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April 25, 2025

The Honorable Mike Flood
Chairman, House Financial Services Housing and Insurance Subcommittee
343 Cannon House Office Building
United States House of Representatives
Washington, DC 20515

The Honorable Emanuel Cleaver
Ranking Member, House Financial Services Housing and Insurance Subcommittee
2217 Rayburn House Office Building
United States House of Representatives
Washington, DC 20515

Dear Chairman Flood and Ranking Member Cleaver,

Thank you for the opportunity to provide input on the U.S. Department of Housing and Urban Development (HUD)'s HOME Investment Partnerships (HOME) program. We are grateful for your commitment to growing the availability of and access to quality, affordable housing for every American. The HOME program is critical to the production and preservation of affordable rental and homeownership opportunities in rural, urban, and suburban communities, and provides states and local participating jurisdictions (PJs) with much needed flexibility to meet their unique housing needs. Preserving support for the HOME program, maintaining the flexibility of uses for funds, streamlining program requirements, addressing barriers to entry, and maximizing alignment with the Low-Income Housing Tax Credit (LIHTC) program are critical to its success.

The HOME program's success is largely due to the flexibility it provides to states and local jurisdictions to meet the housing needs of their communities. That is fundamental to the design of the program, which allocates 40 percent of funds to states, and 60 percent to localities. The majority of funds are used for the production or preservation of housing: 55 percent for the production or preservation of rental housing, 16 percent for the rehabilitation of homeowner-occupied housing, 25 percent to support homebuyers through either the production or preservation of housing or down payment assistance, and 4 percent for tenant based rental assistance.[1] Given the diversity of PJs and constraints of certain program parameters, this flexibility and local control must be preserved.

Congress and the administration should consider addressing regulatory barriers that slow down production, increase costs for projects using HOME funding, and act as barriers to entry for otherwise eligible individuals and organizations. To the greatest extent possible, regulations should be aligned with similar, compatible programs like LIHTC. HOME program funding is a critical source of gap financing for many LIHTC transactions.

[1] https://www.ncsha.org/wp-content/uploads/HOME-FY-26-National-Factsheet.pdf

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According to the HOME Coalition, "nearly 60 percent of HOME rental units are in LIHTC projects." Aligning the programs to the maximum extent possible will provide efficiencies for both programs and PJs. Further, unnecessary and duplicative environmental reviews and choice limiting actions create a duplication of efforts and add significant and costly delays. There are also challenges related to workforce and materials requirements that can cause delays and increase the cost of development.

NHC and other industry, nonprofit and housing finance agency stakeholders recommended several regulatory and statutory changes to the HOME program in an August 2022 letter.[2] Below captures NHC's latest and highest priority recommendations regarding the HOME program, however, we also support the recommendations made in the August 22 letter as well as many of the suggestions made by our members in response to this request.

1. **Environmental Reviews and Choice Limiting Actions (NEPA: 40 CFR 1500-1508, Part 50 and Part 58)**
   When HOME funding is used in properties with other federal subsidies, there may be multiple responsible entities involved in the financing, and multiple subsidies with environmental review requirements. This often creates duplication of efforts in regard to the environmental review process and can lead to delays and unnecessary costs.

   Recommendation: Allow PJs to use the approved environmental review developed by another responsible entity (e.g., Public Housing Authority) when providing HOME assistance to the same project.

2. **Davis-Bacon (29 CFR 5)**
   Projects that receive HOME funding sometimes receive funding through other federal programs, which also require compliance with Davis-Bacon or similar labor standards. HUD programs vary considerably in whether, when, and to what extent compliance with Davis-Bacon is required. In addition, despite meeting the same or near-same requirements to demonstrate prevailing wages, separate compliance and monitoring processes must be carried out for each funding entity.

   Recommendation: HUD should streamline Davis-Bacon compliance for properties with multiple subsidies that require compliance with Davis-Bacon or similar labor standards, including by allowing the entity responsible for the most significant Davis-Bacon-required funding source (cognizant agency) to take the lead on Davis-Bacon compliance and only require Davis-Bacon reporting under the lead funding source to determine compliance. Davis-Bacon requirements should be balanced with the impact on a project's financial viability. No one is employed by a project that isn't built.

