an updated Annual Action Plan 75 days before the beginning of their fiscal year. In addition, every five years all PHAs must update and send to HUD a “5-Year Plan” stating its mission, goals and objectives.

History
The Quality Housing and Work Responsibility Act of 1998 (QHWRA) created the PHA plan and requires that it have information about 19 specific components. HUD’s regulations state that PHA Plans have two purposes: providing PHA accountability to residents and the public; and, providing an easily identifiable source for residents and the public to locate basic PHA policies and rules. The PHA Plan document, along with the required resident and public participation processes for creating it, offers opportunities to highlight public housing and Housing Choice Voucher (HCV) priority needs, as well as opportunities to influence PHA policies and practices.

Intent
The PHA Plan is the primary tool for public housing and voucher residents and other low income people in the community to be aware of PHA polices and practices that affect their homes and communities and the larger affordable housing market. The PHA Plan is also a tool that residents and advocates can use to attempt to influence those policies and practices. It is worthwhile for residents and advocates to consider getting language in the 5-Year PHA Plan that reflects the goals and objectives most important to public housing and voucher residents who are currently assisted, as well as those who are on waiting lists. It is also worthwhile to attempt to get language in the Annual PHA Plan that accurately and fully demonstrates the need for public housing affordable to extremely low income people. The PHA Plan is also a defensive tool because it gives residents and advocates a warning about PHA intentions to demolish or sell public housing, or make harmful policy changes affecting a variety of issues such as waiting list priorities, admissions preferences and screening policies.

Does Your PHA Send in a Full or a Streamlined PHA Plan?
Some PHAs do not have to submit a full Annual PHA Plan. Streamlined PHA Plans can be submitted by PHAs that are “high performing” or have less than 250 public housing units (“small PHAs”) that are not “troubled” or only administer vouchers. Small PHAs that are not troubled can also submit streamlined 5-Year Plans. The required content of streamlined Annual and 5-Year Plans are spelled out for each type of streamline-eligible PHA in the regulations at Sections 903.11 and 903.12.

To find out whether your PHA is a “high performer” or “troubled” go www.hud.gov/offices/pih/systems/pic/haprofiles/, “Public Housing Agency (HA) Profiles.” Select “Browse or Search HA Profiles” to get to your PHA. On the page for your PHA, scroll down to the last line, “HA Performance,” and “Designation” four boxes over.

The PHA Plan Template Compared to the PHA Plan
A full PHA Plan, including all “Required Attachments” and “Supporting Documents,” is a valuable but hefty pile of paper. A PHA Plan is, after all, a library of all of a PHA’s key policy documents. However, for residents and the public a general overview of the PHA Plan is often enough for them to make a basic assessment of a PHA’s plans for the upcoming year. Therefore, HUD created a computer-based PHA Plan “template” which is a helpful outline of all of the 19 required components required by the law. PHAs have to electronically submit the template for posting on a HUD webpage.

The template traditionally used since QHWRA created the PHA Plan weaves the law’s and the regulations’ content requirements into step-by-step instructions for completing each of the 19 required PHA Plan components. It also provides detailed tables and multiple policy options with boxes to “check,” thus informing residents of the PHA Plan requirements and better assuring that the PHA provides complete information. The template also has room for PHAs
to enter longer written explanations if it chooses to do so.

The traditional template does not contain everything important to residents. However, it does inform residents about “Required Attachments” and important relevant “Supporting Documents.” If other regulations require additional policies or plans (for example, the Section 8 “Administrative Plan,” which has all of the PHA’s policies relating to the Housing Choice Voucher program, or the Public Housing Admission and Continued Occupancy Plan – the ACOP – which has the PHA’s policies regarding the waiting list, screening applicants, tenant selection, etc.) then copies of such supporting documents must be available for residents and the public to review at the PHA’s main office.

The traditional PHA Plan template is a key source of easy instruction for residents and the general public to know how the PHA Plan process must function and what information a PHA Plan must contain. The PHA Plan template affords public housing residents, other low income people and the general public easy access to a major source of information about PHA policies and programs that have a significant impact on their homes and communities.

To see the HUD-required template go to www hud gov/offices/pih/pha/templates/.
To view your PHA’s latest, approved Annual Plan template, go to www hud gov/offices/pih/pha/approved/.

Warning: HUD Has Proposed Drastic Changes for the PHA Plan Template
On three occasions over the last year, HUD has proposed drastic streamlining of the template, reducing it from a helpful 41-page, easy to access electronic guide, to a mere page and a half form which will make 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. As this Advocates’ Guide went to press, HUD had not issued a final, revised template. Check NLIHC’s RegWatch web page (www.nlihc.org/regwatch/) to learn whether or to what extent any changes were made. Even if HUD ends up no longer requiring a meaningful template, advocates can urge their PHA to continue using it.

What is in the 5-Year Plan?
The PHA 5-Year Plan is a presentation of the PHA’s goals and objectives that enable it to meet the needs of low income families in the area served by the PHA. The 5-Year Plan also includes a statement of the progress the PHA made toward achieving the goals and objectives of the previous 5-Year Plan. The goals and objectives must be quantifiable when appropriate; for example, a goal of making major repairs to a certain number of apartments over the next five years.

What’s In the Annual PHA Plan?
The law requires a full PHA Plan to have 19 elements. Section 903.7 of the regulations provides details about those required components. Each of the 19 is summarized here in order of their regulation subsection letter to help identify them.

(a) Housing Needs
This element of the PHA Plan must estimate the housing needs of extremely low, very low, and low income families. The estimate must also include the needs of elderly families and families with a member who is disabled, as well as the needs of various races and ethnic groups. Housing affordability, supply, quality, size of units, location and accessibility to people with disabilities must also be addressed. In addition to this estimate of “overall” renter needs, the PHA must indicate the needs of those on the public housing and Section 8 waiting lists. Finally, the PHA must provide a description of its strategy for addressing housing needs and the reasons for choosing this strategy.

(b) Tenant Eligibility, Selection, and Admissions Policies
In addition to statements of the PHA’s policies regarding eligibility, selection and admissions, the PHA Plan must describe its waiting list procedures, any admissions preferences, unit assignment policies, and race and income deconcentration policy.

(c) Financial Resources
The PHA Plan must list resources the PHA expects to get in the upcoming year by general categories such as operating funds, capital funds, other federal funds and any non-federal resources. The planned uses of these resources should be stated.
(d) **Rent Determination**

The PHA Plan must describe its policies for charging rent, including any flat rents. For vouchers, the statement must discuss any minimum tenant rents and payment standards for rents paid to landlords.

(e) **Operations and Management**

The rules, standards and policies governing maintenance and management must be provided, including any measures to prevent or eliminate pest infestation. Also, there must be a description of how management is organized, along with a list of all the programs the PHA administers.

(f) **Grievance Procedures**

The grievance and hearing procedures for residents and applicants must be described.

(g) **Capital Improvement Needs**

The PHA Plan must describe the capital improvements (major improvements) necessary to ensure the long-term physical and social health of public housing developments. Capital improvements planned for the upcoming year and their estimated costs must be in the Annual PHA Plan. In addition, a 5-year plan for large capital items must be included.

(h) **Demolition and Disposition Plans**

The PHA must indicate whether it has applied for, or will apply for, approval to demolish or sell (“dispose of”) any public housing development or part of a development. A timetable must be included. For more information about demolition/disposition, see pages 7 and 8 of NLIHC’s The Public Housing Agency Plan (PHA 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**

The PHA must identify any public housing development or portion of one that is designated as, or which the PHA will apply for designation as, only for elderly or disabled households.

(j) **Conversion of Public Housing**

The PHA Plan must describe any buildings or parts of buildings that the PHA is required to eliminate from the public housing inventory and “convert” the housing assistance to tenants from public housing to tenant-based vouchers. (This is known as “Section 33” mandatory conversion.) Also, the PHA must describe its plans for any “voluntary” conversion of public housing assistance to vouchers (known as “Section 22” voluntary conversion). For more information about 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.nlihc.org/doc/2007phaplanmanual.pdf.

(k) **Homeownership Programs**

The PHA must describe any public housing homeownership program it administers [such as “Section 8(y) or Section 5(h)].

(l) **Community and Self-Sufficiency Programs**

The PHA Plan must describe any programs it provides or coordinates that aim to improve families’ economic or social self-sufficiency, including its “Section 3” jobs efforts (see the Section 3 chapter). This portion of the PHA Plan must also describe how it will comply with community service requirement of the public housing law.

(m) **Safety and Crime Prevention**

The PHA Plan must describe the need for safety measures, activities to prevent crime and coordination with police.

(n) **Pets**

The PHA’s pet ownership policies must be described.
The Public Housing Agency Plan

(o) Civil Rights
The PHA Plan must contain a formal pledge (“certification”) that it will “affirmatively further fair housing” (see that section of this Advocates’ Guide) and comply with various laws, including the Civil Rights Act, the Fair Housing Act, Section 504 of the Rehabilitation Act and the Americans with Disabilities Act.

(p) Financial Audit
The most recent fiscal year audit must be included.

(q) Asset Management
To the extent other parts of the PHA Plan do not cover it, the PHA must describe how it will plan for long-term operating, capital investment, rehabilitation, modernization or sale of its inventory. (The term “asset management” used in the PHA Plan setting is not a direct reference to the current obligation of PHAs with more than 250 units to switch to an asset management form of budgeting, accounting and management.)

(r) Additional Information
The PHA must describe its progress in meeting its mission and goals as presented in the 5-Year Plan. Also, the PHA must provide the basic criteria for determining whether a deviation from the 5-Year Plan is “substantial” or whether an amendment to a PHA Plan is “significant.”

Violence Against Women Act (VAWA)
The Violence Against Women Act of 2005 (VAWA) added a 19th component that must be included in the Annual PHA Plan. The regulations have not been updated to include it yet, but PHAs have received instructions to address this new provision of law. At some point, the VAWA provision is likely to be inserted as a new (l), rather than (s). The law requires the PHA Plan to describe any activities, services or programs that the PHA provides to prevent or serve victims of domestic violence, dating violence, sexual assault, or stalking.

Resident Advisory Boards (RABs) and Drafting the PHA Plan
Each PHA must establish at least one “Resident Advisory Board” (RAB) to make recommendations and assist in other ways in the drafting of the PHA Plan and any “significant” amendment to it. RAB membership must adequately reflect and represent residents served by the PHA.

If there is a jurisdiction-wide resident council, then the PHA must appoint it or its representatives as the RAB. If there is not a jurisdiction-wide resident council, but there are project-based resident councils, then they or their representatives must be appointed to serve on one or more RABs. Where Section 8 residents comprise at least 20% of all assisted households, the PHA must make sure that they have reasonable representation on the RAB(s). If there are no resident councils, then the PHA can appoint the RAB, but the members must adequately reflect and represent the assisted residents.

Residents at some public housing across the nation complain that their PHAs ignore resident councils and other representative resident organizations, limiting “resident participation” to the RAB’s role with the PHA Plan. Others also have reported problems with RAB members who are hand-picked by the PHA and who do not reflect or represent residents. The law and regulations only require the RAB to be involved in the PHA Plan process; there are many other public housing issues and concerns which resident councils and other resident organizations should be involved in all throughout the year. A different part of the regulations, know as “Part 964,” provide for resident councils.

In order to ensure that RABs can be as effective as possible, the PHA must allocate “reasonable” resources to provide “reasonable” means for the RAB to: become informed about programs covered by the PHA Plan; communicate with residents in writing and by telephone; hold meetings with residents; and, get information through the internet.

The PHA must consider RAB recommendations when preparing a final PHA Plan or any significant amendment to it. A copy of the RAB’s recommendations and a description of whether those recommendations were addressed must be included with the final PHA Plan.
Small PHAs submitting streamlined Annual PHA Plans must certify that the RAB had an opportunity to review and comment on any policy or program changes over the course of the year, including those relating to Housing Needs, Financial Resources or Demolition/Disposition.

Resident and Public Participation: More Opportunities to Be Involved

The law and regulations provide for a modest public participation process.

- The PHA must conduct “reasonable” outreach to encourage broad public participation.
- The PHA’s board of commissioners must invite public comment regarding a proposed PHA Plan and conduct a public hearing to discuss it. The hearing must be held at a location convenient to PHA residents.
- At least 45 days before the public hearing, the PHA must:
  - Make the proposed PHA Plan, required attachments and other relevant information available for public inspection at the PHA’s main office during normal business hours. The HUD Desk Guide encourages PHAs to also have this material available at other public locations such as community centers.
  - Publish a notice indicating the date, time and location of the public hearing, as well as the availability of the proposed PHA Plan.
- The final, HUD-approved PHA Plan, along with required attachments and other related documents, must be available for review at the PHA’s main office during normal business hours. The HUD Desk Guide encourages PHAs to also have this material available at other public locations.
- Small PHAs submitting streamlined Annual PHA Plans must certify that any revised policies and programs are available for review at the PHA’s main office during normal business hours.

Send Complaints to HUD

There are four places in the regulations indicating that writing and calling HUD to complain about the PHA Plan might secure attention and relief from HUD.

