



2021 Affordable Housing Recommendations

This document contains four sets of recommendations for action in 2021 to address the nation’s urgent housing crisis – exacerbated by the COVID-19 pandemic – to support stability, economic opportunity, and racial equity for low-income Americans:

- 1. Federal Housing Priorities in 2021** 2
This short memo outlines top priorities for Congressional action to support housing responses to the COVID-19 emergency and the equitable recovery that must follow.
- 2. Opportunities for Immediate Administrative Action**..... 4
This memo notes opportunities for action under existing HUD authorities which could have immediate, positive impacts for low- and moderate-income households around the country:
- 3. Affordable Housing and Access to Opportunity** 6
Affordable housing is critical for every American, but it is not an end in itself – it is a platform that should support residents’ access to opportunity. This memo outlines options for Congress and HUD to promote access to opportunity for assisted residents.
- 4. Opportunities to Promote Preservation of HUD-Assisted Communities** 9
Preserving at-risk affordable housing communities – making necessary repairs and extending their affordability protections – is a crucial element of the response to the nation’s affordable housing crisis. This memo describes steps HUD and Congress can take to support preservation efforts.

Preservation of Affordable Housing (POAH) is a national nonprofit organization whose mission is to preserve, create and sustain affordable, healthy homes that support economic security, racial equity and access to opportunity for all. Since 2001 POAH has preserved or created affordable homes for more than 20,000 Americans – seniors, low-wage workers, children, and persons with disabilities – in 11 states and the District of Columbia.



Federal Housing Priorities in 2021

Preservation of Affordable Housing (POAH) is a high-capacity nonprofit housing enterprise. Since 2001, POAH has preserved or created healthy, affordable homes for over 20,000 people - seniors, low-wage workers, children, and people with disabilities - in 11 states and the District of Columbia. POAH's residents earn less than \$15,000 on average - too little to cover market rent anywhere in the nation - making our communities a critical safety net between these families and homelessness.

In 2021, POAH calls on Congress to:

EXPAND HOUSING RESOURCES FOR COVID-19 RESPONSE

At the end of 2020, Congress delivered housing resources to respond to the COVID-19 crisis, but more action is urgently needed. Most critically, the CDC eviction moratorium must be extended. Next, Congress should appropriate at least \$25 billion more for emergency rental assistance to help American renters, who owed more than \$70 billion in back rent at the end of 2020. Finally, to fully realize the impact of the newly strengthened 4% Housing Credit, Congress should ease constraints on each state's use of tax-exempt bond financing by reducing the "50 percent test" for bond-financed affordable housing projects to 25 percent.

STRENGTHEN THE LOW-INCOME HOUSING TAX CREDIT

The Housing Credit funds nearly all affordable housing development in the US. In late 2020 Congress shored up the value of the 4% Housing Credit, and is urged to improve states' access to the tax-exempt debt that triggers the 4% Housing Credit (see above). Congress should build on these emergency measures by passing the bipartisan Affordable Housing Credit Improvement Act (116th Congress: S.1703/H.R.3077), which makes more than 25 improvements to this already successful program. Key changes include: expanding the 9% Housing Credit; enhanced impacts for Native American, high-poverty, and high-cost communities; and support for preservation transactions.

EXPAND FUNDING FOR PROJECT-BASED SECTION 8

This critical program provides deeply affordable housing for 2.1 million Americans - nearly 90% of whom are seniors, people with disabilities, or families with children. Project-based rental assistance is crucial in supply-constrained housing markets, facilitates the delivery of supportive services, and leverages private resources to support housing production and renovation. For FY22, Congress should provide enough funding to renew all contracts, plus at least \$500 million for new rental assistance to support additional households.

SUPPORT BROADBAND ACCESS FOR HUD-ASSISTED HOUSEHOLDS

Access to affordable broadband internet service is a prerequisite to full participation in the American economy. The HUD-assisted housing inventory represents a scalable opportunity to extend this essential link to large numbers of low-income households. Congress should direct HUD to include broadband costs in assisted residents' utility allowances, and should provide resources to support direct provision of broadband service by housing owners and PHAs.

