COSCDA Federal HUD Programmatic Priorities
Fiscal Year 2021

The Council of State Community Development Agencies (COSCDA) is a forty-six year old advocacy organization that represents state community development housing agencies responsible for administering Department of Housing and Urban Development (HUD) programs, including the Community Development Block Grant (CDBG) (both formula based and Disaster Recovery) HOME Investment Partnerships (HOME) and McKinney-Vento Homeless Assistance programs along with the National Housing Trust Fund; all programs that meet critical housing and community development needs and have played a major role in the successful transformation of both urban and rural communities in all fifty states since their inception.

While our nation navigates an uncertain political climate, COSCDA remains steadfastly committed to advocating for consistent and sufficient resources available to communities that implement local community development projects and programs to improve neighborhoods. Achieving predictability in the availability of adequate resources ensures that these funds, which are essential for job creation, assisting small business, providing much needed housing and economic development infrastructure, including producing affordable rental housing units, rehabilitating owner-occupied housing, providing affordable homeownership opportunities and augmenting homeless services will continue to both sustain and develop growing and thriving communities in every state throughout the country.

These important programs generate substantial leveraging and result in measurable positive results – supporting quality planning, economic growth, employment opportunities, job creation, community health and safety, and education to sustain and improve both individual and community well-being. At the state level, a huge percentage of community development dollars are invested to provide vital support to the nation’s infrastructure.

COSCDA members serve as the focal point for distributing billions of dollars in disaster recovery funds making the state role invaluable in addressing the many faces of devastation hitting communities by hurricanes, earthquakes, wildfires, and flooding. COSCDA provided leadership in a national effort to address reform legislation capitalizing on relationships established between COSCDA, states, and congressional members on key committees and built across stakeholder networks.

Additionally, COSCDA played a fundamental role in promoting national awareness of the link between the growing lack of affordable housing and its impact on individuals finding themselves homeless in mostly rural communities and small towns across the nation.

COSCDA affirms its view that states and federal government should remain partners in the administration of community development programs. It is our foundational premise that a collaborative approach between state, local, and federal government is essential to the effective administration of these core programs and ultimately to the vitality of communities across this nation.

COSCDA members are united in support of a necessary balance that protects traditional state authority, allowing states to continue focusing on state-driven priorities and maintaining maximum flexibility to meet the needs of cities and towns both large and small in every state. Over the years, this threefold partnership (state, local and federal) has resulted in significantly stronger communities – meeting the demonstrated needs of residents across this nation.

CROSS-CUTTING PRIORITIES

- ## Propose Feasible Affirmatively Furthering Fair Housing Requirements for States

The Fair Housing Act requires HUD grantees to affirmatively further fair housing (AFFH). In 2015, HUD published final regulations for HUD grantees on how they can affirmatively further fair housing by identifying significant fair housing impediments and establishing goals for overcoming the effects of those impediments.

In 2016, HUD proposed an assessment tool to be used by state grantees to aid their development of the Assessment of Fair Housing (AFH). The AFH, which is included in the final AFFH regulations, is designed to help states follow a process to affirmatively further fair housing. COSCDA reviewed the proposed state assessment tool and concluded that the tool as written would create an unreasonable administrative burden for states.

HUD is now considering revising the 2015 AFFH regulations and has asked for recommendations from the public on revisions. COSCDA responded by first affirming that we recognize the importance of furthering fair housing in implementing community development and housing programs. Years of housing discrimination have led to many lacking true housing choice. State CPD grantees take very seriously the requirement to fully incorporate fair housing considerations into their existing planning processes. However we reiterated our disapproval of the proposed state AFH tool as it went well beyond a reasonable analysis at the state level of fair housing issues.

As we included in our written comments of the proposed state tool, states have many differences from entitlement communities and, given their larger geographies and oversight responsibilities for smaller local sub-grantees, must be viewed differently by HUD. Our comments focused on many aspects of the state tool. The amount of data requested in the state tool was extraordinary and would take an enormous amount of time for states to complete. States strongly oppose HUD's proposal that states include entitlement areas in their AFHs. In addition, the cost to complete the state tool would be excessive. HUD's requirement to assess disparities in opportunity areas went beyond what is necessary to affirmatively further fair housing. Collaboration with PHAs would be problematic. Although HUD provided national data and charts, much of the information required in the State AFH would have to be accessed at the local level. States should be provided flexibility in collecting, analyzing, and providing this local data. Finally, HUD's data is not adequate or useful in rural areas, where much of the state has responsibility.