1. If a RAB claims in writing that the PHA failed to provide adequate notice and opportunity for comment, HUD may make a finding and hold up approval of a PHA Plan until this failure is remedied.
2. Before approving a PHA Plan, HUD will review “any…element of the PHA’s Annual Plan that is challenged” (by residents or the public).
3. HUD can decide not to approve a PHA Plan if it or one of its components:
   - Does not provide all of the required information.
   - Is not consistent with information and data available to HUD.
   - Is not consistent with the jurisdiction’s Consolidated Plan (see “Consolidated Plan” section of this Advocates’ Guide).
4. To ensure that a PHA complies with all of the policies adopted in its HUD-approved PHA Plan, “HUD shall, as it deems appropriate, respond to any complaint concerning PHA noncompliance with the plan…HUD will take whatever action it deems necessary and appropriate.”

Mid-Year Changes to the PHA Plan

“Significant” amendments can only take place after formal adoption by the PHA board of commissioners at a meeting open to the public and after subsequent approval by HUD. Significant amendments are subject to all of the RAB and public participation requirements discussed above.

The PHA Plan must identify the basic criteria that the PHA has for determining what makes an amendment significant. Advocates and residents should be alert to changes to the PHA Plan at any time of the year because any policy or program in it can be modified. Advocates and residents should review the PHA Plan’s criteria defining significant amendments and work to change them if they are written so that few modifications would be judged significant” and therefore escape the RAB and public participation requirements.
Advocacy on the PHA Plan in 2008
The PHA Plan is the collection of all of a public housing agency’s (PHA’s) key policies (such as admissions policies) and program intentions (such as demolition). Each year, all PHAs must submit an updated Annual Action Plan 75 days before the beginning of their fiscal year. In addition, every five years all PHAs must update and send to HUD a “5-Year Plan” stating its mission, goals, and objectives.

HUD Actions
On four occasions over the last year, HUD has proposed drastic “streamlining” of the template, reducing it from a helpful 41-page, easy to access electronic guide, to a mere page and a half form which will make 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.

NLIHC’s RegWatch web page (www.nlihc.org/regwatch/) explains and critiques those proposed changes. Even if HUD ends up no longer requiring a meaningful template, advocates can urge their PHA to continue using it.

As this Advocates’ Guide went to press, HUD had not issued a final, revised template. The November 2007 issue of HUD’s Asset Management e-Newsletter anticipated that a new PHA Plan template would be available in time for PHAs with fiscal years beginning July 1, 2008.

Congressional Action
On March 8, 2007 Senator Sununu, along with his colleagues Senators Elizabeth Dole (R-NC), Olympia Snowe (R-ME), Saxby Chambliss (R-GA), John Thune (R-SD) and Kay Bailey Hutchison (R-TX), introduced S. 809, which would exempt PHAs with fewer than 500 public housing units and any number of vouchers from annual PHA plan requirements.

NLIHC calculations indicate this exemption would apply to 90% of all PHAs, which administer 50% of all vouchers and 43% of public housing units.

The exempted PHAs would still have to establish resident advisory boards (RABs). PHAs must consult RABs and consider their recommendations regarding the PHA’s goals, objectives, and policies.

Under S. 809, PHA plan components that would no longer be required include: assessment of housing needs; PHA poverty deconcentration and other policies that govern eligibility, selection and admissions (including preferences and waiting list procedures); financial resources; rent determination policies; PHA operation and management; PHA grievance procedures; demolition and/or disposition plans; whether there are developments designated as housing for the elderly, families with disabilities, or elderly families and families with disabilities; both mandatory and voluntary conversion of public housing to tenant-based assistance; homeownership programs administered by the PHA; safety and crime prevention measures; policies and rules regarding pet ownership in public housing; recent results of PHA’s fiscal year audit; and asset management.

For More Information
National Low Income Housing Coalition · 202-662-1530 · www.nlihc.org
National Housing Law Project · 510-251-9400 · www.nhlp.org
National Training and Information Center · 312-243-3038 · www.ntic-us.org
HUD’s PHA Plan web page is www.hud.gov/offices/pih/pha/index.cfm.
HUD’s web page for locating your PHA Plan (usually without attachments) is www.hud.gov/offices/pih/pha/approved/
HUD’s PHA Plan template is at www.hud.gov/offices/pih/pha/templates/
The latest version of the regulations, 24 CFR Part 903 Subpart B, are at www.access.gpo.gov/nara/cfr/waisidx_07/24cfr903_07.html
The PHA Plan Desk Guide (slightly out of date, but instructive) is at www.hud.gov/offices/pih/pha/policy/pha-plan-guide.pdf
The PHA statute, 42 USC 1437c-1, is at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+42USC1437c-1
The 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. In response to these disparities, the Public Housing Primary Care Program (PHPC) was created under the Disadvantaged Minority Health Improvement Act of 1990. As a federal grant program administered through the U.S. Department of Health and Human Service’s (HHS) Health Resources and Services Administration (HRSA), the PHPC program is designed to provide public housing residents increased access to health and health-related services.

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 41 PHPC health centers located in 19 states in both urban and rural settings across the nation. Various public housing health center models exist including: centers located within the public housing units; 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 HUD data, there are 1.3 million public housing households often comprised of intergenerational families, of which 31% are elderly households, 32% have one or more people in the household with a disability or multiple chronic conditions and have an average household size of 2.2 members.

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.
Administration
HRSA administers the PHPC Program. 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.

For More Information
Health Care for Public Housing Residents, North American Management  •  703-812-8822
The Qualified Allocation Plan

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

The federal Low Income Housing Tax Credit program (LIHTC) (see the Low Income Housing Tax Credit chapter) requires each state agency that allocates tax credits (generally called a housing finance agency, or HFA) 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 HFA to better target tax credits to projects that house extremely low income people, locate projects in priority areas and preserve the existing stock of affordable housing.

What is the QAP?
The QAP is a document that state (and a few local) agencies must have in order to distribute federal low income housing tax credits, which can only be awarded to a building that fits the QAP's priorities and criteria. Each QAP must spell out an HFA's priorities and specify the criteria it will use to select projects competing for tax credits. The priorities must be appropriate to local conditions. The QAP must also give preference to projects:

- Serving the lowest income residents.
- 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 eight 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 and projects intended for eventual tenant ownership. These requirements are minimums; states can adopt more rigorous criteria that target advocates' priority populations and locations.

Tax Credits Can Be Targeted
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, awarding 20 bonus points to projects serving only households with incomes below 30% of AMI.
- 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, setting aside 20% of the credits 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.

Because each state gets a new allocation of federal tax credits each year, QAPs are usually drafted annually. This gives advocates regularly scheduled opportunities to influence QAP priorities. And, because there is generally a lot of competition among developers to win tax credits, they will propose projects that give them an advantage in the selection process set out according to the QAP's priorities.

Advocates should assess the QAP. If it has only 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, effectively rendering your priority only one of many worthy efforts, work to narrow the number of priorities or work to establish relative priorities so that your priority can compete more effectively.

If there are types of assisted-housing that should be at the top of the priority list, work to ensure that they are positioned to better compete. For example, advocates might promote units with more than two bedrooms. Or, in
order to facilitate rural projects, is it important to emphasize smaller projects? West Virginia gives 10 more points to projects with fewer than 50 units.

Advocates should review the QAP to find out how long low income units must serve lower income people. 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. (Michigan has a 30 percent preservation set-aside, which requires assisted projects to remain affordable for an additional 30 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 5 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 Handles Advocates Can Use 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. The law and regulations do not provide any more guidance regarding the public hearing. Although not required in federal law or regulation, most states also require 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 the 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. Find out who is on the governing board and staff of the HFA and get to know them in order to communicate priorities throughout the year. Don’t wait for the formal QAP comment period or public hearing. Use relationships with HFA staff to weigh in long before a draft QAP is formally announced for comment.

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.

A capsule description of any preservation-oriented features of each state’s QAP is available from the National Housing Trust at www.nhtinc.org/documents/Pres_Scan_June2007_final.pdf.
Resident participation in all aspects of the operation of housing management is critical to the long-term success of federal housing programs. 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 the U.S. Department of Housing and Urban Development (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.

HUD has three major rental programs that collectively provide rental subsidies to approximately 4.5 million households nationwide. These programs are the Section 8 Voucher program, the public housing program, and multifamily HUD-assisted rental programs with project-based Section 8 rental assistance. 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.

Annual Plan Process and Formation of Resident Advisory Boards. Opportunity for resident participation can be found in the annual planning process in which most PHAs are required to engage. In 1998, Congress passed the Quality Housing and Work Responsibility Act (QHWRA). Under this law, most of the nation’s public housing agencies (PHAs) must develop annual and five-year management plans, collectively referred to as the Public Housing Authority Plan (PHA Plan) (see chapter on Public Housing Agency Plans). The annual PHA Plan is designed to govern how PHAs operate in a given fiscal year by spelling out what the PHAs policies will be in specific areas (e.g., rent, pet policy, 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 Resident Advisory Boards (RABs) to assist in the development of these PHA Plans. 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. In some parts of the country, as a way of increasing their organizing power, site-based resident councils have come together to form citywide and even statewide resident councils.

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.

Resident Commissioners. The law also mandates that every PHA, with a few exceptions, have at least one person (either a public housing resident or voucher holder) assisted by the agency 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.

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 Opportunities and Self Sufficiency (ROSS) Program. The 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.

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 (OTAG and ITAG grants and VISTA program). 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. In response, HUD created the Outreach and Training Grant (OTAG) and Intermediary Technical Assistance Grant (ITAG) programs in 1994 to provide three-year grants to locally-based tenant organizing projects or nonprofit organizations to “organize the unorganized” tenants at the city or state level. Congress authorized HUD to spend up to $10 million annually from Section 8 funding for this purpose.

The administration of these grants became a problem because most local OTAG and ITAG organizations found it difficult to do their work due to HUD’s own administrative misdeeds, subsequent congressionally-mandated audits
by the Inspector General (IG) and HUD’s audit resolution practices. In late March 2003, after the IG released its audit results for the 40 OTAG and ITAG grantees, HUD suspended the funding for most of the groups. Congress failed to take any effective action to counter HUD’s practices.

Voucher Holders
There are approximately 2 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.

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
Rural Housing and Economic Development (RHED) provides funding and information resources to support innovative affordable housing and economic development activities in rural communities. The U.S. Department of Housing and Urban Development’s (HUD) Office of Rural Housing and Economic Development (ORHED) administers this competitive grant program in consultation with the U.S. Department of Agriculture (USDA). RHED was authorized by the Veterans Affairs, Housing and Urban Development, and Independent Agencies (VA-HUD) Appropriations Act in 1999.

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 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, farm workers 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 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.

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/

Rural Community Assistance Program · 888-321-7227 · www.rcap.org
Section 3 Job Training and Employment

Catherine Bishop, National Housing Law Project

Created by the Housing and Urban Development Act of 1968, the Section 3 program requires recipients of certain types of HUD funding to provide job training, employment and contracting opportunities for very low and low income residents and eligible businesses. Recipients of such funding must provide these opportunities “to the greatest extent feasible.”

How Section 3 Works:
Section 3 is an 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 such as Community Development Block Grants (CDBG), HOME, Emergency Shelter Grants (ESG), Housing Opportunities for Persons with AIDS (HOPWA), so long as that funding is used for housing rehabilitation, housing construction or other public works. Also for the non-public housing funding, the Section 3 obligation applies only to recipients of housing and community development funds who receive more than $200,000. For the recipient’s contractors/subcontractors, the threshold is $100,000.

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 funding 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.

Who benefits from Section 3?
There are two broad classes of eligible Section 3 beneficiaries: very low and low income individuals and certain businesses. Eligible businesses are called “Section 3 businesses” and are defined as businesses owned by low and very low income individuals or which employ individuals at least 30% who are or were within prior 3 years low income or which contract at least 25% of the dollars awarded with a Section 3 obligation to the two types of businesses described above.

Of those eligible beneficiaries, certain individuals or businesses get a priority for the job or the business opportunity depending upon the type of funding. For example, if the funding is for public housing, public housing residents or Section 3 business owned by public housing residents get a priority. If the funding is from CDBG for example for the construction of a community center, low income residents or businesses of the service area or neighborhood get a priority for the jobs or business opportunities. Youthbuild participants also qualify for a priority. A priority means that if the business or individual meets the eligibility requirements, the individual should be hired or the business concern should get the contract.

HUD’s regulations set numerical goals for all entities subject to Section 3. For recipients of public and Indian housing assistance subject to Section 3 and recipients of community development funds subject to Section 3, 30% of the aggregate number of all new hires by the recipient or its contractors/subcontractors in any year must be Section 3 residents. Recipients of other HUD housing assistance funds subject to Section 3 must commit to employ Section 3 residents as 10% of the aggregate number of new hires for each year over the duration of the Section 3 project.