SUPPORT RESIDENT SUCCESS IN HUD-ASSISTED PROPERTIES

Nearly 75% of non-elderly, non-disabled Section 8 households work (or are subject to TANF work requirements), but their average income is just \$12,000. Proven, effective models for supporting resident success - from housing stabilization and eviction prevention through employment support and credit-building - should be expanded. Congress should authorize and appropriate funding for a grant program to support resident service coordinators in HUD-assisted family properties (a model used effectively in Section 202 senior housing), and should increase funding for the impactful Family Self Sufficiency program to \$125 million in FY22 to support its continued expansion.

Congress should also support a major expansion in the nation's affordable housing inventory by ramping up programs that support construction and preservation:



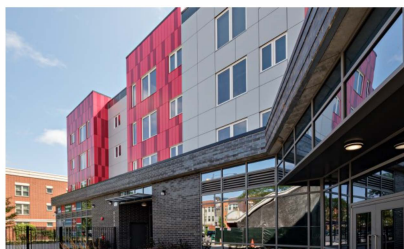
INCREASE HOME FUNDING

The HOME program provides essential gap funding for the development of 1.2 million affordable housing units, targeted by states to their specific needs including both rental and homeownership. Congress should fund HOME at \$1.75 billion in FY22.



EXPAND THE SECTION 202 SENIOR HOUSING PROGRAM

The need for affordable senior housing is growing rapidly as baby boomers age. Seniors over 65 are America's fastest-growing age group, and in 2019 more than 10 million seniors paid more than a third of income for housing. Without affordable housing, they spend nearly 50% less on food and health care to make ends meet. For FY22, Congress should fund the renewal of all existing HUD S.202 Senior Housing rental assistance, plus at least \$200M for new production.



EXPAND THE CHOICE NEIGHBORHOODS INITIATIVE

CNI has helped POAH and others change the trajectory of distressed communities through comprehensive mixed-use redevelopments and associated supports. Congress should increase CNI funding to \$300 million for FY22.



EXPAND THE CAPITAL MAGNET FUND PROGRAM

Congress should double the resources allocated through the Capital Magnet Fund, which provides flexible grants to nonprofits and CDFIs to support housing preservation and production, by appropriating FY22 funds to match the required contributions to this program by Fannie Mae and Freddie Mac (the 2020 allocation was \$173 million).



PROVIDE NEW FUNDING TO SAVE EXISTING "NATURALLY AFFORDABLE" HOUSING

The COVID crisis has destabilized many existing low-cost, un-subsidized rental housing communities across the US. Congress should deploy new funding to allow affordable housing providers to respond to this threat by acquiring, stabilizing, and extending long-term affordability for these rental communities. This strategy capitalizes on near-term declines in housing asset prices to expand the nation's affordable housing stock through acquisition, which is more cost-effective and faster than new construction.

Opportunities for Immediate HUD Administrative Action

The nation's affordable housing shortage is vast, and requires large-scale, visionary solutions which will take time to enact and implement. In the near term, however, HUD has numerous opportunities for action under existing authorities which could have immediate, positive impacts for low- and moderate-income households around the country:

Use Active Rulemaking or Guidance Processes to Make Near-Term Improvements:

- **Family Self Sufficiency:** HUD should complete its [rulemaking](#) process to fully implement 2018 FSS legislation, ensuring funding access for PBRA FSS programs in the FY21 FSS NOFA. HUD should also implement TRACS 2.0.3.A to facilitate FSS reporting for PBRA FSS programs, encouraging wider program adoption.
- **Support Housing Production by Streamlining Project-Based Voucher Awards:** HUD should revise its [proposed rule](#) implementing certain HOTMA provisions relating to project-based vouchers, allowing PHAs to provide conditional commitments to project-base vouchers at projects meeting local priorities, contingent on a project's subsequent award of a competitively awarded public resource.
- **Support Transfers of Section 8 Assistance to Opportunity Areas:** HUD should update its [guidance](#) for transfer of rental assistance under Section 8(bb) to fully realize the potential of this powerful authority, including (a) engaging state/local agencies to place opt-out HAP authority; (b) supporting transfers to opportunity areas by allowing rents to be reset at market for the new location; and (c) streamlining the review process from application through post-construction inspections.
- **Use HUD Subordinate Debt to Promote Preservation Outcomes:** HUD should update its "[Post-M2M](#)" guidance to better leverage HUD-held M2M subordinate debt to promote preservation transfers of properties to Qualified Nonprofits ("QNP") who will act as long-term stewards. HUD should eliminate its "partial paydown" requirement, which undermines the QNP incentive, and restore its original practice – assigning M2M debt to a QNP purchaser – which allowed QNPs to compete much more effectively with profit-motivated buyers.

Other Opportunities for Positive Impact Through Administrative Action:

- **Retract Destructive Regulations and Executive Orders.** The administration should immediately retract or unwind destructive Trump Administration rules and executive orders which will harm low-income families – in particular, the [Preserving Community and Neighborhood Choice rule](#) ; the "[Public Charge](#)" rule; and the [proposed rule gutting the Disparate Impact Rule](#).

- **Improve the Transfer Process:** HUD can support positive outcomes for assisted properties and residents by reducing delays and uncertainty associated with its approval processes for preservation / rehabilitation transactions. In particular:
 - HUD should streamline processes for preservation sponsors with strong track records – a single annual previous participation review instead of reviews for each transaction; “short-form” TPA and HAP assignment processes; a REAC grace period for preservation buyers pursuing approved capital improvement plans; and real-time status visibility – would encourage transfers to good stewards.
 - HUD should streamline or eliminate transfer approval requirements for transfers between related parties, as when an owner transfers a property into a LIHTC partnership it controls.
 - HUD should provide uniform guidance and checklists for standard approvals – TPAs and HAP assignments in particular – and eliminate variation across field offices.
 - HUD should set targets for processing timelines for key approvals, and track and report on performance, implementing a model used successfully to improve FHA processing times.

- **Promote Broadband Access:** Broadband access is key to full participation in the American economy, especially during the current crisis, and HUD should support affordable access by recognizing broadband internet as a utility and including broadband costs in the calculation of utility allowances for HUD-assisted households. HUD should also provide resources for owners to provide free broadband: for properties with market-based rents, HUD should update guidance to ensure owner-provided broadband is appropriately reflected in rent-setting by removing the \$50/5% cap on adjustments for non-shelter services; and for budget-based properties, HUD should clarify that broadband provision is an eligible property expense.

- **Expand Resources for Service Coordination:** Onsite resident service coordinators can provide crucial support to help assisted families thrive, but funding is scarce. HUD could provide more support by updating guidance to ensure services/coordination are appropriately reflected in rent-setting by removing the \$50/5% cap on adjustments for non-shelter services; and for budget-based properties, HUD should clarify that resident services in family properties are an eligible property expense.

- **Strengthen the FHA Risk-Sharing program:** HUD’s Risk-Sharing program, which allows high-performing state HFAs to lend to affordable housing projects with federal credit enhancement, is a key financing vehicle for preservation efforts. HUD and Treasury should reinstate the FFB Risk Share program, under which Risk-Sharing lenders could Draw on low-cost capital from the Federal financing Bank to deliver very low-cost loans to affordable projects. HUD should also reinstate the Small Building Risk Sharing Initiative, a key tool for smaller preservation transactions.

Affordable Housing and Access to Opportunity

POAH believes that affordable housing is critical for every American family, but it is not an end in itself. Housing is a platform that should support residents' access to opportunity. More can be done to ensure that federally assisted affordable housing provides an effective platform to promote opportunity – by providing enhanced resident supports; by promoting digital inclusion; and by supporting mobility and access to high-opportunity communities.