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[2] https://www.ncsha.org/wp-content/uploads/HOME-Coalition-Consensus-Regulatory-Recommendations-8.25.22-Final.pdf

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3. **Buy America, Build America (P.L. 117-58)**
The previous administration determined that "Buy America, Build America" (BABA) requirements established in the Infrastructure Investment and Jobs Act (IIJA) applied to a number of programs that support development of affordable housing, including the HOME program. NHC supports sourcing domestic products and services where possible, however our top priority is increasing the affordable housing supply and access. Some stakeholders have already experienced significant administrative and materials costs increases for producing affordable housing units. Furthermore, BABA requirements do not apply to LIHTC projects, because those projects often also used HOME program funds, BABA requirements effectively slow down and increase costs for LIHTC developments as well.

Recommendation: Eliminate BABA requirements for projects using HOME program funds or increasing the unit threshold for BABA applicability to at least 50 or more units to ensure these requirements apply only to large-scale projects and developers with greater capacity to accommodate them.

4. **Minimum Property Standard Exemptions (24 CFR 200.926)**
HUD requires PJs to ensure all properties receiving HOME funds for rehabilitation of any kind meet strict Minimum Property Standards (MPS). However, this standard makes it difficult to use HOME to assist in disaster recovery situations or for other emergency repairs. It is also duplicative when applied to homebuyer activities, as such housing typically undergoes inspection by licensed home inspectors. Therefore, it is redundant to require the PJ to also ensure the property meets MPS.

Recommendation: HUD should exempt emergency repair from MPS standards, allowing HOME to be a more efficient tool to use in disaster recovery and other emergency situations. Furthermore, we recommend exempting HOME homebuyer activities from the MPS requirement, so long as the owner attests that the property has undergone a home inspection.

5. **Repayment Requirements (24 CFR 92.252(e))**
The HOME repayment regulations go beyond statutory requirements by directing PJs to repay all HOME funds if, at any point during the affordability period, a property in which those funds were invested falls out of compliance with program rules, regardless of how long the development was in compliance. PJs do their best to recapture HOME funds from noncompliant properties to repay HUD; however, sometimes it is impossible for those properties to repay the funding and PJs are left with the repayment responsibility.

Moreover, requiring the repayment of all invested HOME funds in a property if the property goes out of compliance at any point during the affordability period may be a disincentive for undertaking certain types of development, which may have more risk

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associated with them. For example, deeply targeted developments, such as permanent supportive housing, may be riskier than developments that charge rents at or just below the HOME program rent limits.

Recommendation: We recommend the statute allow proration in the repayment of HOME funds, which would better align the programs with the LIHTC program (if a Housing Credit property falls out of compliance within the first 15 years of the affordability period, for instance, the Internal Revenue Service may recapture Housing Credits from investors on a prorated basis.) The statute should also expand HUD's authority to waive repayment of HOME funds in cases where the project is no longer financially viable due to unforeseen circumstances.

6. **Property Inspections (24 CFR 92.251)**
HUD requires HOME PJs to inspect properties for compliance with all state or local habitability codes, if they exist. Only if there are no state or local habitability codes may a PJ use the uniform, national standard, currently Uniform Physical Condition Standards (UPCS). For state PJs this is especially burdensome, as local codes vary significantly from location to location within a state and information about such codes is not always easily obtained. Further, local habitability codes may change over time, so states must check to determine if they have changed each time they inspect a property. Moreover, to truly inspect to any specific code, inspectors must be trained in that code's requirements. It is unreasonable to expect state inspectors to have training in every local code for every jurisdiction in the state.

Every other HUD program—including Public Housing, Section 8 Project-Based Rental Assistance, Housing Choice Vouchers, Section 811 Housing for Persons with Disabilities, Section 202 Housing for the Elderly,—as well as the Low-Income Housing Tax Credit (Housing Credit) and Rural Development programs require or allow applicable grantees/government entities to inspect properties based on a uniform, national standard. Grantees/ government entities utilizing the Housing Credit and HUD programs other than HOME currently inspect in accordance with HUD's UPCS/NSPIRE, while Rural Development uses its own MHF Interior and Exterior Physical Standards for properties receiving U.S. Department of Agriculture funding. HOME is the only program where inspection to local codes is required.