COSCDA encourages HUD to continue to refine the AFFH regulation and tools to make them supporting meaningful and feasible inclusion of state grantees. COSCDA continues to be willing to assist HUD in the development of AFFH requirements for states.

- ## Implement Flexible Section 3 Requirements

COSCDA calls on HUD to revise the current Section 3 proposed regulations to provide more flexibility and deference to states in administering Section 3. The proposed regulations that were released in 2019 are not effective in rural and small city settings. COSCDA provided comments to the proposed rules on May 30, 2019 suggesting several improvements to the current policy. Overall, many states with sparsely populated rural areas have difficulty in meeting the requirements since funding for many CPD programs is provided to local governments that may only receive a one-time grant and are far from the state offices. Therefore, long-term Section 3 monitoring can be problematic. HUD needs to strike the appropriate balance between the limitations of state and local agencies' administrative and financial resources and Section 3 goals.

COSCDA concurs with HUD's proposed threshold of $200,000 for individual projects however the threshold should apply to sub-grantees instead of states. The higher amount allows states to dedicate few staff and resources to meet Section 3 and pursue the hiring of low-income workers. A threshold of $750,000 would instead be more applicable to facilitate the hiring of low-income workers. Regardless of threshold amount, a higher-cost project does not necessarily result in an employer hiring more workers.

In addition, HUD has released Section 3 reporting requirements, which are not clear. HUD needs to provide clarification about these reporting requirements.

COSCDA is also requesting that Congress reduce the requirements of the Section 3 statute. Given the significant effort required to seek qualified candidates for employment and the small number of hires that have resulted from this program, **Congress should change the nature of the statute to encourage, but not require, the hiring of local workers.**

- **Continue to Include States in the Development of the HUD Environmental Review Online System**

HUD is continuing to develop its HUD Environmental Review Online System (HEROS). COSCDA has asked HUD to include state agencies in the development of HEROS, to highlight the practical differences in the Entitlement and State CDBG and HOME environmental review processes. In 2020, COSCDA looks to partner with HUD Community Planning and Development's Office of Environment and Energy on HEROS. Several state CDBG programs have volunteered to participate in a HEROS pilot which is expected to launch later this year.

We appreciate HUD carefully considering our comments on the system and realizing that state implementation should be optional at this point; a requirement for use should be delayed until these crucial revisions for states are made. **HEROS is not compatible with state programs and should not be required by HUD**. When the necessary modifications are made, COSCDA will continue to work with HUD to ensure that the HEROS system is appropriate for state environmental review processes before it is required of states.

- **Standardize Environmental Review Across Federal Agencies for Overlapping Programs - Disaster Recovery and Housing Trust Fund**

State program administrators are faced with regulatory hurdles in adhering to environmental review of HUD and additional federal agencies despite addressing similar goals within each program. For instance, CDBG – Disaster Recovery (DR) maintains individual regulations while the National Housing Trust Fund (NHTF) operates according to separate environmental procedures. Funding from separate programs may further goals in one project, but state and local administrators must adhere to different review policies of each program. As a result, state and local administrators process separate reviews unnecessarily. **HUD and other agencies should commit to ensuring administrative functions are efficient and effective without being duplicate and burdensome. Guidance should be issued responsive to standard oversight and process throughout federal programs.**

A thorough review of 24 CFR Part 50 and Part 58 may provide options on aligning environmental reviews with other federal programs and ultimately, improving administrative processes. Given that states administering CPD programs are generally not selecting project activity sites themselves, we urge HUD to reconsider how certain 'choice

limiting' activities are defined under the environmental review requirements. For example, there often is time sensitivity with regard to executing site control documents on private real estate parcels/properties, but a state that administers CPD funding is not in control of the site and does not have any authority with regard to directing an alternative site use. Where a project/activity may be funded by more than one federal source, it seems reasonable that a site reaches HUD clearance by one HUD source, this approval to proceed should apply to the other HUD sources.

COSCDA submitted proposals in June 2019 for consideration by HUD recommending updated review standards to better align with other federal agencies. The Office of Environment and Energy is exploring the issue further and COSCDA has offered to provide additional information and response.