A. Supportive Services

Proven, effective models for supporting resident success – from housing stabilization and eviction prevention through employment support and credit-building – should be expanded. These programs deliver better outcomes for residents, including eventual transitions to market-rate housing, and also support properties' financial stability.

Family Resident Services Coordinators: Resident Services Coordinators (RCS) play a key role by connecting residents to community resources, but funding for RCSs at HUD-assisted family properties is scarce. New resources are needed.

- **Reflect RSC Costs in Rents:** HUD should ensure that Section 8 / PBRA properties' rental subsidy can support high-quality resident services by clarifying that Rent Comparability Studies should reflect the full cost of such programming (current guidance caps adjustments for non-shelter services at \$50/unit or 5% of rent).
- **Funding for Family RSCs:** Congress should authorize and appropriate funding for a grant program to support resident service coordinators in HUD-assisted family properties, modeled on the existing RSC grant program authorized and funded under the S.202 senior housing program.

Enhanced Family Self Sufficiency Program: HUD's Family Self Sufficiency (FSS) program is a proven model to promote earnings and savings for HUD-assisted households, combining personalized support with a financial incentive. The program is relatively small but is ready to go to scale.

- **Implement 2018 FSS Legislation:** Congress passed legislation in 2018 which strengthened the FSS program, allowed families to save more of their earnings, expanded the FSS program to PBRA properties, and made PBRA properties eligible for FSS Coordinator funding. HUD should issue implementing regulations and reflect the changes in future NOFAs.
- **Update IT Systems to Support FSS:** HUD can reduce compliance burdens for PBRA FSS programs and encourage broader program adoption by implementing the long-delayed version 2.0.3.A of TRACS, its voucher payment system software, to allow PBRA FSS programs to automatically calculate tenant rent payments and escrow deposits.
- **Support FSS Performance:** Like any program, the impact of FSS depends on high-quality coaching and support from an FSS program provider employing proven best practices. HUD should promote program performance by expanding its technical assistance supports for program providers and by implementing performance management systems for FSS programs.

- **Expand FSS Funding:** The size of the FSS program is currently limited by the caseload capacity of FSS coordinators (or “financial coaches”). Congress should make the program accessible to many more assisted residents by substantially increasing appropriations for FSS coordinator grants.

B. Digital Inclusion

Access to affordable broadband internet service is a prerequisite to full participation in the American economy. The HUD-assisted housing inventory – and each affordable multifamily property – represent scalable opportunities to extend this essential link to large numbers of low-income households.

- **Broadband is a Utility:** HUD should support affordable access by recognizing broadband internet as a utility and including broadband costs in the calculation of utility allowances for HUD-assisted households.
- **Support Owner Broadband Provision:** HUD should ensure that rent levels for assisted properties allow owners who provide broadband, computer centers, or other supports for digital inclusion to recoup related costs. For properties with market-based rents, HUD should update guidance to ensure owner-provided broadband is appropriately reflected in rent-setting by removing the \$50/5% cap on adjustments for non-shelter services; and for budget-based properties, HUD should clarify that broadband provision is an eligible property expense. HUD should also permit the use of Residual Receipts and other HUD-controlled reserves for the up-front or ongoing costs of broadband provision.
- **Enhance and Streamline Lifeline:** The aim of FCC’s Lifeline program is to provide affordable broadband access to low-income people, but its \$10/month discount is insufficient to provide real affordability. Congress should revamp Lifeline to provide truly affordable broadband (at \$20/month or less) and provide automatic enrollment for households with HUD rental assistance.
- **Affordable Device Access:** Households need affordable computing devices – not just smartphones – to realize the benefits of broadband access for work, school, health, and more. Federal agencies should use their regulatory power to promote provision of affordable laptops for low-income families by the nation’s technology companies.
- **Digital Skill Building:** Training is a crucial element of the nation’s digital inclusion effort, and HUD should support digital skill building for assisted residents through funding and support for training, or to support connections to training resources in the community.