HUD in April 2004 issued a decision that the city of Long Beach, CA, violated Section 3 because the 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--without regard to the number of hours they work--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, instead of just counting the number of 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.”
The HUD goals for contracting with Section 3 business provide that for all Section 3 covered projects and activities, recipients of funding subject to Section 3 must provide 10% of the total amount of their contracts to Section 3 businesses for building trades work for rehabilitation, modernization, construction or development work. If the funds are for public housing, then the 10% figure for contracting also applies to maintenance and repair work. In addition, there is a goal that 3% of the total amount of all other contracts ought to be awarded to Section 3 businesses.

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 activities the jobs include building trades and the contracting for construction and rehabilitation. In addition, non-construction jobs such as administrative or office jobs also qualify, so long as the jobs arise in connection with the 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.

The number of jobs, training and contracting opportunities generated by housing and community development funds is directly related to the amount of money available for these programs. 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. As funding levels drop significantly, there will be fewer jobs and contracting opportunities.

Enforcement of the Section 3 goals
A 2003 General Accounting Office 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.

There is a HUD established complaint procedure for individuals and businesses. 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.

The successes that have been obtained with Section 3 are almost exclusively attributed to local staff implementing the goals and/or oversight and monitoring by local advocates and community groups.

Advocacy on Section 3 in 2008
Congresswoman Nydia Velazquez (D-NY) continues to be very interested in improving Section 3. She has introduced H.R. 3310. This bill is a good start at addressing some of the weaknesses of Section 3. H.R. 3310 could be improved by increasing the scope of activities subject to Section 3 and strengthening the compliance provisions. Advocates could encourage their Congressperson to support the bill.

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 preference to increase employment and contracting opportunities for the targeted low and very low income individuals and businesses.

In addition, advocates can meet with local public housing agencies (PHAs) and other local recipients of housing and community development dollars (often cities and counties) to discuss whether they have met their Section 3 obligations in the past, to obtain information on the number of low and very low income individuals trained and hired with in accordance with Section 3 and the number of Section 3 businesses contracted with and to create or improve upon a plan to fully implement Section 3 in the future. For PHAs, the annual public housing plan process also presents an opportunity to address Section 3 policy issues and compliance.
HUD should be urged to revise the Section 3 regulations (24 C.F.R., Section 135) in line with the opinion 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 entitled to a Section 3 preference for hiring or businesses entitled to a preference for a Section 3 contract that have been denied a preference should consider filing a complaint with HUD. More information and complaint forms are at www.hud.gov/offices/Theo/section3/section3.cfm and at www.nhlp.org/lalshac/hjn2002_conference_materials.htm.

For more information:
National Housing Law Project · 510-251-9400 · www.nhlp.org
The Section 108 Loan Guarantee Program is part of the Community Development Block Grant Program (CDBG) and is administered by the U.S. Department of Housing and Community Development's (HUD) office of Community Planning and Development (CPD). Section 108 is not really a loan; it is a “guarantee” of a loan, which reduces the interest rate. While use of Section 108 does not have to be a problem for a community, advocates should study proposed Section 108 applications carefully, because if something goes wrong, low income people’s CDBG money could be in jeopardy. Section 108 involves a jurisdiction pledging up to five years worth of a community’s entire CDBG entitlement as backup (collateral) for a larger loan. If estimated revenues are not sufficient at a project financed with a Section 108 guaranteed loan, then low income peoples’ CDBG money must be used to make up the shortfall. If this happens, then housing rehabilitation, job creation projects, or other activities might be reduced -- or even eliminated.

Background
Normally, when jurisdictions plan big projects such as arenas, parking garages, and downtown malls, they borrow money by issuing bonds. 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 (for example, parking revenues at the garage).

Theoretically, Section 108 is supposed to be used only when a project can’t get adequate and affordable financing from more traditional sources. Section 108 attracts investors because the money they lend is guaranteed by the “full faith and credit of the United States government.” The investors' financial risk is greatly reduced because HUD pledges to pay the investor back in full if the project runs into financial trouble. Consequently, investors are not only willing to loan money, they are also willing to accept lower interest payments in return. (The interest rate on Section 108 guaranteed loans is generally just a little more than that of U.S. Treasury bonds.)

Investors’ risk really gets shifted 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 the investors from the jurisdiction's CDBG entitlement amounts if project revenues are not adequate. A downtown mall in Richmond, VA, did not generate the revenues planned, so each year CDBG money was taken off the top of Richmond’s entitlement allocation before low income people could even begin to attempt to direct CDBG money to their most pressing housing needs. A failed motel in Albany, NY, has harmed low income people: not only was money drained away from housing, the promised jobs are long-gone.

In some situations, the jurisdiction does not intend to use future taxes or project revenues to pay off the bond; instead, it plans to use CDBG funds directly. This is an eligible use of CDBG. 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.) Section 108 projects have directly tapped CDBG for four large downtown projects in Nashville, TN, and two in Scranton, PA, along with hotels in Roanoke, VA, and Bakersfield, CA.

Some HUD materials have boasted that 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. However, there have been Section 108 projects that encountered financial difficulties, causing CDBG funding to be diverted from uses that might more directly and meaningfully benefit low income people.

All the CDBG rules apply
The law considers Section 108 as “CDBG money.” That means it is counted when determining whether 70% of a jurisdiction’s CDBG program benefits lower income people. And, 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
Section 108 Loan Guarantee Program

be fully reported in the annual Grantee Performance Report. They are also subject to the anti-displacement law and regulations. However, unlike “regular” CDBG which automatically comes to cities, urban counties, and states, a jurisdiction must apply to HUD for a Section 108 Loan Guarantee.

Eligible uses of Section 108 proceeds
The money lent to a jurisdiction from a Section 108 Loan Guarantee, the “proceeds” of the loan, can be used for many activities: loans and grants to for-profit businesses; buying property; rehabbing publicly-owned property; installing public works such as streets, sidewalks, and other site improvements; demolition; paying relocation costs to those displaced by the Section 108 project; housing rehab; buying, building, or reconstructing “public facilities” (which can be facilities such as homeless shelters, half-way houses, domestic violence shelters, nursing homes, and hospitals); debt service reserves; and, interest payments on the guaranteed loan.

How does the Section 108 Loan Guarantee Program work?
Applications can be submitted at any time during the year. CDBG entitlement jurisdictions (cities with populations over 50,000 and urban counties with more than 200,000 residents) apply directly to the HUD Field Office. Small towns and rural counties apply, in conjunction with their state, to the HUD Field Office. The HUD Field Office conducts a preliminary review and then forwards the application to the HUD Headquarters Office. Eventually all three parties work on the project together.

Each project is a little different, so HUD Headquarters, the HUD Field Office, and the applicant jurisdiction negotiate key features and tailor the terms of the guaranteed loan. Nevertheless the law and regulations have several restrictions.

Statutory and Regulatory Restrictions
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 Section 108.

In addition, the regulations require that an application must:
1. Describe how each of the activities assisted by Section 108 will meet one of the tests for complying with the “national objectives” (of benefiting lower income people or addressing slums and blight).
2. Have a schedule for repaying the loan, identifying the sources of repayment.

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 the national objective that will be met. The jurisdiction must publish the proposed application so that the public can comment. There must also be a public hearing.
Advocacy on Section 108 in 2008

Advocates have used the public participation handles to prevent the approval of risky Section 108 applications or to prevent the use of CDBG dollars when a project was in trouble. In Akron, OH, advocates successfully halted a $10 million application for an existing “inventors hall of fame” that was already $2 million in debt. In Albany, NY, a members-only club supported by a Section 108 was failing to meet its loan repayments, placing $328,000 of CDBG in jeopardy. However, advocates used the public participation process to convince the City Council to use other municipal resources to cover the debt. In Toledo, OH, advocates were not opposed to Chrysler Corporation seeking a $20 million Section 108. Instead, they used the opportunity provided by the public participation process to attempt to secure, along with the required jobs, a small portion of the proceeds for a revolving loan fund that CDCs could use to revitalize adjacent neighborhoods.

In most communities, advocates are not even aware that Section 108 has been used, or is being used. Many jurisdictions fail to adequately identify Section 108 projects in their Annual Action Plans and GPRs. (Nashville, for example, simply listed “Section 108 Loan Guarantee #4”.) Also, most jurisdictions fail to indicate in their GPRs which national objective a project is addressing; and more importantly (since most might claim they benefit low income people by providing jobs), they fail to indicate how many jobs are held by low income people at the Section 108 project. Advocates should demand the detailed reporting required by the regulations.

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/.
Section 202 Supportive Housing for the Elderly

By Nancy Lisbon, American Association of Homes and Services for the Aging

The Section 202 Supportive Housing for the Elderly program was enacted to allow seniors to live with dignity by providing assistance with housing and supportive services. It remains an example of a very successful partnership between nonprofit providers, many of them faith-based, and the federal government.

Section 202, established under the Housing Act of 1959, has gone through various programmatic iterations during its lifetime. Today's Section 202 program provides capital and operating funds to nonprofit organizations that develop and operate senior housing and is the Department of Housing and Urban Development's (HUD) largest directly funded construction program. There are more than 300,000 Section 202 units serving very low, low and moderate income seniors.

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

The Section 202 grant program has two components. The first 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 in so-called mixed finance transactions. 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.

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.

Some facilities have a percentage of units designed to be accessible to non-elderly persons with mobility impairments or may serve other targeted disabilities. About one-third of Section 202 properties also have a service coordinator. 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.

HUD administers, as well as part of the Section 202 program, three relatively new programs: (1) predevelopment grants to help nonprofits use Section 202 funds effectively; (2) assisted living conversion grants to help meet the great need for affordable assisted living options for low income seniors; and (3) 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.

In FY08, Congress appropriated $629 million for new Section 202 construction and project rental assistance. In production terms, fewer than 4,000 new units will be built. There is some hope that HUD will make it easier to combine Section 202 funds with other funds and with tax credits. In addition, the FY08 appropriation included $20 million for Section 202 predevelopment grants, about $60 million for service coordinators and $24.8 million for assisted living conversion and emergency capital repair grants (ALCP). The President's 2009 budget request includes a total of $540 million for the new construction program, PRAC funds and renewals, service coordinators, and ALCP, expecting a total of 2400 new units.
Advocacy for Section 202 Housing in 2008

Affordable senior housing continues to face many challenges. 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. 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.

Unfortunately, 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 convert existing units to market-rate housing. An AARP study released in January 2006 estimates that there are 10 residents for every one unit that becomes available. New tools are needed to help preserve these units and to provide the supportive services that are so necessary for an aging population.

Advocates concerned with senior housing issues should encourage their Members of Congress to take the following actions:

- Reject the President’s budget request and increase Section 202 funding. At the very least, $775 million is needed in FY08 for construction and project rental assistance contracts (PRACs). Although insufficient to meet the needs of the growing elderly population, this will allow construction of approximately 7,500 new units.
- Appropriate sufficient renewal funding for all expiring PRACs and Section 8 contracts in FY09.
- Maintain predevelopment grants to increase program efficiency. In FY08, $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.
- Enact Section 202 reform legislation to streamline and simplify both the Section 202 new construction and Section 202 refinancing programs.
- Urge HUD to simplify and streamline the program so that gap financing and tax credits can be combined with the Section 202 funds more easily.
- Provide sufficient initial project rental assistance contract (PRAC) amounts to prevent shortfalls in operations.
- Support increased project-basing of Section 8 vouchers by public housing authorities to be used for further development or preservation of affordable housing.
- Provide $50 million in FY08 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.
- Establish a new project-based rental assistance program for tenants not now receiving rental assistance to provide rental assistance so that current tenants can remain in their homes after rehabilitation.
- Remove the tax disincentives by providing exit tax relief to encourage the sale of properties owned by for-profit entities to nonprofit organizations.
- Permit creative financing to foster preservation, including subordinating existing debt.
- Establish a policy to ensure preservation, including access to capital and rental assistance, for properties with maturing mortgages that are not now receiving rental assistance.

For More Information
American Association of Homes and Services for the Aging • 202-508-9476 • www.aahsa.org
Section 515 Rural Rental Housing

By Leslie R. Strauss, Communications Director, Housing Assistance Council

Under the Section 515 program, the U.S. Department of Agriculture's (USDA) Rural Development (RD) arm makes direct loans to developers of affordable multifamily rental housing. Since its inception in 1962, 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.

Section 515 of the Housing Act of 1949 provides USDA RD with the authority to make direct loans to finance affordable multifamily rental housing for very low, low, and moderate income families, elderly people and persons with disabilities.

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 non-metropolitan 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 non-metropolitan areas in the U.S. are poor. Rural poverty is especially prevalent among women-headed households and minorities. Non-metropolitan African Americans have a 33% poverty rate, three times the rate for rural whites. Non-metropolitan Native Americans have a poverty rate of 30%, and 27% of rural Hispanics are poor. Approximately one-third of non-metropolitan 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.

Very low, low, and moderate income households are eligible to live in Section 515-financed housing. 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 (94.3%) of Section 515 tenants have incomes less than 50% of area median income (AMI) and more than half of the tenants are elderly or disabled.

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.

Section 515 loans are made available on a competitive basis each year, using a national Notice of Funding Availability (NOFA).
Preservation
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.