COMMUNITY DEVELOPMENT PRIORITIES

- ## CDBG Should Be Included in Any New Infrastructure Initiative

Our nation is beset with crumbling and aging infrastructure. Every community needs infrastructure in order to flourish. The CDBG program is an infrastructure program. It is an effective conduit to funnel resources to help rebuild and invest in our Nation's communities. States and local governments use CDBG for a variety of traditional infrastructure activities, including roads and bridges, drinking water systems, sanitary sewer systems, safe streets and sidewalks (curb, gutter, and street pavement), installation of utilities, improved drainage systems to prevent flooding and installation or reconstruction of public improvements to support affordable housing developments. **HUD should include the CDBG program in any new initiative to provide infrastructure improvements to our nation's communities.**

- ## Provide Flexibility to Davis Bacon Requirements

The Davis-Bacon Act of 1931 established the requirement for determining, paying, and certifying that the local prevailing wages are provided to all workers on most federally-funded projects in excess of $2,000. **COSCDA asks HUD to seek an exemption from Davis Bacon requirements when CDBG is used for 1) Disaster Recovery efforts and 2) in conjunction with USDA programs that are exempt from Davis Bacon requirements**. In the case of Disaster Recovery, rebuilding impacted communities is of the highest priority. Often small local businesses are hampered by compliance with the act (e.g., required weekly payments) and delaying funding, as local wage rates are determined and certified, negatively impacts recovery efforts. Congress already exempts many USDA programs from Davis Bacon due to the difficulty of even determining prevailing wage rates in rural areas. In order to increase efficiency and effectiveness of operating programs when multiple funding sources are combined to fund rural projects, we would like the USDA or EPA standards to prevail if they are the lead funding source. In addition, exempting Davis Bacon requirements requested above addresses the administration's goal of identifying and eliminating existing regulations that are outdated, ineffective, or excessively burdensome.

COSCDA will also ask Congress to remove Section 110 of the Housing and Community Development (HCD) Act given that 89 years have passed since the passage of the Davis Bacon Act in 1931 and the threshold remains at $2,000. In 1931 that $2,000 threshold made sense. There are administrative cost burdens associated with reviewing contractor payrolls for compliance. In addition, the method for determining the local prevailing wage is flawed and results in wage rate decisions that are exceedingly high especially in rural areas. That artificially raises the ultimate cost of the project which forces the reduction in the scope of work or stopping the project altogether**. Congress should remove the requirement for CDBG projects to meet Davis Bacon requirements by eliminating Section 110 of the HCD Act. Short of eliminating this requirement, Congress should at least raise the threshold to an amount that make sense for 2020 such as $1,000,000.** That would alleviate a cumbersome administrative and financial burden on smaller rural projects.

- ## Ask Congress To Grant Flexibility for State Administrative Fees

To administer the CDBG program properly, states need a flexible administrative fee structure sufficient to meet the current program requirements**. COSCDA requests that the proportion of the annual allocation available to states for administrative expenses should be adjusted from two percent to five percent, at the discretion of the state. In addition, we request that the amount of administrative funding not subject to a match requirement be adjusted from $100,000 to $500,000.** We do not request that the match requirement be removed completely, since many states rely on the match to meet their expenses. It should be noted that this action will not increase the current administrative limits, since the overall administrative cap would remain the same.

Since the inception of the state program 38 years ago, states have administered the CDBG program for their non-urban areas; however the funding available to cover the costs of running the program has never been adjusted. During this time, there has been a significant increase in the number of CDBG program requirements, as well as sharply increased costs associated with doing business such as staffing, service delivery and monitoring, particularly due to increased expenses associated with administering a program over a large geographic area. Additionally, administrative dollars have decreased at the same rate as the decrease in CDBG funding. Personnel costs have increased and states are being asked to do "more with less" in an austere fiscal environment. The completion of the State Assessment of Fair Housing required by HUD's Affirmatively Furthering Fair Housing regulations will be very costly and, for most states, additional administrative funds would be crucial to complete this Assessment. Possible changes in the threshold for CDBG entitlements could increase the number of applicants for states' funds as well as the administrative burden on states. Pressure has mounted on state agencies to improve their CDBG expenditure rate as well, which could be addressed by additional resources made possible by a state administrative fee change.