C. Mobility

Decades of government-sponsored racial discrimination in housing, reinforced even after the 1968 Fair Housing Act by exclusionary zoning and other “race-blind” policies, have contributed to persistent racial segregation, and the concentration of people of color — particularly Black Americans — in high-poverty, low-opportunity neighborhoods that have suffered underinvestment.

Even as the US works to lift up its struggling communities, it must do more to ensure low-income families have access to safe, healthy, communities where they can thrive.

Fair Housing: HUD should do more to help local governments to fulfill their obligation to affirmatively further fair housing:

- ***Affirmatively Furthering Fair Housing:*** HUD should rescind the newly released AFFH proposed rule and fully implement the 2015 AFFH rule to provide support and accountability as its program participants fulfill their obligations under the Fair Housing Act.
- ***AFFH Technical Assistance:*** Congress should provide increased funding to allow HUD to expand its outreach and technical assistance for program participants seeking to fulfill their obligations under the AFFH rule.

Multifamily Production: The lack of affordable multifamily rental housing in many communities excludes low-income households and perpetuates patterns of segregation. HUD and the Congress can help to promote production of affordable rental housing in these areas:

- ***Project-Based Mobility:*** HUD should support the transfer of project-based Section 8 rental assistance contracts to properties in high-opportunity areas by allowing sponsors to terminate and renew such contracts at new local-market rents immediately after transfer (current guidance imposes a 5-year rent freeze).
- ***Project-Based PBVs:*** HUD should remove barriers to adding project-based rental assistance in opportunity areas by permitting PHAs to issue conditional commitments for PBV proposals, indicating that PBV assistance would be available contingent on the project's having secured some other (perhaps specified) competitively awarded public resource.
- ***Zoning Reform:*** Congress should authorize and fund significant financial incentives for communities that replace exclusionary zoning rules with policies to support affordable rental housing, including as-of-right multifamily zoning, effective inclusionary affordable requirements, and design flexibility for affordable projects.

Voucher Mobility: Too often, the mobility promised by housing vouchers goes unrealized, stymied by programmatic flaws, landlord discrimination, or other systemic factors – but a number of strategies can help voucher holders access opportunity communities:

- ***Small Area FMRs:*** HUD should require all PHAs to transition to the use of Small Area Fair Market Rents, with appropriate hardship protections, to ensure that voucher payment standards support access across local rental markets instead of concentrating assisted households in lower-rent areas.
- ***Voucher Mobility Demo:*** Congress should significantly expand the HCV Mobility Demonstration first authorized and funded in 2019 to provide all HCV recipients with additional support and information to facilitate moves to high opportunity communities.
- ***Source of Income Discrimination:*** Congress should pass legislation to make source of income a protected class under the Fair Housing Act, outlawing discrimination against housing voucher holders, and should provide additional resources for enforcement of this provision.

Opportunities to Promote Preservation of HUD-Assisted Communities

Many existing affordable multifamily housing communities across the US are at risk of loss, either through conversion to market-rate housing or from unaddressed physical needs. Preserving these properties – making necessary repairs and extending their affordability protections – is a crucial element of the response to the nation’s affordable housing crisis for a number of reasons:

- **Preservation is cost-effective.** Preserving an existing affordable unit generally costs [one-half to two-thirds](#) as much as building a new one.
- **Preservation prevents displacement.** Preservation protects a property’s existing residents and their community connections and ensures the property will remain a resource for future residents.
- **Preservation is sustainable.** Preservation reinvests in existing infrastructure, instead of consuming new Greenfields sites; and it uses less construction materials than new construction.
- **Preservation creates jobs.** Preservation uses relatively more labor and less materials than new construction, and so it creates more jobs per construction dollar.

Even as the nation works to expand its affordable housing inventory, there is more that HUD and the Congress can do to ensure the existing inventory is protected and renewed.