UPCS/NSPIRE is a rigorous inspection protocol developed by HUD to evaluate if its residents live in decent, safe, and sanitary housing. There is no reason why this standard should be acceptable for all other HUD-subsidized and Housing Credit-financed properties, but not for properties receiving HOME funding. Moreover, aligning inspection standards simplifies multiple subsidy compliance and reduces transactional costs.

Recommendation: HUD should allow state PJs to inspect all their HOME properties in accordance with either local codes or a national standard as determined by HUD. If a state PJ chooses to use the national uniform standard, PJs may require owners to certify that they meet local codes but should not be required to inspect the property in accordance with the local code.

7. **Community Housing Development Organization (CHDO) Set-Aside (42 U.S.C. 12771 et. Seq)**
   The HOME program established a unique set-aside structure, requiring 15 percent of funds to be set-aside for CHDOs, unlike the LIHTC program which has a 10 percent set aside for simple nonprofits. While the aim of Congress in establishing this structure was well-intentioned, some requirements related to the CHDO set-aside have had an adverse impact, especially on communities of color and rural communities. Specifically, obtaining and maintaining CHDO certification has proven difficult for many communities and nonprofits, and many communities throughout the country have been unable to establish high capacity CHDOs.

   Recommendation: Congress should replace the CHDO set-aside requirement with a simple non-profit set-aside requirement. At a minimum, Congress should codify the current practice of allowing CHDO set-aside funds to be returned to the PJ if they are not able to be used within 24 months.

   Recommendation: Congress should consider other adjustments to provide maximum flexibility to meet CHDO requirements and certify more entities as CHDOs. Additional recommendations can be found in the aforementioned August 2022 letter.

8. **Eliminating Commitment Deadline (S. 948/H.R. 2031, Section 202.)**
   PJs are subject to a 24-month deadline to commit HOME funds. However, in certain circumstances, this may not provide adequate time for proper oversight and underwriting of proposed developments. Moreover, HOME also has a four-year project completion deadline, which ensures timely outcomes for the program, making the separate commitment deadline unnecessary. In recognition of these changes, since FY 2017, annual Transportation, Housing, and Urban Development (THUD) appropriations bills have suspended the 24-month commitment deadline.

   Recommendation: Eliminate the 24-month commitment deadline for HOME funds to codify what Congress is already doing in annual appropriations legislation.

9. **Property Inspection Standards for Homeownership Homes (24 CFR 92.254(e)(2))**
   When HOME funds are used to help a homebuyer purchase an existing house, PJs are required to ensure that "At minimum, the standards must provide that the housing meets all applicable State and local housing quality standards and code requirements." It is unclear what it meant by this requirement, and many PJs have

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interpreted it as meaning that the existing homes must comply with the state and local building codes that are in-effect at the time of purchase.

Because state and local building codes are regularly updated, this means that many older homes may not meet the most recent requirements despite being safe and having met the standards at the time the home was built. This makes it very difficult, and nearly impossible for some PJs, to provide homebuyer assistance for existing homes.

Recommendation: Allow for the property inspection requirements for existing homes to be met if a state or local code enforcement agency has issued the home a certificate of occupancy or a certificate of completion; or the PJ has completed a home inspection that certifies that the home is compliant with a national standard as determined by HUD (e.g., UPCS), or aligns with FHA's inspection and appraisal requirements for loan approval. The inspection should be completed no earlier than 90 days before HOME funds have been committed.

10. **Leaving Property to Heirs (24 CFR 92.254(c)(1))**
Currently, HUD does not permit someone to inherit a HOME homeownership unit unless the heir is income-eligible at 80 percent AMI. Even in instances where the heir is income-eligible, a HUD field office recently required that the home be listed on the market to provide any income-eligible buyer the opportunity to purchase the property. The current regulations run counter to HUD's goals of residential stability and anti-displacement. Permitting heirs to inherit a home better enables intergenerational wealth-building, especially for people of color.

Recommendation: HUD should allow for heirs to inherit a HOME homeownership unit–regardless of their income.

11. **Area Median Sales Price (42 U.S.C. 12745(b)(1))**
Under current law, homeownership support using HOME funds, such as down payment assistance (DPA), is only available for properties up to 95 percent of area median sales price. In many markets, this effectively makes HOME unusable for these important homeownership activities, despite the fact that potential homebuyers are already subject to income limits to receive HOME assistance.

Recommendation: Congress should consider raising the statutory limit for homeownership support to 110 percent of area median sales price, with additional discretionary authority provided to the Secretary to increase this amount through notice.