Advocacy on Section 515 in 2008
The existing Section 515 units serve the nation’s poorest rural residents and must be preserved against both prepayment and deterioration, while additional funding is necessary to meet current needs.

Rural Preservation Authorizing Legislation
Representative Barney Frank (D-MA) has announced that in 2008 preservation of both HUD and USDA rental housing will be a priority for the House Financial Services Committee, which he chairs. Two rural preservation bills introduced in 2007 will be taken up in 2008.

H.R. 4002, the Rural Housing Preservation Act of 2007, is in some ways a successor to H.R. 5039, which passed the House Financial Services Committee in 2006. Unlike H.R. 5039, however, H.R. 4002 would not remove prepayment restrictions on pre-1989 Section 515 properties. It would create a new Section 544 preservation program, based on USDA’s existing rental housing demonstration program, and would add two new types of vouchers under USDA’s Section 542 voucher program. The vouchers would help tenants in preserved Section 515 properties who did not have Section 521 or Section 8 rental assistance, and tenants of Section 515 properties whose mortgages were prepaid or foreclosed, whether they relocated or remained in the properties.

H.R. 3873, the Section 515 Rural Housing Property Transfer Improvement Act of 2007, is intended to expedite transfers of ownership of Section 515 rural rental properties in connection with rehabilitating them and preserving them as affordable housing.

The House passed H.R. 3873 on January 23, 2008, but it has not yet been considered in the Senate. H.R. 4002 has not yet been marked up by the House committee, and is expected to be combined with HUD preservation legislation for consideration in 2008.

Advocates should support both bills in the House and support introduction of equivalent bills in the Senate. Advocates should oppose any efforts to repeal existing rural prepayment restrictions.
Section 515 Rural Rental Housing

Rural Preservation Funding
Funding is at the root of three issues facing the Section 515 program: prepayment, physical deterioration, and lack of new production. In the omnibus appropriations bill for FY08, Section 515 received only $70 million, although the National Rural Housing Coalition and the Housing Assistance Council recommend a minimum annual funding level of $150 million to address the recapitalization needs of existing developments and to add some new units. Section 521 Rental Assistance received $482.1 million. USDA’s preservation demonstration program, known as MPR, was funded at $20 million, Section 542 vouchers at $5 million and USDA’s Preservation Revolving Loan Fund at $3 million.

Advocates should support:

- a minimum of $150 million for the Section 515 program;
- full funding of Section 521 Rental Assistance at levels sufficient to both renew all expiring contracts and also provide new RA for new Section 515 rental and Section 514/516 farmworker housing units, at least $997 million in FY 2009;
- full funding for HUD vouchers;
- a minimum of $50 million for USDA’s preservation programs including the MPR demonstration, Section 542 vouchers and the PRLF, to be allocated among those three programs by USDA. USDA should allocate at least $6 million for the PRLF, the same amount available in FY 2006 and 2007 (in both years USDA added funds from other accounts to the $3 million appropriation).

Advocates should monitor Section 515 prepayment applications in their states and let local organizations know when applications are filed. (Nonprofits and public agencies can obtain much of this information through USDA’s Preservation Information Exchange (PIX) at https://pix.sc.egov.usda.gov/.) State and regional agencies should help local nonprofits and local government agencies to acquire projects where owners have rejected incentives to stay in the program and may prepay if public or nonprofit organizations do not agree to purchase them. Public and nonprofit organizations should also be prepared to negotiate with owners who wish to sell without going through the agency’s formal prepayment process.

In addition, rural housing advocates should work for passage of the National Housing Trust Fund and any other proposals to produce new affordable rental housing. Finally, Congress, HUD and RD should ensure that the first priority for all federal housing programs is serving people who are most in need, including poor rural households.

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

Section 811 Supportive Housing for Persons with Disabilities

By Ann O’Hara, Associate Director, Technical Assistance Collaborative Inc.

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 may also need other in-home or community-based supports. The Section 811 program was authorized by the National Affordable Housing Act of 1990 and modified in 1992 by the Housing and Community Development Act specifically to address this supportive housing need.

For the past 30 years, the Section 811 Supportive Housing for Persons with Disabilities program – 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. A separate and much smaller tenant-based component is intended to provide supportive housing through units leased in the private rental market.

Section 811 provides supportive housing for people with serious and long-term disabilities who also can benefit from community-based services and supports to help them live as independently as possible, 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 programs which ensures housing affordability for people with disabilities with extremely low incomes such as people who rely on the federal Supplemental Security Income (SSI) program. In 2006, as a national average, the 4 million non-elderly adults with severe disabilities living on SSI payments had incomes equal to only 18% of Area Median Income (AMI). Many of these people are currently living in restrictive settings such as nursing homes and institutions or continue to live at home with aging parents.

Section 811 has two separate program components: 1) The capital advance/Project Rental Assistance Component (PRAC) component administered by the U.S. Department of Housing and Urban Development’s (HUD) Office of Housing; and 2) A completely separate tenant-based rental assistance component administered by HUD’s Office of Public and Indian Housing under the Section 8 Mainstream Housing Opportunities for Persons with Disabilities program. The capital advance/PRAC component provides interest-free capital advances to nonprofit sponsors to help finance the development of permanent supportive rental housing such as independent living projects, condominium units and small group homes. More than 30,000 units have been developed nationally since the program’s inception. The capital advance finances the construction, rehabilitation or acquisition (with or without rehabilitation) of the supportive housing and 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 five-year renewable PRAC is also 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.

The Section 811 program’s size limits are established by Congress and are intended to promote community integration. Under current law, new Section 811-funded group homes may have no more than eight people and each person must have his/her own bedroom. New independent living projects may not exceed 24 units. However, the Section 811 statute also grants authority to the HUD Secretary to waive these size limits on a case by case basis.

Current Section 811 law and regulations make it exceedingly difficult for Section 811 developers to blend Section 811 capital advance funding with other sources of capital financing. As a result, the Section 811 program is rarely used to create supportive housing units that are integrated within other affordable housing properties – a model now preferred by an increasing number of states. Although a Section 811 “Mixed-Finance” regulation published by HUD in 2005 theoretically permits Section 811 funding to be used in federal Low Income Housing Tax Credit (LIHTC) financed properties, bureaucratic barriers to this approach have yet to be resolved by HUD and the U.S. Department of the Treasury.
The tenant-based rental assistance component of the Section 811 program received appropriations from Congress beginning in 1997 and currently funds 14,000 rental vouchers through the Section 8 Mainstream Housing Opportunities for Persons with Disabilities program. These vouchers are administered by an estimated 145 public housing agencies (PHAs) and 40 nonprofit organizations. Under current HUD policy, these vouchers are administered in virtually the same manner as regular Section 8 Housing Choice Vouchers except that: (1) PHAs must track Mainstream vouchers separately from other Housing Choice Vouchers; and (2) PHAs must issue and re-issue Mainstream vouchers only to people with disabilities.

Despite repeated budget proposals made by HUD to cut Section 811 funding by 50%, appropriation levels have held steady at $237 million over the past three years. However, the program produces fewer units each year because: 1) The cost of developing new units has continued to rise; and 2) The renewal cost of the Mainstream vouchers now absorbs almost 50% of the entire appropriation. Experts estimate that the fiscal year 2007 (FY07) Section 811 appropriation will produce less than 800 new units of supportive housing – a decline of more than 60% from Section 811-funded production levels 10 years ago. To increase the supply of supportive housing funded through Section 811, one or more of the following strategies must be adopted: 1) An increase in appropriations; 2) Renewal funding for the 14,000 Mainstream vouchers administered as Housing Choice Vouchers must be shifted to the voucher program appropriation; and 3) Enactment of Section 811 legislative reforms designed to more effectively leverage other sources of capital financing for Section 811-funded supportive units.

Section 811 Notice of Funding Availability (NOFA)
New Section 811 Capital Advance/PRAC funding is announced each year through HUD's SuperNOFA published in the spring. The NOFA specifies the number of Section 811 units allocated to each HUD Field Office according to needs factors that include the number of persons age 16 years or older with disabilities. 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.

HUD has not published a NOFA for the Mainstream program since FY05 and has not awarded new Mainstream vouchers since FY03.

Advocacy for Section 811 in 2008
Escalating rents, SSI payments well below the poverty level, stigma/discrimination, and the scarcity of project-based rental subsidies have all combined to create a housing crisis of epic proportions for the lowest income people with disabilities. Section 811 legislation that expands resources and addressed long-standing program issues will re-invigorate the program and provide better tools to implement best practices in permanent supportive housing. To achieve this legislative victory, the disability advocacy community – including self-advocates, family members, disability organizations state and local health/human services agencies, disability housing and services providers – must all unite around this common cause.

Advocates can urge Members of Congress to: 1) Provide at least $237 million in Section 811 appropriations for FY 2009 and continue to reject budget cuts that may be proposed by HUD; 2) Urge Congress to enact Section 811 reform legislation expected to be filed in early 2008. If successful, this advocacy agenda will significantly increase the number of new supportive housing units produced without raising Section 811 appropriation levels and ensure the creation of integrated permanent supportive housing opportunities for people with significant and long-term disabilities.

The Washington, DC, based Consortium for Citizens with Disabilities Housing Task Force will continue to work
with national disability advocates and with Members of Congress during 2008 to successfully seek these long-overdue legislative improvements to Section 811, including:

• Improve the ability of Section 811 grantees to integrate supportive housing units within larger-scale affordable rental housing development funded through the Low Income Housing Tax Credit program, the HOME program and state and local capital programs.
  • Through a new Section 811 Demonstration program, substantially increase the number of new supportive housing units created through Section 811 each year without necessitating an increase in appropriations. Through the Demonstration program, a greater percentage of Section 811 funding can be directed towards essential project-based rental assistance activities while leveraging other capital funding to create Section 811 supportive housing units.
  • Provide a permanent solution to the long-standing problems which have plagued the Section 811-funded Mainstream voucher program, by authorizing the renewal of these vouchers – which are administered by PHAs as Section 8 Housing Choice Vouchers – through the Housing Choice Voucher appropriation.

Advocates can also work together to educate and inform state and local housing, human services, and Medicaid agencies about these important legislative developments, including helping to position them to quickly take advantage of the opportunities that a “revitalized” Section 811 program will provide once a new statute is enacted.

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’s web site (www.tacinc.org) also has additional information on important Section 811 program issues.
The Self-Help Homeownership Opportunity Program (SHOP) is a competitive grant program run by the U.S. Department of Housing and Urban Development (HUD) that provides funds to national and regional nonprofits that assist low income families in building their own homes using a “sweat-equity” or “self-help” model. Each family who receives assistance through SHOP is required to invest at least 100 hours of work in building its own home or the homes of others, although many families work far more than the required hours. The homes are sold to the homeowners at below-market rates.

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 things as sewer connections, streets, utilities and environmental remediation. These funds must result in one home for each $15,000 awarded. Each family who receives 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 homeowners at below-market rates.

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.

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.

National or regional nonprofit organizations or consortia can apply to HUD annually for SHOP funds. 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.

Advocacy for SHOP in 2008
Congress and the Administration have supported SHOP consistently since 1996, although congressional appropriations have repeatedly fallen below the Administration’s requested budget amounts. The FY 2008 omnibus appropriations bill provides $26.5 million for the program, the highest funding level in its history. Advocates should support the President's budget request for $39 million for SHOP in FY09.

For More Information
Habitat for Humanity International • 202-628-9171 • www.habitat.org

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

HUD • 202-708-2684 • www.hud.gov/offices/cpd/affordablehousing/programs/shop
Subprime Market, Predatory Lending and Mortgage Defaults

By Danna Fischer, Policy Analyst, National Low Income Housing Coalition

After many years of steady house price appreciation, relatively low interest rates and ever growing numbers of people becoming homeowners, 2007 saw the beginnings of a severe downturn in the mortgage and real estate markets. According to data provided by the Mortgage Bankers Association in December 2007, in the third quarter of 2007, mortgage delinquency rates were at their highest levels since 1986, and the number of loans in foreclosure was at a record high. These market upheavals caused significant losses among lenders, and in the secondary market, and lead to a “credit crunch” that impacted all borrowers. As a result, policymakers are taking steps to address the needs of troubled borrowers and prevent a repetition of the lending practices, often predatory in nature, that contributed to the meltdown.

The late 1990s and early 2000s saw significant change in the mortgage markets. Lenders began to extend mortgage loans to borrowers with less than perfect credit, and subprime securitizations increased from $18.5 billion in 1995 to $507.9 billion in 2003. At the same time, rapidly increasing home prices in the early 2000s made it easy for both investors and borrowers to take a short term view and opt for exotic mortgage products (such as adjustable rate mortgages (ARMs) with low teaser rates, interest only mortgages where no principal payment is made, and option ARMs which provide the borrower with a variety of “options” to pay each month and can result in negative amortization) that provided low initial monthly payments, but had reset or amortization options that made them expensive to hold overtime.