To meet the nation’s affordable housing needs, HUD needs resources for the direct cost of development as well as for ongoing rental assistance for the neediest families. But HUD also needs adequate staffing and updated systems to shepherd these public resources. In recent years, HUD has demonstrated an ability to attract and retain highly skilled and dedicated staff to advance its mission despite constrained funding for administration and infrastructure, and should be adequately funded in order to maintain this progress.

A. Promoting Preservation Transfers

- ***Proactive Enforcement:*** HUD should use its existing oversight and enforcement tools, as well as emerging tools like resident surveys, to proactively target struggling properties and promote transfers to high-capacity, mission-oriented owners.
- ***Establish Formal Enhanced Voucher Rule:*** Enhanced Vouchers are authorized by Section 8(t) and related legislative references, but formal regulations have not been issued. HUD should do so, to clarify and promote uniform implementation of this important tool for tenant protection and preservation of affordable assisted multifamily housing. This would clarify, among other things, the current case-by-case treatment of Flexible Subsidy properties, the definition of “low vacancy area” for determining eligibility of moderate-income tenants; and the issues of re-screening and the right to remain.

- ***Transfer Approvals:*** HUD can do more to ensure that HUD-assisted or -financed properties are transferred only to competent owner/managers who are committed to addressing long-term capital needs. HUD should update its guidance for transfer reviews to require that purchasers submit plans to address all needs identified in a third-party capital needs assessment, and HUD should impose penalties on new owners who fail to implement such plans.
- ***Streamlined Processes:*** HUD can support preservation by reducing delays and uncertainty associated with its approval processes. Preservation transactions often bring extra complexity as legacy program obligations must be coordinated and synchronized with current tools and financing sources. HUD can promote good outcomes by working collaboratively with project sponsors and internal stakeholders, by defining timelines for decisions involving multiple divisions, and providing status transparency throughout. HUD could also streamline processes for preservation sponsors with strong track records – a single annual previous participation review instead of reviews for each transaction; “short-form” TPA and HAP assignment processes; a REAC grace period for preservation buyers pursuing approved capital improvement plans; and real-time status visibility – would encourage transfers to good stewards. Finally – HUD should streamline or eliminate transfer approval requirements for transfers between related parties, as when an owner transfers a property into a LIHTC partnership it controls.
- ***Mark-to-Market Debt Relief:*** HUD has existing authority to assign outstanding HUD-held subordinate loans created through Mark-to-Market debt restructurings, and originally used this debt relief incentive to support preservation transactions with qualified nonprofit (QNP) sponsors. HUD should update its guidance to remove the “partial paydown” requirement in cases where a QNP preservation purchaser commits to long-term extension of affordability and shows the seller proceeds derive from another source.
- ***Flex Sub Debt Relief:*** HUD Flex Sub loans are typically due on sale, or mortgage repayment/maturity, but HUD also has the authority to defer repayment requirements in order to support preservation outcomes. HUD should review and update existing guidance to ensure a reasonable and predictable processing time and to make underwriting standards more transparent for deferrals. In addition, in cases where full repayment of the Flex Sub debt is not feasible and the Note’s value is therefore impaired, HUD should establish a clear path for exercising its authority to sell the Note to a public agency for its true market value, enabling that agency to pursue a workout with the owner.
- ***Clarify Distribution Rights (S.202):*** When a property undergoes a preservation transaction, legacy regulatory requirements regarding the ability to receive distributions from surplus cash flow may change. Clear guidance is needed, to enable preservation-oriented nonprofit owners and purchasers to predict the economics of a transaction, and to apply the benefits of successful operation to the nonprofit’s charitable purpose. In the case of refinancing Section 202 properties with direct loans and project-based Section 8 contracts, there have been different interpretations as to whether the post-refinance Use Agreement implicitly prohibits distributions as a result of incorporating Section 202 regulations by reference. A cumbersome work-around has been suggested to permit distributions, but would not be necessary if guidance were simply to clarify that distributions after a refinance will be determined by the language in the original Section 8 HAP contract.