It should be noted that state governments do contribute state resources to cover the costs of administering the CDBG program. In the current economic and state fiscal climate, a majority of states are having difficulty covering the required match. In fact, the HUD Inspector General acknowledged that states have limited resources to complete the monitoring of expenditures required by federal laws and regulations. Allowing this flexibility would not require additional appropriations, nor would it take money away from projects for local communities, since the overall administrative cap would not be affected. It would simply allow an increased proportion of administrative funding to be available to those states that need additional resources to operate the state CDBG program most effectively. **COSCDA asks that HUD work with Congress to provide this administrative flexibility to states.**

- **Update Guidance on Environmental Review Standards to Include Non-Coastal High Risk Areas**

24 CFR Part 55 provides HUD guidance on environmental decision-making with regards to floodplain management with the intent of reducing developments in hazardous areas. The guidance spells out definitions and criteria for project review and approval. Overall, development and reconstruction in high risk areas are not allowed however some exceptions do exist. Part 55 includes exemptions for coastal high hazard areas, but similar exceptions are not afforded to floodways. High hazard areas include both floodways and coastal high hazard areas. While Part 55 provides exceptions for coastal high hazard areas, those same exceptions do not exist for floodways, which in mountainous regions generally follow river systems. The exemptions allow for redevelopment in coastal high hazard areas as long as standard policies apply to a given project. Inland floodways however are not covered by this exemption therefore projects in mountainous areas do not qualify for federal assistance.

COSCDA encourages HUD to modify 24 CFR Part 55 to apply the same standards to floodways and coastal high hazard areas. Since high hazard areas by definition include floodways and coastal high hazard areas, simply removing §55.1(c)(1), eliminating the word "coastal" from the exceptions listed in §55.1(c), and modifying Table 1 in §55.11 would suffice. The Federal Emergency Management Agency (FEMA) has adopted a reasonable standard which HUD could consider applying in its own regulatory guidance.

HOUSING PROGRAM PRIORITIES

- **Include HOME and Housing Trust Fund Programs in Any New Infrastructure Initiative**

  Policymakers from both sides of the aisle agree that a significant investment in infrastructure should be a top priority. Housing is a significant component of our nation's infrastructure. Affordable housing must be a critical element of any infrastructure package, not only because housing informs other infrastructure needs, but because it provides an enduring investment in economic growth. Likewise, economic growth informs the urgency of the need for additional housing. The HOME Program provides a wide variety of affordable housing, including new single-family and multi-family developments, as well as rehabilitation, and must be included in any initiative to fund infrastructure throughout the country. Similarly, the National Housing Trust Fund (NHTF) provides resources to developing affordable housing units for very low-income families and individuals. Investing in affordable housing infrastructure – through construction and preservation – will bolster productivity and economic growth, provide a long-term asset that connects workers to communities of opportunity, and support local job creation and increased incomes. Many recent infrastructure program proposals from the administration and Congress highlight private sector involvement in the financing of infrastructure projects, and both HOME and NHTF are prime examples of leveraging public-private partnerships. **We ask HUD and Congress to ensure that HOME and NHTF is included in any new infrastructure initiative.**

- **Ask Congress to Modify the Set-aside Requirement for Community Housing Development Organizations in the HOME Program Statute**

  The HOME statute requires not less than 15 percent of each participating jurisdiction's (PJs) grant to be reserved for projects owned, developed, or sponsored by Community Housing Development Organizations (CHDOs), within 24 months of receipt of its grant. Over the 27 years of the HOME Program, many CHDOs have successfully developed decent, safe, and affordable housing units in their communities. However, other CHDOs have had difficulty in carrying out this task. Since there have been significant reductions in HOME program appropriations in the last seven years and smaller allocations to PJs, it is difficult for PJs to spend only 15 percent of their grant for CHDO activities, and often have to either spend a much larger percentage than 15 percent, or surrender the CHDO set-aside funds to HUD for non-compliance. Since 2009, HUD has de-obligated $15.7 million in unexpended CHDO funds.

  HUD requested the elimination of the CHDO set-aside in the FY2017 Administration Budget. **COSCDA supports the elimination of the CHDO set-aside and asks HUD to continue to pursue this legislative change with Congress**.

  While we request the elimination of the required CHDO set-aside, COSCDA also asks for more flexibility to address affordable housing development-oriented non-profits. The HOME program should continue to encourage capacity-building, tie operating grants to production of units, and allow PJs to provide forgivable pre-development loans to CHDOs/nonprofits.

  COSCDA supports regulatory guidance which reinstates local and state control of funds following an extended period of time such as 24 months, but eliminating the CHDO set-aside and allowing this flexibility initially would be more effective in supporting a timely expenditure of HOME funds.