While the responsible extension of mortgages to borrowers with impaired credit enabled the expansion of homeownership opportunities to many lower income and minority families, unscrupulous, and often unregulated, mortgage brokers and lenders took advantage of unsophisticated borrowers by offering them mortgage products that they did not understand, were inappropriate for their circumstances and, as interest rates moved higher, could not afford. In addition, minority and first-time homeowners were sometimes steered to mortgages with interest rates and fees higher than would have been justified based solely on their credit history. Moreover, these predatory loans usually contained a prepayment penalty that made it difficult for borrowers to refinance the loans, thereby locking borrowers into the predatory loan. These predatory practices increased as the subprime market grew.

When house prices started to decline in early 2007 and foreclosures started to rise, a downward spiral of lower prices and tighter credit pushed foreclosures higher and higher. Homeowners whose mortgage was greater than the current value of their home began to walk away from the mortgage. Borrowers with mortgages that reset to higher interest rates than they could afford began to fall behind on their payments if their credit, the reduced value of their home or the terms of their mortgage prevented refinancing.

These foreclosures are devastating for the homebuyer, but they also affect the community. When foreclosed properties stand empty for long periods of time they can fall in to disrepair or be damaged by vandals. These blighted properties reduce the value of nearby homes, placing additional downward pressure on home prices, potentially causing more foreclosures. In addition, when the foreclosed property is rented the tenant is often displaced with little warning.

With the specter of even more foreclosures as many variable rate loans reset in the first half of 2008, policymakers, regulators and the housing community have taken or proposed a variety of steps to help distressed homebuyers and communities and prevent the reoccurrence of the practices that contributed to the problem.
Addressing the immediate problems

The negative effect of foreclosures on the mortgage market, the general economy individuals and neighborhoods has led to proposals to assist borrowers avoid foreclosure and reduce the impact of existing foreclosures.

President Bush has encouraged the lending community to take voluntary actions, such as freezing interest rates and working aggressively to restructure troubled mortgages. Voluntary actions however, are difficult because most mortgages are securitized, placed in a large pools and sold to investors here and abroad, and consequently are owned by investors under contractual terms that may or may not permit restructuring of the underlying mortgages.

The Department of Housing and Urban Development has taken steps to make Federal Housing Administration (FHA) loans more available, and both the House and Senate have adopted legislation to further expand the FHA program, (H.R. 1852, Expanding American Homeownership Act of 2007, and S.2338, the FHA Modernization Act of 2007). A more flexible FHA could allow borrowers in unaffordable loans to refinance, so long as the value of their home has not fallen. In cases, where the loan amount exceeds the value of the home, a straight forward refinancing is not generally an option.

The 2008 stimulus package increased the loans limits for Fannie Mae, Freddie Mac, and the Federal Housing Administration. The loan limits are raised to 125% of the area median cost of a single family home up to a maximum of $729,750 in high cost areas, retroactive to July 1, 2007, and ending on December 31, 2008. This increase will allow the GSEs and FHA to provide liquidity to borrowers in high cost areas such as California.

Other proposals being floated include establishing a new entity to purchase and restructure troubled loans before they get to the point of foreclosure and providing grants to state and local governments and nonprofits for the purpose of preserving neighborhoods by addressing vacant, foreclosed properties.

Reforming the market

Policymakers view predatory lending practices and the proliferation of unregulated mortgage lenders and brokers as creating many of the current problems and legislation designed to end the undesirable practices and reform the market is being considered in the 110th Congress. The House has adopted legislation, H.R. 3915, the Mortgage Reform and Anti-Predatory Lending Act of 2007, that would establish a licensing system for residential mortgage loan originators, establish a minimum standard requiring that borrowers have a reasonable ability to repay a loan, provide for limited liability for secondary market securitizers and expand consumer protections for "high-cost loans." Similar legislation, S. 2452, the Home Ownership Preservation and Protection Act of 2007, has been introduced in the Senate. While these bills will do little to stem the tide of foreclosures in the near term, if enacted the proposed reforms could help prevent many of the predatory practices that allowed lenders to put borrowers in inappropriate and unaffordable mortgages. Both H.R. 3915 and S. 2452 also provide for a short, 90 day, period during which the tenant may remain in place after foreclosure. Some states have also addressed this issue.

Advocacy on Predatory Lending and Mortgage Defaults in 2008

Foreclosures can have devastating impacts on individuals and communities. While the current crisis is likely to get worse over the remainder of 2008 as variable rate mortgages reset and property values remain flat or fall, advocates can take several steps to mitigate the effects on their own communities.

First, lenders are willing to work with borrowers to avoid foreclosure. Borrowers having difficulty meeting their mortgage obligations should contact their lender or the local HUD approved counseling agency. A list of HUD approved agencies can be found at www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm. Additional counseling assistance can be found at www.995hope.org/ or by calling 888-995-HOPE.

Advocates should also monitor the federal legislation reforming the FHA and the anti-predatory lending legislation to ensure that these proposals result in a strong and viable FHA and a federal anti-predatory regulatory system that is at least as strong as the strongest state regulatory system. Further, advocates should watch for opportunities at the federal, state and local level to support efforts to protect renters and reduce the effects of foreclosures on neighborhoods.

For more information
National Low Income Housing Coalition • 202-662-1530 • www.nlihc.org
A Summary of Federal Data Sources for Housing Advocacy

By Keith Wardrip, 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 U.S. 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 10 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, among other things.

American Community Survey. Historically, 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 10 years through the use of the “short form,” as constitutionally mandated, the Census 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.) Thanks to a recently expanded sample size of roughly 3 million households, jurisdictions as small as 65,000 residents were included in the 2005 data. The release of 2007 data in 2008 will 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 rely on five-year averages to produce annual estimates of population and housing for areas as small as block groups, which contain between 600 and 3,000 people. Beginning with the 2006 ACS, the survey was expanded to include the population living in group quarters; as a result, these 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, population and housing totals within the ACS can be used for planning and other critical needs, but the decennial census and the Census 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 a calendar year and for measuring annual differences across geography and through time.

American Housing Survey. The American Housing Survey (AHS) is another invaluable resource for housing-specific data. Along with being the only comprehensive national survey specifically of housing, the AHS tracks changes in specific housing units in its sample over time. National and regional estimates are published biennially, and historically as many as 47 of the largest metropolitan areas have been surveyed on a rolling basis every six years. Due to budget constraints, the number of metropolitan areas to be over-sampled as part of the national survey
will be reduced to 21 beginning in 2007, with seven surveyed every two years. The national data are expected to be released in late summer 2008, followed by data for Baltimore, Boston, Houston, Miami, Minneapolis, Tampa and Washington, DC, at the end of the year.

**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.

**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 contain any explicit information on housing characteristics. It is mentioned here, however, because the CPS 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.

**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.

- 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.

**Advocacy for Federal Housing Data Sources in 2008**
As in recent years, budgetary constraints threaten national data collection efforts and may result in the discontinuation of one or more surveys in the near future. The availability of quality demographic and socioeconomic data is crucial to understanding – and ending – the nation’s affordable housing crisis.

**Funding Issues**
The most significant threat to current data collection efforts is the impact of the FY08 budget on the 2010 Census. A six-week Continuing Resolution funded the Census Bureau at FY07 levels in October and November 2007, even though the department required significantly more funding to prepare for the 2010 Census. As a result, several programs that were to be tested in the 2008 Dress Rehearsal, including procedures for counting the population living in “group quarters,” were canceled. Funding included in the omnibus appropriations bill for FY08 should be sufficient to allow other preparations for the decennial census to move forward (e.g., the testing of hand-held computers for data collection in the field). The law stipulates that the 2010 Census must occur, but its accuracy continues to be sensitive to the appropriation of sufficient funds.

In FY08, HUD’s Office of Policy Development and Research (PD&R), which sponsors the American Housing Survey (AHS) and has historically sponsored other Census Bureau surveys, has a core research budget that
is roughly $7 million below the previous year’s. Budget cuts absorbed in FY06 negatively impacted data collection for the 2007 AHS: The national sample was reduced from 60,000 to 55,000, and the number of metropolitan areas covered by the survey was scaled back from 47 to 21. HUD staff familiar with the AHS indicate that working within current budget constraints will be increasingly difficult in 2009, due in part to the rising costs of data security and in part because the AHS must compete with the decennial census in recruiting field workers.

The 2011 Residential Finance Survey (RFS) may also be a casualty of HUD’s reduced research budget. The RFS is another HUD-sponsored survey conducted by the Census Bureau, and it represents a unique source of information on the financing of multifamily rental projects. But at a cost of roughly $13 million in 2001, HUD is expected to be financially unable to continue its support following the next decennial census. The Census Bureau is actively seeking a replacement sponsor, but without one, the survey will likely not occur in 2011.

Also at risk is the Manufactured Homes Survey, an additional Census Bureau effort sponsored by HUD. Data collection continued through 2007, but it is not clear that this will be the case in 2008.

What Advocates Can Do
Advocates can use the vast array of data at their disposal to clearly illustrate the depth and breadth of the affordable housing crisis in their communities while simultaneously demonstrating the importance of these federal data collection efforts. Quantifying the problem by calculating the gap between incomes and housing costs, for example, or the scarcity of units affordable to the lowest income families can make it easier to set specific and defensible goals for expanding the affordable housing stock through preservation and new construction.

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://members.aol.com/copafs/), The Census Project (www.thecensusproject.org), and the Housing Statistics Users Group (http://groups.google.com/group/housing-statistics-users-group).

In addition to participating in these or similar groups, it is crucial that housing advocates everywhere communicate to their elected representatives the importance of ensuring full funding for these data sources in the future. The threats described above have already resulted in the curtailment of 2010 Census preparations and the collection of AHS data, and, unless additional funding is allocated, may result in the discontinuation of the RFS and the Manufactured Homes Survey. Housing advocates should make every effort to ensure the continuation of these important surveys, as they produce one of the most powerful tools in the struggle to end the affordable housing crisis: information.

For more information
National Low Income Housing Coalition • 202-662-1530 • www.nlihc.org
### Comparison of Selected National Datasets

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<tr>
<td><strong>Survey or Census?</strong></td>
<td>Survey</td>
<td>Longitudinal survey</td>
<td>Census and survey components</td>
<td>Survey</td>
<td>Census of qualifying institutions</td>
<td>Survey</td>
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<tr>
<td><strong>Sample Size</strong></td>
<td>Sample size expanded from 800,000 to 3.0 million households (1-40) in 2005</td>
<td>55,000 units are surveyed nationally every odd-numbered year; circa 3,000 units are included in metro surveys</td>
<td>Census of all households and group quarters; in 2000, 1 in 6 households received survey component, or &quot;long form&quot;</td>
<td>Roughly 68,000 properties in 2001</td>
<td>Roughly 34 million loan records in 2006 reported by 8,886 financial institutions</td>
<td>Roughly 55,000 households per month for labor force estimates; 75,000 annually for socioeconomic data</td>
</tr>
<tr>
<td><strong>Survey of...</strong></td>
<td>Population and housing</td>
<td>Housing units; household and individual characteristics data also available</td>
<td>Population and housing</td>
<td>Residential properties; interviews with owners and mortgage lenders</td>
<td>Individual loan applications as reported by large banks and lending institutions in metro areas</td>
<td>Households representing the civilian, non-institutionalized population</td>
</tr>
<tr>
<td><strong>Data Available</strong></td>
<td>Basic population, housing, and income variables</td>
<td>Detailed housing, income, and neighborhood variables</td>
<td>Basic population, housing, and income variables</td>
<td>Financing and other project characteristics; owner demographics</td>
<td>Home mortgage lending activity by institution and race/income of applicant, socioeconomic and housing data from census &amp; HUD</td>
<td>Labor force, poverty, income, and health insurance data, cross-tabulated by demographic and employment characteristics</td>
</tr>
<tr>
<td><strong>Frequency</strong></td>
<td>Annual since 2000</td>
<td>National survey is biennial; each of 21 large metros surveyed every 6 years</td>
<td>Decennial since 1790</td>
<td>Decennial since 1950</td>
<td>Annual since 1967</td>
<td>Monthly estimates of labor force; annual for income, poverty, and health insurance</td>
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### Data Comparability Over Time
- Surveys fairly comparable since 2000, although 2000 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 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 some 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

### Agency Charged with Data Collection
- 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 reduced from 60k to 55k; number of metro surveys reduced from 47 to 21 in 2007
- Constitutionally required; budget uncertainty threatens preparation for Census 2010
- 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
The Supplemental Security Income (SSI) program pays cash benefits to low income aged, blind, and disabled people based on financial need. SSI benefits are the sole remaining federal cash entitlement program and are often the sole means of financial support for individuals unable to work due to age or disability.

In 1971, Congress launched the SSI program to replace the former federal-state adult assistance programs in the 50 states and the District of Columbia. The program is administered by the Social Security Administration (SSA). It is separate both from the Social Security retirement program, which is not means-tested and is paid upon retirement (based on the amount of Social Security taxes a person has paid), and from Social Security Disability Insurance (SSDI), which provides disability benefits to people who have a more substantial work history and have therefore paid Social Security taxes. Some people may be eligible for benefits under more than one of these programs.