- *Clarify Distribution Rights (LIHPRHA):* In addition, in the case of properties that have undergone a LIHPRHA transaction, the FAST Act has recently made possible unlimited distributions and release of residual receipts. Although HUD has issued guidance on the necessary procedures for approval, it has not yet provided specimen language for necessary amendments to the LIHPRHA Use Agreement. It is unnecessarily burdensome for owners to be required to draft their own amendment language de novo, with no assurance that HUD will approve, and with the prospect of a protracted negotiation involving both field and Headquarters offices. HUD should issue one or more specimen LIHPRHA Use Agreement amendments and also revise existing guidance to identify other legacy provisions of these use agreements that may be modified or removed at the field office level.

B. Honing the 8(bb) Preservation Tool

HUD's "Section 8(bb)" authority (at 42 USC 1437f(bb)) represents both a statutory mandate to preserve rental assistance and a powerful tool to support transfers to properties and communities that can better support low-income households.

- *Respond Effectively to Opt-Outs/Terminations:* When a Section 8 contract is terminated or not renewed (including in case of an "opt out", or when HUD is forced to terminate in an enforcement action), HUD is required to transfer any remaining budget authority to a new contract. HUD should more proactively support the transfer process by asking state housing finance agencies to conduct competitive processes to re-award this resource, by pre-qualifying high-performing owners as potential recipients, and by holding any rescissions in abeyance while this redeployment is in process.
- *Streamline Approvals:* The approval process for 8(bb) transfers is byzantine and time-consuming, involving multiple HUD offices (local field office, OAMPO, PD&R, and FHEO, at minimum). HUD should allocate staffing and resources to allow OAMPO to effectively coordinate the inter-departmental elements of the process, including defined timelines and better transparency of approval status for sponsors. HUD should also implement a much more streamlined review process for smaller 8(bb) transfers (involving less than 10 units).
- *Timely Inspections:* Current guidance requires a passing REAC physical inspection prior to transfer, but OAMPO has no control over REAC scheduling and inspection delays frequently delay transfers, which hurts assisted residents and properties. HUD should empower OAMPO to schedule REACS on-demand for approved 8(bb) projects, or should accept physical inspections from other funders while REAC inspections are pending.
- *Support Transfers to Opportunity Areas:* Some Section 8 contracts can be "reset" at local market rents at the owner's option (through an early termination and immediate renewal at market rents). Such contracts should retain this option following an 8(bb) transfer, which would allow sponsors to move rental assistance to higher-opportunity, higher-cost communities (subject to all other aspects of the 8(bb) approval process, including tenant review). Current guidance freezing post-transfer rent increases for five years is not required by the 8(bb) statute and impedes transfers which would benefit residents and communities.
- *Protect Budget-Based Properties:* Some assisted properties, especially senior communities, have budget-based rents which may be above local market rents to support the cost of resident services and other project costs. When such contracts must be transferred through 8(bb), HUD

should support their preservation by allowing them to retain their “exception rents”, as would be permitted in a standard/in-place renewal. Current guidance requires such contracts to be marked down to local market, which is not required by statute and prevents otherwise desirable transfers.

C. Healthy, Sustainable Preservation

Retrofitting buildings to support resident health and resource efficiency also promotes affordability preservation by reducing long-term operating and turnover costs.

