



THE UNITED STATES
CONFERENCE OF MAYORS



September 18, 2019

The Honorable Maxine Waters
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

Dear Chairwoman Waters:

On behalf of the members of the United States Conference of Mayors (USCM) and the National Community Development Association (NCDA), we respectfully submit the following statutory recommendations for your consideration. These recommendations were brought forth from weeks of dialogue with community development and affordable housing practitioners at the local level. The recommendations will make the Community Development Block Grant (CDBG) Program and the HOME Investment Partnerships (HOME) Program more flexible, modernize the program statutes, and assist communities in tackling the affordable housing crisis. We ask for your support of these recommendations and urge incorporation into future legislation.

Please feel free to contact Vicki Watson, Executive Director, NCDA, at vwatson@ncdaonline.org and Gene Lowe, Assistant Executive Director, USCM, at glowe@uscm.org with questions.

Sincerely,

United States Conference of Mayors

USCM is the official non-partisan organization of cities with populations of 30,000 or more. There are over 1,400 such cities in the country today. Each city is represented in the Conference by its chief elected official, the mayor.

National Community Development Association

NCDA is a national non-partisan organization comprised of more than 400 local government agencies (both cities and counties) across the country that administer the CDBG program, HOME program, HUD's Homeless Assistance Programs (Continuum of Care and Emergency Solutions Grant), HOPWA, and HUD's lead hazard control grants. NCDA represents large urban areas, suburban areas, and small cities and towns.



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Recommendations for Statutory Changes to the CDBG and HOME Programs

CDBG Program

Add New Construction of Housing as an Eligible Program Activity

Issue: 42 U.S.C. 5305 et seq. – Activities Eligible for Assistance. Currently, new construction of housing is not allowable under the CDBG program statute. The regulations allow for Community Based Development Organizations to carry out new construction of housing as part of a neighborhood revitalization, community economic development or energy conservation project. This limits the program's flexibility to meet an urgent need, principally new construction of affordable rental housing. In a recent CDBG Coalition survey of CDBG grantees, affordable rental housing was listed as the *number one unmet community development need* by the local government survey respondents.

Recommendation: Add new construction of housing as an eligible activity in the CDBG program statute. Allow the grantee, other public agency, or qualified for-profit or non-profit entity (to be defined in the program regulations) to carry out new construction activities.

Designate Fair Housing as an Eligible Stand Alone CDBG Activity

Issue: 42 U.S.C. 5305 et seq. – Activities Eligible for Assistance. Fair Housing activities undertaken to support grantees' certifications to affirmatively further fair housing, are eligible under the CDBG program either as program administrative costs or as a public service activity. Because expenditures under these eligibility categories are capped at 20% for administrative costs and 15% for public service activities, grantees' ability and flexibility to fully fund fair housing in the face of competing administrative and public service objectives is substantially limited, thereby detracting from HUD's objective of strengthening fair housing through the elimination of impediments to fair housing choice.

Recommendation: Change the CDBG program statute to make fair housing a separate eligible activity. This modification would eliminate the limitations that grantees currently have when attempting to implement fair housing programs.

Align the CDBG Labor Standards (Residential Rehab) Threshold with the HOME Program

Issue: 42 U.S.C. Section 5310 et seq. - Labor Standards. Construction/rehabilitation work that is financed with federal funds must adhere to the Davis-Bacon Act. The Davis Bacon requirements are applicable to contracts for construction and rehabilitation that cover 8 or more units in CDBG and 12 or

more assisted units in the HOME program. Once Davis Bacon is triggered, it is applicable to the entire project. The Davis Bacon requirements increase project costs and are administratively burdensome for all contractors and grantees, but particularly small jurisdictions and contractors.

Recommendation: Amend the CDBG statute to align the labor standards for residential rehabilitation in CDBG (8 or more units) with the HOME program (12 or more assisted units).

Amend the CDBG Statute to Include a Provision That Sets the CDBG Non-Residential Construction Threshold at \$100,000

Issue: 42 U.S.C. Section 5310 et seq. - Labor Standards. The Davis-Bacon Act was enacted in 1931 and requires contractors and subcontractors to pay no less than the prevailing wages to various classes of labor under construction contracts in excess of \$2,000. Contractors and subcontractors must submit certified payroll data on a weekly basis and maintain records. Because this threshold is so low virtually all CDBG non-residential construction contracts are subject to this requirement.

Recommendation: Amend the CDBG statute to include a provision that sets the Davis-Bacon Act threshold for CDBG-funded non-residential construction at \$100,000 (indexed for inflation annually). This change would allow smaller projects to proceed expeditiously and in a cost-effective manner, while keeping prevailing wage requirements in place for larger projects.

HOME Program

Increase Program Admin from 10% to 15%

Issue: 42 U.S.C. 12742 et seq. – Administrative Costs. The HOME statute caps administrative costs at 10% of a Participating Jurisdiction's (PJs) grant. The HOME program regulations are difficult, complex and require a lot of staff time to implement. The program administration allocation has not kept up with the staff time needed to administer the program such as the increased burden imposed by the long-term affordability monitoring requirements – rent, income, owner-occupancy and local codes. The number of units to be monitored continues to grow and the administrative cap needs to be increased to reflect this growth.

Recommendation: Change the HOME program statute to allow PJs to use up to 15% of their grant amount for administrative costs.

Eliminate the CHDO Set-Aside OR Make It Optional

Issue: 42 U.S.C. 12771 et seq. – Set-Aside for Community Housing Development Organizations. A CHDO is a private nonprofit, community-based service organization that has obtained or intends to obtain staff with the capacity to develop affordable housing for the community it serves. PJs must set-aside a minimum of 15 percent of their HOME allocation for housing development activities in which qualified CHDOs are the owners, developers and/or sponsors of the housing. CHDOs must meet specific requirements such as staff capacity and board composition. PJs are having difficulty allocating the 15% set-aside because of a lack of qualified entities that meet the CHDO criteria. CHDO funds are recaptured by the Treasury if not allocated or used by the PJ resulting in a loss of valuable housing resources to communities.

Recommendation: Delete the CHDO set-aside requirement from the HOME statute OR change the statute to make it an optional activity.

Make Permanent the 24-Month Commitment Deadline Suspension

Congress has included a provision in recent omnibus appropriations bills that eliminates the requirement that PJs commit HOME funds within 24 months (42 USC 12748). We urge Congress to make this change permanent.

Make the HOME Program Leasing Requirements More Flexible to Assist the Homeless

Issue: 42 U.S.C. 12755 et seq. – Tenant and Participant Protections – Lease. Currently, the HOME program statute requires that a rental lease be between a tenant and owner of affordable housing.

Recommendation: Amend the HOME program statute to allow homeless services providers with a HUD leasing grant to lease a HOME unit and sublet it to a homeless family.