SSI benefits are the sole remaining federal cash entitlement program and are often the sole means of financial support for individuals unable to work due to age or disability. At the time of the program’s development in 1972, state welfare programs involved as many as 1,350 administrative agencies, with payments varying more than 300% from state to state. A federal program was established in order to provide a uniform set of rules for the determination of disability, and a minimum level of income for persons found disabled.

The SSI program is administered through the SSA’s network of field offices. SSA contracts with state agencies, called Disability Determination Services (DDS), to make initial and reconsidered determinations of disability. Further appeals are handled by federal administrative law judges, and eventually by federal district courts.

According to the 2007 Annual Report on SSI, in 2008, SSI will provide individual recipients with $632 per month (couples will receive $947 per month) that can be used to pay rent and provide for other needs. Many states supplement the amount with up to several hundred dollars per month. Receipt of SSI may also qualify a homeless person for HUD-funded housing for persons with disabilities, or for other public or subsidized housing programs that have preferences for persons with disabilities. SSI benefits can be used to pay the rent required to support the ongoing costs of privately-funded supportive housing. And, in almost 40 states, SSI recipients are also automatically eligible for Medicaid, which allows them to obtain health care services at low or no cost. (When 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.) Some supportive housing providers have been able to obtain Medicaid reimbursement for selected services to SSI recipients living in the supportive housing.

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

National Policy and Advocacy Council • 202-714-5378 • www.npach.org
Temporary Assistance for Needy Families

By Sharon McDonald, Senior Policy Analyst, National Alliance to End Homelessness

Temporary Assistance for Needy Families (TANF) is a $16.5 billion block grant program for states to provide assistance to low income families. TANF funds are used by the state to provide cash assistance (“welfare”) to eligible families and to finance services and supports that help low income parents prepare for or transition into the workforce.

The TANF block grant program was reauthorized in the 109th Congress 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 impact of the policy changes may result in the transformation of assistance to low income families in many states due to 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.

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.

The TANF block grant program provides $16.5 billion annually to states to provide assistance to very low income families with children. States are also required to commit state funds to meet the purposes of the TANF program, referred to as “maintenance of effort” (MOE) funds.

TANF cash assistance is an important source of financial support for families without other options. The benefit level is set by the state and the benefit levels 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.

Cash assistance comprises less than half of how states use TANF funds. States typically commit substantial resources 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 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 housing.

Until recently, states had a lot of flexibility in how TANF block grant resources are 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. For the first time, this will include families receiving assistance through MOE funded initiatives and families in which only the children are receiving financial support. Under current interim regulations, the activities families could engage in to meet work requirements were very narrowly defined. This has led to great concerns among advocates and state policy makers 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.

A primary goal of PRWORA is to provide cash assistance to meet the basic needs of families and provide the supports necessary to help families enter the workforce and sustain employment. The TANF block grant program can also be used to prevent out-of-wedlock births and promote marriage.

Many of the nation’s very poor families with children are qualified to receive cash assistance from the TANF block grant program in addition to other work supports. In fact, for many, it is their primary source of income. The number of families on TANF cash assistance plummeted since the implementation of the TANF block grant program. While many of the families who left welfare moved into the workforce, a significant number exited the program and remain without employment or other sources of income. Under DRA, states will continue to receive caseload reduction credits for serving fewer families, whether or not those families have transitioned into employment or into deeper poverty. Currently, fewer than 2 million families receive TANF cash assistance and, according to a Center on Budget and Policy Priorities (CBPP) analysis, less than half of the families eligible for assistance are receiving support.

Federal TANF funds flow through HHS to the states. Some states make policy and program decisions at the state level while other states allow for considerable flexibility at the local or county level. States are required to commit state-controlled funds to meet the goals of the TANF block grant, called maintenance of effort funds (MOE).

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
The Violence Against Women Act (VAWA) provides life-saving programs for victims of domestic violence, sexual assault and stalking. VAWA was reauthorized in 2005 and expanded to include housing programs, services to reduce and prevent homelessness and policy changes to protect victims from unfair eviction or denial of public and subsidized housing. To fund these exciting new VAWA programs, which will help end violence against women and children, appropriations for VAWA in the FY09 budget must be increased to $1 billion, with $235 million specifically for shelter and housing.

Women fleeing domestic violence make up a significant portion of the homeless population. 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. 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, and the majority of battered women in transitional housing programs state that had these programs not existed, they would have returned to their abusers.

The housing programs in VAWA respond to an array of needs, from emergency shelter to permanent housing: $10 million funds collaborative efforts to create long-term housing options for victims; $10 million creates grants to public housing authorities and assisted housing providers to create best practices in responding to victims; $40 million provides transitional housing and services specifically designed to move victims into permanent housing; and $175 million funds the 2,000 emergency battered women’s shelters in this country.

All victims of domestic violence, sexual assault and stalking, regardless of immigration status, gender or income, can use VAWA-funded services. However, the housing programs are targeted toward victims who are homeless or in danger of becoming so. Because there are so many different VAWA grant programs, many state and local groups are eligible to receive VAWA funding. Nearly all housing and homeless service providers are eligible for funding through the VAWA housing programs, though generally they must apply for grants collaboratively with victim service providers.

VAWA authorizes nearly 40 grant programs administered by the Department of Justice (DOJ) and the Department of Health and Human Services (HHS). Four are formula grants to states and the rest are smaller competitive grants for specific services or for specific populations.

The $175 million for emergency shelter funds in VAWA (called the Family Violence Prevention and Services Act, or FVPSA) is a formula grant distributed to states based on population. It is administered by HHS. Also in HHS, though administered in collaboration with the Department of Housing and Urban Development (HUD), is the new long-term housing program called Grants to Increase the Long-Term Stability of Victims. Funds for this pilot project will be awarded competitively to applicants with strong collaborative applications.

DOJ administers the other two housing programs in consultation with HUD. The Transitional Housing Grants are small grants distributed to a large number of grantees around the country. The Grants to Combat Violence Against Women in Public and Assisted Housing will be more like pilot projects, and housing providers are encouraged to apply collaboratively with a victim service provider or state coalition. All types of assisted housing, including rural housing administered by the Department of Agriculture and housing funded by Low Income Housing Tax Credits and the HOME program, can apply for funding through this grant.

Funding for VAWA
The President has proposed cutting VAWA programs in the Department of Justice by $120 million (30%) for FY09.
In the FY08 budget, FVPSA received $122.6 million in appropriations, a $2.1 million cut from FY07 and $50.3 million below the authorized level of $175 million. The FY08 budget funded transitional housing at $17.4 million, a $2.6 million increase from FY07. Overall, funding for VAWA programs was increased by $17.3 million, though several key programs (particularly Legal Assistance to Victims and Grants to Encourage Arrest) were cut. While 7 new VAWA programs were funded for the first time in FY08, the Long-Term Stability (long-term housing) and Grants to Combat Violence Against Women in Public and Assisted Housing program received no appropriations.

Thousands of women and children are turned away from shelters and services every year 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 2007, 4,676 requests for shelter and housing went unmet due to a lack of resources.

Fully funding VAWA programs in the FY09 budget is critical to ending both domestic and sexual violence and homelessness. It is not only good social policy but is also good fiscal policy. By reducing incidents of domestic and sexual violence, the first VAWA saved $14.8 billion in net averted social costs in its first 6 years alone. The new programs in VAWA will be particularly effective in preventing violence.

Advocacy on VAWA Housing Programs in 2008
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 Grants to Increase the Long-Term Stability of 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

The President has proposed cutting VAWA programs in the Department of Justice by $120 million (30%) for FY09, and Congress will consider his request as they draft their budget. This means Congress must hear from you about why the housing programs in VAWA need funding this year!

Tell your Members of Congress why housing is 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. Information about the lack of emergency, transitional and long-term housing in your community is also important. Ask Members of Congress who are not on the Appropriations Committee to include funding for VAWA in their request letters to the appropriators.

For More Information
National Network to End Domestic Violence • 202-543-5566 • www.nnedv.org
Appendix A: 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:

\[
\text{Lobbying Limit} = \begin{align*}
20\% \text{ of the first } & \$500,000 \\
+15\% \text{ of the next } & \$500,000 \\
+10\% \text{ of the next } & \$500,000 \\
+5\% \text{ of the remaining } & 
\end{align*}
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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 who have the ability to influence legislation.

Grassroots lobbying is a communication with the general public that refers to specific legislation and takes a
position on the legislation, and the communication must have a call to action. A call to action refers to four different ways the organization asks the public to respond to its message: 1) asking the public to contact their legislators; 2) providing the contact information (for example, the phone number) for a legislator; 3) providing a mechanism for contacting legislators (for example, a tear off postcard or 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 cost centers that 501(h)-electing organizations must count toward their lobbying limits: staff time, direct costs and overhead. Examples of each cost center include:

- Staff Time: Paid staff time spent meeting legislators, preparing testimony, or encouraging others to testify;
- Direct Costs: Printing, copying or mailing expenses to get the organization's message to legislators; 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
Appendix B: Lobbying and Advocacy Tips

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 District, 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:

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<tr>
<td>The Honorable (full name) Attn: Housing Staffer</td>
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<tr>
<td>United States Senate United House of Representatives</td>
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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?
Appendix C

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 the U.S. Department of Housing and Urban Development (HUD), the Federal Reserve Bank, the Federal Deposit Insurance Corporation, Fannie Mae and Freddie Mac, and international development and finance agencies such as the World Bank and the International Monetary Fund. The committee also ensures enforcement of housing and consumer protection laws such 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 and private housing, community development, and HUD’s Department of Housing and Community Development.

Majority Members (Democrats)

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<td>202-225-5931</td>
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<td>Paul E. Kanjorski (PA)</td>
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Appendix C: Key Congressional Committees

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Appendix C: Key Congressional Committees

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. This includes the fiscal oversight of proposed new spending and the consideration of budgetary matters through budget hearings. The Subcommittee on Transportation, Housing and Urban Development, and Related Agencies determines the amount of government revenues dedicated to the departments of Transportation and Housing and Community Development, as well as the Architectural and Transportation Barriers Compliance Board, Federal Maritime Commission, National Transportation Safety Board, Neighborhood Reinvestment Corporation, United States Interagency Council on Homelessness, and Washington Metropolitan Area Transit Authority.

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Appendix C: Key Congressional Committees

House Appropriations Subcommittee on Transportation, Housing and Urban Development, and Related Agencies

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Minority Members (Republicans)

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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 and transportation, 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.

Majority Members (Democrats)

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## Appendix C: Key Congressional Committees

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### Senate Banking Subcommittee on Housing, Transportation, and Community Development

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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. This includes the fiscal oversight of proposed new spending and the consideration of budgetary matters through budget hearings. 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. Specific agencies under its jurisdiction are the Federal Aviation Administration, the National Transportation Safety Board, the Surface Transportation Board, and the Washington Metropolitan Area Transit Authority.

**Majority Members (Democrats)**

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### Senate Appropriations Subcommittee on Transportation, Housing and Urban Development, and Related Agencies

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Appendix D

HUD Funding Timeline for FY2008

February 5
President's budget request to Congress.

March - April
House & Senate Appropriations Committees hold hearings.

April 15
Deadline for Budget Resolution (setting overall spending guidelines).

May - June
House & Senate Housing Policy Committees hold hearings on FY08 budget (possibly).

June - September
Subcommittees, full committees and House & Senate decide on FY08 HUD bill.

October 1
Start of new fiscal year. Deadline for final FY08 bill to be signed by President.

After October 1
Continuing Resolutions needed if spending bill(s) not enacted.
Appendix E

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 20 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 16 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. 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
Appendix F

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.gpoaccess.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.