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12. **Income Determination (24 CFR 92.203 and 92.254(a)(7) and (8))**
Homeownership assistance programs often include program requirements designed to increase the likelihood of success of their participants, such as homeowner education and financial coaching/counseling, as well as "sweat equity"/ "self-help' requirements. Currently, grantees who administer HOME homeownership programs must determine the income eligibility of participants at the time they commit to the program. If the program requirements take longer than 6 months to complete, PJs must recertify the household's income. Unfortunately, an increase in income over those months could jeopardize program participants' eligibility. It also creates a disincentive for the household to seek an increase.

In addition, more specific HOME regulations (at 92.254) require homebuyers of homes to be constructed or purchased via a lease-purchase program to qualify as income-eligible at the time the contract for such purchase or lease purchase is signed, and specifically provides that a homebuyer should then complete a lease-purchase within 36 months after signing the contract. Often when HOME funds are used to construct a house, an eligible homebuyer is identified at the beginning of the construction process and enters into a contract or other program agreement at that time, rather than once construction is completed. These requirements run counter to HUD's goal of creating homeownership opportunities and supporting wealth building.

Recommendation: Project sponsors should determine income eligibility for households participating in this sort of program at the time that the applicant enters the program. If the household receives an increase in income between the time they entered the program and the time the HOME assistance is provided (within 60 days before closing), they should continue to be considered eligible so long as their income upon redetermination does not exceed 100 percent of AMI.

13. **Rent Reasonableness (Section 92.209(f))**
PJs are required to disapprove a lease for TBRA if the rent is not reasonable based on rents charged for comparable unassisted units. HOME guidance further requires that PJs determine comparability by obtaining rents from three comparable units. The rent reasonableness checklist and certification form require time-consuming research on comparable units including number of bedrooms, square footage, housing condition, building age, and condition, which can be burdensome for staff requirement.

Recommendation: Eliminate the comparability requirement and instead provide grantees with a "safe harbor" for satisfying the rent reasonableness requirement. For example, if the rent for a unit is within 10 percent of the Area fair-market rent (FMR) or Small Area FMR it should be presumed to meet the rent reasonableness standard.

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14. **Minimum Rent Contribution (Section 92.209(h)(2))**
    The HOME regulations regarding minimum rent contribution go beyond statutory requirements to require PJs to establish a minimum rent payment. This is unnecessary and contrary to the requirement that tenants pay 30 percent of their household income for rent, as the minimum rent contribution under this requirement could exceed 30 percent of the tenant's income depending on the amount.

    Recommendation: HUD should delete the requirement at 24 CFR 92.209(h)(2) that PJs must establish a household's minimum rent contribution.

Finally, while the request doesn't directly address appropriations, we hope that the Committee will express strong bipartisan support for the maximum level of funding for the HOME program. Funding for the HOME program has decreased since its inception, failing to maintain funding levels consistent with the program's initial allocation despite a successful record of producing 1.39 million homes. As the affordable housing crisis becomes increasingly more prevalent across the nation, Congress should consider increasing funding to at least be on par with historic levels, adjusted for inflation. According to the HOME Coalition, "Every $1 of HOME leverages nearly $5.00 in additional investments," and "HOME investments have supported more than 2 million jobs and generated $140 billion in local economic impact." Preserving or growing appropriations for HOME is a good investment and would further align with one of President Trump's first memorandums[3] on lowering the cost of housing through production of more housing units.

Thank you for your leadership on this issue, the opportunity for housing stakeholders and advocates to provide input, and your consideration of these priorities.

Sincerely,

David M. Dworkin

David Dworkin
President and CEO
National Housing Conference

About the National Housing Conference (NHC): Founded in 1931, the National Housing Conference is the oldest and broadest housing coalition in America. NHC is a diverse continuum of affordable housing stakeholders who convene and collaborate through dialogue, advocacy, research, and education, to develop equitable solutions that serve our common interest—an America where everyone is able to live in a quality, affordable home in a thriving community. Politically diverse and nonpartisan, NHC is a 501(c)3 nonprofit organization. To learn more about NHC, visit www.nhc.org.

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[3] https://www.whitehouse.gov/presidential-actions/2025/01/delivering-emergency-price-relief-for-american-families-and-defeating-the-cost-of-living-crisis/