- ***Weatherization Assistance Program for Multifamily:*** The HUD-DoE Weatherization Partnership, which streamlined WAP investments in affordable multifamily properties, should be revived. In addition, HUD and DOE should do more to encourage states to implement targeted multifamily WAP programs through specialized entities well-versed in best practices for multifamily energy retrofits. Congress should expand the weatherization program to streamline access and provide deeper incentives to support more intensive upgrades.
- ***Efficient Utility Allowances:*** HUD should encourage owners to implement efficiency measures or renewable energy systems by updating its guidance for utility allowances, including providing options for adoption of the [Energy-Efficient Buildings Utility Allowance](#) or [Solar Utility Allowance](#). These innovative methods incentivize building upgrades by allowing sponsors to recoup savings from efficiency improvements for resident-paid utilities.
- ***Efficiency and Rent-Setting:*** Prospective residents value resource-efficient building systems because they reduce monthly utility costs. HUD should ensure that value is reflected in rent comparability studies which determine Section 8 rent levels – providing owners an incentive to make the improvements – by providing clearer direction to rent study providers.
- ***Healthy Buildings:*** Addressing potential health hazards in older buildings has significant benefits for residents, but can also help extend property’s long-term viability as affordable housing as aging building systems are replaced, often with lower-maintenance components. HUD and Congress should do even more to encourage investments in health-focused upgrades to assisted communities, including through HUD’s Healthy Homes program, the use of state Medicaid waivers allowing health system investments in housing, and other approaches.
- ***Resiliency:*** Climate change is exacerbating the intensity and frequency of natural disasters, and residents of older affordable communities are increasingly at risk. Congress and HUD must allocate new resources to support property retrofits to help assisted communities weather future storms.

D. Expanded Investments in Preservation

Massive new public investment is needed to address the nation’s housing crisis – but in the near term, HUD and Congress can also boost preservation efforts with more targeted investments, in some cases without legislative action.

- ***Restore CRA:*** The Community Reinvestment Act (CRA) is a major driver of private investment in affordable housing. The OCC’s 2020 rule, which would weaken CRA, should be withdrawn and

replaced with a new joint rule that impels banks to do even more to correct historic disinvestment in LMI communities of all kinds – not just “CRA hot spots” – and weights CRA credit on the basis of investments’ actual benefits for LMI people.

- *Streamline Project-Based Voucher Awards:* Adding rental assistance to an existing building can be an effective preservation strategy, adding deeply affordable units and supporting the property’s financial viability. HUD can support local PHAs’ preservation efforts by allowing them to provide conditional commitments to project-base vouchers at properties/projects meeting local priorities, contingent on the project's having secured some competitively awarded public resource.
- *Activate Unused Faircloth Units:* Many PHAs have unused “Faircloth authority” which could be used, in conjunction with the RAD conversion process, to add new deeply affordable rental assistance units in their jurisdictions. HUD should update the RAD program guidance to provide a clear roadmap for the development and RAD conversion of unused Faircloth units, and should re-examine the current process for setting rents at re-activated Faircloth units.
- *Duty to Serve Preservation:* Fannie Mae and Freddie Mac have a duty to serve the preservation of affordable housing, established by statute in 2008 and overseen by FHFA. In view of the nation’s deepening housing crisis, FHFA should require the enterprises to set more aggressive targets for performance in this area (and the other underserved markets). In particular, Fannie and Freddie should expand their equity investments – in LIHTC projects, as well as in mission-oriented REITs preserving unsubsidized “naturally occurring” affordable housing.
- *Strengthen Risk-Sharing:* HUD’s Risk-Sharing program, which allows high-performing state HFAs to lend to affordable housing projects with federal credit enhancement, is a key financing vehicle for preservation efforts. HUD and Treasury should reinstate the FFB Risk Share program, under which Risk-Sharing lenders could Draw on low-cost capital from the Federal financing Bank to deliver very low-cost loans to affordable projects. HUD should also reinstate the Small Building Risk Sharing Initiative, a key tool for smaller preservation transactions. Congress should further enhance the Risk Sharing program by allowing high-performing CDFIs to participate as lenders, and by allowing GNMA securitization of Risk-Sharing loans.
- *Fund Acquisition-Preservation Efforts:* The COVID crisis has destabilized many existing low-cost but un-subsidized rental housing communities across the US. Congress should deploy new funding to allow responsible affordable housing providers to respond to this threat by acquiring, stabilizing, and extending long-term affordability for these rental communities. This [strategy](#) would capitalize on near-term declines in housing asset prices to expand the nation’s affordable housing stock.