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](http://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](http://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](http://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

Selected List of HUD Programs and Their CFR Part Numbers
Section 3 Economic Opportunities, Part 135
Section 5(h) Public Housing homeownership program, Part 906
Section 8 Tenant-based Assistance: Housing Choice Voucher Program, Part 982
Section 8 Project-based Voucher Program, Part 983
Section 8 and Public Housing Family Self-Sufficiency Program, Part 984
Section 8 Management Assessment Program (SEMAP), Part 985
Section 202 Supportive Housing for Elderly, Part 891
Section 811 Supportive Housing for Persons with Disabilities, Part 891
Community Development Block Grants, Part 570
Community Development Block Grants for Indian Tribes and Alaska Native Villages, Part 1003
Consolidated Plans, Part 91
Family Self-Sufficiency Program, Part 984
Homelessness Assistance Programs
Emergency Shelter Grants, Part 576
Shelter + Care, Part 582
Single Room Occupancy, Part 882
Supportive Housing Program, Part 583
Title V, Use of Federal Real Property to Assist Homeless, Part 581
HOME Program, Part 92
Housing Opportunities for Persons with AIDS (HOPWA), Part 574
Indian and Alaska Native Villages Community Development Block Grants, Part 1003
Indian HOME Program, Part 954
Indian Housing Loan Guarantees, Part 1005
Indian/Native American Housing Activities, Part 1000
Lead Safe Housing, Part 35
Mark-to-Market, Parts 401 and 402
Public Housing
Public Housing development, Part 941
Appendix F: An Introduction to the Federal Regulatory Process

- Admission and occupancy, Part 960
- Assessment System, Part 902
- Assessment, revitalization potential of public housing required by law, Part 971
- Capital Fund Program, Part 905
- Contracting with resident-owned businesses, Part 963
- Demolition or disposition of public housing projects, Part 970
- Designated housing for disabled, elderly, or disabled and elderly families, Part 945
- Electronic transmission of required family data, Part 908
- Family Self-Sufficiency Program, Part 984
- Homeownership program[Section 5(h)], Part 906
- Homeownership opportunities – low rent housing, Part 904
- Lease and grievance procedures, Part 966
- Management Assessment Program, Part 901
- Modernization, Part 968
- Operating Subsidy, Part 990
- PHA-owned or leased projects – general provisions, Part 965
- PHA-owned projects, continued operation as low income housing after completion of debt service, Part 969
- PHA Plans, Part 903
- SEMAP, Section 8 Management Assessment Program, Part 985
- Tenant participation and tenant opportunities in public housing, Part 964
- Vouchers – Project-based, Part 983
- Vouchers – Tenant-based, Part 982
- Self-Sufficiency Program, Part 984
- SEMAP, Section 8 Management Assessment Program, Part 985
- Vouchers
- Section 8 Tenant-based Assistance: Housing Choice Voucher Program, Part 982
- Section 8 Project-based Voucher Program, Part 983
- YouthBuild, Part 585
Appendix G

Statutory Citations

Section 3: Housing and Urban Development Act of 1968
(economic opportunities for low and very low income persons)

Section 5: United States Housing Act of 1937 (funding for public housing and Section 8 housing)

Section 8: United States Housing Act of 1937 (low income rental housing assistance)

Section 11(b): National Housing Act (tax-exempt bonds)

Section 108: National Housing Act (loan guarantees for property acquisition)

Section 202: Housing Act of 1959 (elderly and handicapped housing)

Section 207: National Housing Act (multifamily mortgage insurance)

Section 221: National Housing Act (multifamily mortgage insurance)

Section 221(d)(3): National Housing Act (BMIR rental housing mortgage insurance)

Section 221(d)(4): National Housing Act (mortgage insurance refinancing)

Section 221(g)(4): National Housing Act (assignment of mortgages to HUD)

Section 223(a)(7): National Housing Act (refinancing)

Section 223(f): National Housing Act (mortgage insurance for multifamily refinancing)

Section 231: National Housing Act (mortgage insurance for elderly and handicapped rental housing)

Section 235: National Housing Act (home mortgage interest reduction payments)

Section 236: National Housing Act (rental and cooperative housing interest reduction payments)

Section 241: National Housing Act (multifamily operating loss loans)

Section 502: Housing Act of 1949 (direct and guaranteed single-family housing loans)

Section 504: Housing Act of 1949 (very low income home repair loans and grants)

Section 514: Housing Act of 1949 (farm labor housing loans)

Section 515: Housing Act of 1949 (rural rental and cooperative housing)

Section 516: Housing Act of 1949 (farm labor housing grants)

Section 521: Housing Act of 1949 (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 (housing preservation grants)

Section 538: Housing Act of 1949 (guaranteed rural rental housing loans)

Section 811: Cranston-Gonzalez National Affordable Housing Act
(supportive housing for persons with disabilities)

Title II: National Housing Act (FHA mortgage insurance); Emergency Low Income Housing Preservation Act of 1987 (ELIHPA)

Title V: Housing Act of 1949 (rural housing)

Title VI: Low Income Housing Preservation and Resident Homeownership Act (LIHPRHA); Civil Rights Act of 1964
(prohibits discrimination in federally assisted housing)

Title VIII: Civil Rights Act of 1968 (prohibits discrimination in sale or rental of housing)
Appendix H: Glossary

Glossary

ADVANCE APPROPRIATION. An appropriation made to become available at least one fiscal year beyond the fiscal year for which the appropriation act is passed. Advance appropriations in FY06 appropriations acts will become available for programs in 2007 or beyond.

AFFORDABLE HOUSING. Housing that costs an owner or renter no more than 30% of household income.

ANTI-DEFICIENCY ACT. A federal law forbidding federal employees from spending more money than has been appropriated or spending money in advance of 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. Appropriations are the most common means of providing budget authority. Annual appropriations are provided in appropriations acts; most permanent appropriations are enacted in substantive law.

ASSISTED HOUSING. Housing where the monthly costs to the tenant are subsidized by federal or other programs.

AUTHORIZATION. Legislation granting authority for the congressional consideration of appropriations for general or particular purposes. Although unauthorized appropriations may be subject to points of order, they are legally valid if enacted.

BLOCK GRANTS. Grants made by the federal government on a formula basis, usually to a state or local government.

BORROWING AUTHORITY. Authority to incur indebtedness for which the federal government is liable, which authority 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.

BUDGET AUTHORITY. Legal authority to enter into obligations that will result in immediate or future outlays of federal funds.

BUDGET ENFORCEMENT ACT. 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. The budget resolution process in the Second Session of the 108th Congress has been marked by wrangling 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 designated House or Senate committees.

COLONIAS. 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. Colonias are defined primarily by what they lack, such as potable drinking water, water and wastewater systems, paved streets, and standard mortgage financing.
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." (HUD’s Glossary of Terms.)

CONGRESSIONAL BUDGET OFFICE (CBO). An organization created by Congress that provides staff assistance to Congress on the federal budget. (HUD’s Glossary of Terms.)

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), HOME, 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. Organization owned by its members.

CREDIT UNION. Not-for-profit financial institution typically formed by employees of a company, a labor union, or a 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.

DIRECT MAIL. Mail sent to potential voters or advocates with the intention to persuade their thinking or to encourage a particular action.

DISCRETIONARY SPENDING. Budget authority, other than appropriated entitlements, and ensuing outlays provided in annual appropriations acts. The Budget Resolution sets limits or caps on discretionary budget authority and outlays.

DOOR-TO-DOOR CANVASSING. Contacting potential voters or advocates at their door to persuade their thinking or to encourage a particular action.

EARMARKS. Appropriations that are dedicated for a specific, particular purpose. The funding of the Community Development Fund typically has earmarks as part of the Economic Development Initiative.

EXREMELY LOW INCOME. Household income below 30% of area median, as defined by HUD.

FAIR MARKET RENTS. 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.

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC). Federal agency established in 1933 that guarantees (within limits) funds on deposit in member banks and thrift institutions and performs other functions such as making loans to or buying assets from member institutions to facilitate mergers or prevent failures.
FEDERAL HOME LOAN MORTGAGE CORPORATION (Freddie Mac). Publicly chartered enterprise that buys qualifying residential mortgages from lenders, packages them into new securities backed by those pooled mortgages, provides certain guarantees, and then re-sells the securities on the open market. Like Fannie Mae, the corporation's activity has helped to create an enormous secondary market, which provides more funds for mortgage lending and allows investors to buy high-yielding securities backed up by implied federal guarantees. The corporation was established in 1970.

FEDERAL HOUSING ADMINISTRATION (FHA). Federally-sponsored agency 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. FHA is a division of HUD.

FEDERAL HOUSING ADMINISTRATION (FHA) INSURANCE. Predominant vehicle by which the federal government stimulates new housing production. When a mortgage is FHA insured, the federal government promises to buy it from the lender at full value if there is any default.

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). 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.

FEDERAL RESERVE BOARD (FRB). 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. 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.

FEDERAL SAVINGS AND LOAN ASSOCIATION. Federally-chartered institution with a primary responsibility to collect people’s savings deposits and to provide mortgage loans for residential housing. Federal Saving and Loans may be owned either by stockholders, who can trade their shares on stock exchanges, or by depositors, in which case the associations are considered mutual organizations. Federal Savings and Loans are members of the Federal Home Loan Bank System. After deregulation, S&Ls expanded into non-housing related financial services such as discount stock brokerage, financial planning, credit cards, and consumer loans.

FINANCIAL INSTITUTION. 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, savings banks, credit unions) pay interest on deposits and invest the deposit money, mostly in loans. Nondepository 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 nondepository functions.
FISCAL YEAR (FY). The accounting period for the budget. The fiscal year for the federal government begins on October 1 and ends the next September 30. The fiscal year is designated by the calendar year in which it ends; for example, FY06 begins on October 1, 2005, and ends on September 30, 2006.

FORECLOSURE. 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, must go to court to seize the property, which may then be sold to satisfy the claims of the mortgage.

GET OUT THE VOTE (GOTV). The process of mobilizing potential voters to go to the polls on Election Day during the final three weeks of an election. Usually done by contacting potential voters through a combination of door-to-door canvassing, phone banking, sending direct mail, leafleting, or emailing. A good GOTV campaign will place emphasis on both quantity and quality of communication with potential voters. Further, a good GOTV campaign should realize that voting is a habit-forming activity and evaluate the costeffectiveness of communication in that light. Finally, techniques for mobilizing voters should be decided based on factors such as the campaign’s resources, goals, and political situation.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION (Ginnie Mae). Agency of HUD. Ginnie Mae guarantees payment on mortgage-backed pass-through securities, which represent pools of residential mortgages insured or guaranteed by the FHA, the Veterans Administration, or the Rural Housing Service, which has taken over some of the functions of the Farmers Home Administration.

GOVERNMENT SPONSORED ENTERPRISE (GSE). An enterprise established by the federal government but privately-owned and operated. These enterprises are excluded from the budget totals because they are classified as private entities. However, financial information concerning them is included in the budget. Fannie Mae and Freddie Mac are GSEs, as are the Federal Home Loan Banks.

GUARANTEED LOAN. Loan in which a private lender is assured repayment by the federal government of part or all of the principal or 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 MORTGAGE DISCLOSURE ACT (HMDA). 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.” (HUD’s Glossary of Terms.)

HOUSING COSTS. Essentially, 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. State agency responsible for financing housing and administering assisted housing programs.

HOUSING STARTS. 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. HUD official appointed by the president who is “responsible for conducting audits and investigations of HUD’s programs and operations.” (HUD’s Glossary of Terms.)

INSURED LOAN. Loan in which a private lender is assured repayment by the federal government of part or all of the principal or interest, or both, and for which the borrower pays insurance premiums.
LEAFLETING. Taking campaign fliers or other materials and leaving them at potential voters or advocates doors to persuade their thinking or to encourage a particular action.

LEVERAGING. The maximization of the effect 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 resident 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.

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. Federal program to adjust rents on assisted housing up to the market rate.

METROPOLITAN STATISTICAL AREA. 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. Debt instrument by which the borrower (mortgagor) gives the lender (mortgagee) a lien on property as security for the repayment of a loan. The borrower has use of the property, and the lien is removed when the obligation is fully paid. A mortgage normally involves real estate and is commonly used to purchase a house.

MORTGAGE BANKER. 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 INTEREST DEDUCTION. 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.

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 THRIFT SUPERVISION (OTS). 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. The legislation empowered OTS to institute new regulations, charter new federal savings and loan association and federal saving banks, and supervise all savings institutions and their holding companies.

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.

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.

**PHONE BANKING.** Contacting potential voters or advocates by phone to persuade their thinking or to encourage a particular action.

**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].”

**PORTFOLIO RE-ENGINEERING.** Another term for mark-to-market, intended to recognize that the issues involved are not purely financial but also involve repositioning the properties, rethinking their regulatory structure, and reducing HUD’s workload.

**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 SETTLEMENT PROCEDURES ACT (RESPA).** As defined by HUD, “a consumer protection statute first passed in 1974. The purposes of RESPA are (1) to help consumers become better shoppers for settlement services and (2) to eliminate kickbacks and referral fees that unnecessarily increase the costs of certain settlement services.” HUD enforces RESPA. HUD’s efforts to update RESPA have met with concern and controversy in Congress and are currently stalled.

**RURAL.** As used in this Resource Book, areas that are not urbanized. The Census Bureau defines an urbanized area as “an incorporated place and adjacent densely settled (1.6 or more people per acre) surrounding area that together have a minimum population of 50,000.”
SAVINGS AND LOAN ASSOCIATION (S&L). 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. 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.

SEVERE HOUSING PROBLEMS. As used by HUD in defining priorities, severe housing problems are homelessness, displacement, housing cost burden above 50% of income, 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). Block grant 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. 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/offices/cpd/library/glossary/
Appendix I
Directory of Agencies and Organizations

Key Federal Agencies
Congress · Capitol Switchboard: 202-224-3121
U.S. Senate www.senate.gov

Department of Housing and Urban Development (HUD) · 202-708-1112 · www.hud.gov
White House · 202-456-1414 · www.whitehouse.gov
Office of Management and Budget · 202-395-3080 · www.whitehouse.gov/OMB

Other Federal Agencies
Department of Agriculture, Rural Housing Service · 202-690-1533 · www.rurdev.usda.gov
Department of Commerce, Economic Development Administration · 202-482-2309 · www.doc.gov/eda
Department of Health and Human Services, Office of Community Services · 202-401-5291 · www.acf.hhs.gov/programs/ocs
Department of Housing and Urban Development-HUD USER · 800-245-2691 · www.huduser.org
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 · 202-622-8662 · www.treas.gov/cdfi/
Environmental Protection Agency · 202-272-0167 · www.epa.gov
Federal Housing Finance Board · 202-408-2500 · www.fhfb.gov
Millennial Housing Commission · http://govinfo.library.unt.edu/mhc/MHCReport.pdf
Small Business Administration · 800-827-5722 · www.sba.gov

National Organizations (located in Washington, DC, unless otherwise noted)
ACORN · Association of Community Organizations for Reform Now · 202-547-2500 · www.acorn.org
AIDS Housing of Washington, Seattle, WA · 206-322-9444 · www.aidshousing.org
Alliance for Healthy Homes · 202-739-0882 · www.afhh.org
Alliance for Retired Americans · 202-637-5399 · www.retiredamericans.org
American Association of Homes and Services for the Aging · 202-783-2242 · www.aahsa.org
American Planning Association, Chicago, IL · 312-431-9100 · www.planning.org
Assisted Living Federation of America, Fairfax, VA · 703-894-1805 · www.alfa.org
Bazelon Center for Mental Health Law · 202-467-5730 · www.bazelon.org
Brookings Institution · 202-797-6000 · www.brookings.edu
Building Better Communities Network · 202-467-5730 x117 · www.bettercommunities.org
Campaign for Home Energy Assistance · 202-429-8855 · www.liheap.org
Center for Community Change · 202-339-9300 · www.communitychange.org
Center for Law and Social Policy · 202-906-8000 · www.clasp.org
Center on Budget and Policy Priorities · 202-408-1080 · www.cbpp.org
Child Welfare League of America · 202-638-2952 · www.cwla.org
Children's Defense Fund · 202-628-8787 · www.childrensdefense.org
Coalition of Community Development Financial Institutions, Arlington, VA · 703-294-6970 · www.cdfi.org
Coalition on Human Needs · 202-223-2532 · www.chn.org
Community Action Partnership · 202-265-7546 · www.communityactionpartnership.com
Community Connections · 800-998-9999 · www.comcon.org
Consortium for Citizens with Disabilities · 202-783-2229 · www.c-c-d.org
Consumer Federation of American Center for Housing and Credit Policy · 202-387-6121 · www.consumerfed.org
Corporation for Enterprise Development · 202-408-9788 · www.cfed.org
Appendix I: Directory of Agencies and Organizations

Corporation for Supportive Housing, New York, NY • 212-986-2966 • www.csh.org
Council for Affordable and Rural Housing, Alexandria, VA • 703-837-9001 • www.carh.org
Council for Large Public Housing Agencies • 202-638-1300 • www.clpha.org
Council of State Community Development Agencies • 202-293-5820 • www.coscda.org
Development Training Institute Ellicott City, MD • 410-418-5181 • www.dtinational.org
Economic Policy Institute • 202-775-8810 • www.epinet.org
Economic Success Clearinghouse • 202-628-4200 • www.financeprojectinfo.org/win/
Enterprise Foundation, Columbia, MD • 410-964-1230 • www.enterprisecommunity.org
ENPHRONT (Everywhere and Now Public Housing Residents Organizing Nationally), Brooklyn, NY • 718-327-3700 • www.enphront.com
Fannie Mae • 800-732-6643 • www.fanniemae.com
Freddie Mac, McLean, VA • 703-903-2000 • www.freddiemac.com
Global Green USA, Santa Monica, CA • 310-581-2700 • www.globalgreen.org
Habitat for Humanity International • Americus, GA • 229-924-6935 • www.habitat.org
Housing Assistance Council • 202-842-8600 • www.ruralhome.org
Institute for Community Economics, Springfield, MA • 413-746-8660 • www.iceclt.org
International Economic Development Council • 202-223-7800 • www.iedconline.org
Knowledgeplex.org/Fannie Mae Foundation • 202-274-8000 • www.knowledgeplex.org
Mortgage Bankers Association of America • 202-557-2700 • www.mbaa.org
NAACP Legal Defense Fund • 202-682-1300 • www.naacpldf.org
National Affordable Housing Management Association, Alexandria, VA • 703-683-8630 • www.nahma.org
National AIDS Housing Coalition • 202-347-0333 • www.nationalaidshousing.org
National Alliance to End Homelessness • 202-638-1526 • www.naeh.org
National Alliance of HUD Tenants Boston, MA • 617-267-9564 • www.saveourhomes.org
National Alliance for the Mentally Ill, Arlington, VA • 703-524-7600 • www.nami.org
National American Indian Housing Council • 800-284-9165 • www.naihc.net
National Association of Homebuilders • 800-368-5242 • www.nahb.org
National Community Capital Association, Philadelphia, PA • 215-923-4754 • www.communitycapital.org
National Association of Housing and Redevelopment Officials • 877-866-2476 • www.nahro.org
National Association of Housing Cooperatives • 202-737-0797 • www.coophousing.org
National Association of Development Companies, McLean, VA • 703-748-2575 • www.nadco.org
National Association of Local Housing Finance Agencies • 202-367-1197 • www.nalhfa.org
National Association of Protection and Advocacy Systems • 202-408-9514 • www.napas.org
National Association of Realtors • 800-874-6500 • www.realtor.com
National Business Incubation Association, Athens, OH • 740-593-4331 • www.nbia.org
National Coalition Against Domestic Violence • 202-745-1211 • www.ncadv.org
National Coalition for Asian Pacific American Community Development • 202-223-2442 • www.nationalcapacd.org
National Coalition for the Homeless • 202-462-4822 • www.nationalhomeless.org
National Community Action Foundation • 202-842-2092 • www.ncaf.org
National Community Reinvestment Coalition • 202-628-8866 • www.nrc.org
National Conference of State Legislatures • 202-624-5400 • www.ncsl.org
National Congress for Community Economic Development • 202-289-9020 • www.ncced.org
National Council for Community Behavioral Healthcare, Rockville, MD • 301-984-6200 • www.nccbh.org
National Council of State Housing Agencies • 202-624-7710 • www.ncsha.org
National Economic Development and Law Center, Oakland, CA • 510-251-2600 • www.nedlc.org
National Fair Housing Alliance • 202-898-1661 • www.nationalfairhousing.org
National Federation of Community Development Credit Unions, New York, NY • 800-437-8711 • www.natfed.org
National Governors Association • 202-624-5300 • www.nga.org
National Housing Conference • 202-466-2121 • www.nhc.org
Appendix I: Directory of Agencies and Organizations

National Housing Law Project, Oakland, CA and Washington, DC • 510-251-9400 • 202-347-8775 • www.nhlp.org
National Housing Trust • 202-333-8931 • www.nhtinc.org
National Law Center on Homelessness and Poverty • 202-638-2535 • www.nlchp.org
National League of Cities • 202-626-3000 • www.nlc.org
National Leased Housing Association • 202-785-8888 • www.hudnlha.org
National Low Income Housing Coalition • 202-662-1530 • www.nlhhc.org
National Neighborhood Coalition • 202-429-0790 • www.neighborhoodcoalition.org
National Network to End Domestic Violence • 202-543-5566 • www.nnedv.org
National Policy and Advocacy Council on Homelessness • 202-714-5378 • www.npach.org
National Rural Housing Coalition • 202-393-5229 • www.nrhcweb.org
National Student Campaign Against Hunger & Homelessness • 413-253-6417 • www.studentsagainsthunger.org
Neighborhood Economic Development Advocacy Project, New York, NY • 212-680-5100 • www.nedap.org
Neighborhood Reinvestment Corporation • 202-220-2300 • www.nw.org
Partners for Livable Communities • 202-887-5990 • www.livable.com
Poverty and Race Research Action Council • 202-906-8023 • www.prrac.org
Public Housing Authorities Directors Association • 202-546-5445 • www.phada.org
Rural LISC • 202-739-9283 • www.ruralisc.org
Smart Growth America • 202-207-3355 • www.smartgrowthamerica.org
Surface Transportation Policy Project • 202-466-2636 • www.transact.org
Technical Assistance Collaborative Boston MA • 617-266-5657 • www.tacinc.org
United Way of America, Alexandria, VA • 703-836-7100 • www.unitedway.org
Urban Institute • 202-833-7200 • www.urban.org
U.S. Conference of Mayors • 202-293-7330 • www.usmayors.org
Volunteers of America, Alexandria, VA • 800-899-0089 • www.voa.org
Workforce Alliance • 202-223-8991 • www.workforcealliance.org
YouthBuild USA, Somerville, MA • 617-623-9900 • www.youthbuild.org
NLIHC Direct Assistance Program

NLIHC staff receive hundreds of requests for assistance from all over the United States from people looking for housing they can afford. NLIHC refers people who are seeking affordable housing to the local constituent office maintained by their congressional representative. Thanks to the existence on the Internet of databases that allow the identification of anyone’s congressional representative from their zip code or address, it is a simple matter to locate the appropriate information, and relay it to the person making the request. (See, for example, the “Contact Congress” box on NLIHC’s home page, www.nlihc.org.) The information is accompanied by an explanation of the constituent service function congressional representatives provide, and of the constituent’s right to such services. In addition to providing this information to people who contact us through the mail, email, and by 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.

NLIHC keeps a record of all these interactions and follows up periodically to see how helpful these referrals are. Results indicate that more people receive assistance from their constituent service office than do not in their search for affordable housing. Even if the constituent caseworker who is contacted does not know about affordable housing resources in the local community, we hope that being asked the question will motivate the caseworker to learn.

This approach has three objectives: 1) to obtain knowledgeable assistance in his or her own community for a low income person who is searching for affordable housing; 2) to educate members of the public about both the process and the right to receive service from their congressional representative; and 3) to make Members of the House of Representatives more aware of the housing needs of their constituents.
Appendix K

How To Make a Freedom of Information Act (FOIA) Request

A popular government without popular information or the means of acquiring it is but a prologue to a farce or a tragedy or perhaps both. Knowledge will forever govern ignorance, and a people who mean to be their own governors must arm themselves with the power knowledge gives.

James Madison

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.


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.

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”
    If you are not happy with the response from a FOIA Requester Service Center, you can write the Regional FOIA Public Liason, http://www.hud.gov/offices/adm/foia/foiaservicecenters.cfm.
  o For requests to HUD Headquarters, specific program area “FOIA Liaisons” are at
    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,
  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 awkward 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, 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


Basic Government Guides

Appendix K: How To Make a Freedom of Information Act (FOIA) Request

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.
  - RD’s supplemental FOIA regulations [7 CFR part 2018 Subpart F], http://www.access.gpo.gov/nara/cfr/waisidx_05/7cfr2018_05.html.
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
1. Choose one: I am

☐ Joining NLIHC     ☐ Renewing My Membership

2. Provide your member information (please print)
Name:

_________________________________________________________________

Primary Contact: (if organization):

_________________________________________________________________

Title: _______________________________________________________

Address: ____________________________________________________

_________________________________________________________________

City: _______________________________________________________

State: ___________________________  ZIP ________________

Telephone: __________________________________________________

Fax: _________________________________________________________

Email: __________________________________________________________

I would prefer to receive Memo by: ☐ Email       ☐ Mail

Organizations may list names, titles, and email addresses of up to 10 additional contact people who will receive Memo. Please use a separate sheet if necessary.

3. Choose a membership type:

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount (suggested)</th>
</tr>
</thead>
<tbody>
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<td>Low income individual/Student</td>
<td>$3</td>
</tr>
<tr>
<td>Individual</td>
<td>$100</td>
</tr>
<tr>
<td>Low income resident association</td>
<td>$10</td>
</tr>
<tr>
<td>Organization &lt;$250,000</td>
<td>$200</td>
</tr>
<tr>
<td>Organization $250K-499,999</td>
<td>$350</td>
</tr>
<tr>
<td>Organization $500K-999,999</td>
<td>$500</td>
</tr>
<tr>
<td>Organization $1-2 million</td>
<td>$1000</td>
</tr>
<tr>
<td>Organization &gt;$2 million</td>
<td>$2000</td>
</tr>
</tbody>
</table>

4. Choose a payment type:

☐ Check Enclosed     ☐ Visa     ☐ Mastercard

Credit card number:

_________________________________________________________________

Exp date: _______________________

Cardholder Signature:

_________________________________________________________________

Benefits of Membership

Memo to Members
Members receive this much admired weekly newsletter by e-mail or fax.

Calls To Action
Members are notified through e-mail or fax notification of significant policy developments requiring constituent calls to Congress.

Shelterforce Subscription

Discounted Conference Fees
NLIHC hosts an annual policy conference and leadership reception in Washington, DC. The conference draws advocates, researchers, academics, low income individuals and government experts together to provide expertise and updates to attendees on current federal housing policy initiatives.

Free or Discounted Publications
NLIHC produces a number of publications, including the Advocates’ Guide and Out of Reach. All NLIHC publications are available for free or at a reduced rate to our members.

Telephone resource referrals
with linkage to state and regional networks

Participation in policy-setting decisions of the Coalition

Dues and gifts are taxexempt under Section 501c3 of the IRS code, except $15 for production costs.

Return form to:
NLIHC
727 15th Street NW, Floor 6
Washington, DC 20005