COSCDA suggests that the HOME Program permit CHDO operating costs as an eligible expense, perhaps with relaxed organizational requirements, with the expectation that HOME-eligible units will be underway within a two-year timeframe, but eliminate the annual percentage of HOME allocations that must be dedicated to CHDO development projects. States should also still be able to provide CHDO-only grants for capacity-building and support, with the amounts for these activities to remain capped and no minimum threshold to be awarded to CHDO projects each year.

- **Set One Uniform Inspection Standard**

  HUD direction on the 2013 HOME Final Rule cites a new standard for projects with HOME commitments made on or after January 24, 2015 and indicates that the property standards will be updated. The statute also requires that HOME-assisted rental properties be inspected by the PJ to applicable state and local codes; if these codes don't exist, the new rule allows the PJ to use Uniform Physical Condition Standards (UPCS). States with differing local building codes may face considerable time and technical burdens in ensuring ongoing inspection to *local* codes. To alleviate a potentially unduly burdensome requirement and to promote the streamlining of standards with other federal programs, **COSCDA asks that HUD set one uniform, nationwide inspection standard that works for both rural and urban areas.**

- **Ask Congress to Remove the 24-month Commitment Deadline in the HOME and Housing Trust Fund Statutes**

  The HOME and Housing Trust Fund statutes require that HOME funds be committed to projects within 24 months of HUD notifying the PJ of its obligation of the HOME grant and within 24 months of HUD notifying the state of its HTF allocation. In its FY2017 Budget, HUD asked Congress to eliminate the requirement in the HOME statute for HOME funds to be committed to projects within 24 months of HUD notifying the PJ of its obligation of the HOME grant. Congress agreed with HUD's request, and in the FY2018-20 appropriations acts, it suspended the 24-month commitment requirement for deadlines occurring from 2016 to 2022. HOME also recently implemented, through regulation, a four-year project completion deadline, which measures progress completing projects as opposed to committing funds to projects. The Department believes the project completion requirement will ensure HOME funds are used timely while not taking significant amounts of funds away from participating jurisdictions. **COSCDA urges HUD to continue to request the permanent elimination of this requirement in both the HOME and HTF Programs.**

- **Maintain the Integrity of the National Housing Trust Fund and the HOME Program**

  HUD should fully support the National Housing Trust Fund (NHTF) as a separate source of funds for housing extremely low-income persons. The NHTF was passed as part of the Housing and Economic Recovery Act of 2008 with strong bipartisan support and signed by into law by President Bush. Although HOME and the NHTF both provide affordable housing, they serve different populations. HOME provides housing for a range of low-income households, while the NHTF seeks to expand the supply of housing for extremely low-income households. Both programs are needed to help meet the affordable housing needs of low-income residents throughout the country.

HOMELESSNESS PRIORITIES

- ### Increase Funding Level for Emergency Solutions Grants

The HEARTH Act authorizes HUD to allocate up to 20 percent of the annual appropriation for McKinney Vento programs to the Emergency Solutions Grants (ESG). However, since enactment of the HEARTH Act, HUD has not allocated the full 20 percent to ESG, notwithstanding recent increases in McKinney-Vento appropriations. **COSCDA asks that HUD and Congress provide the full 20 percent of the McKinney/Vento program appropriation for ESG.** The full percentage is needed to meet HUD's directive to use ESG funds for rapid rehousing and provide housing stability. A consistent amount of ESG is needed to continue to rapidly re-house individuals and families, and promote critical services to shelters and transitional facilities as determined by grantees. State grantees need a fairly constant formula grant amount for planning purposes. We ask that HUD consistently provide 20 percent for ESG and avoid further cuts to meet Continuum of Care (CoC) renewal demand.

- ### Increase the Proportion of Emergency Solutions Grants for Existing Shelters

Due to the persistent problem of homelessness, there is a continuing need for homeless persons to have access to emergency shelters throughout the country. Although the benefits of rapid rehousing are acknowledged and it is not HUD's current policy to fund new shelters, there remains a need for increased funding for existing shelters through the Emergency Solutions Grants (ESG) Program. The emergency shelter component of ESG has been at near level funding for many years since many states are capped at pre-2010 amounts for emergency shelter activities. During this time, operating costs at emergency shelters continue to increase with many shelters being forced to lay off staff, reduce services, and in some cases close. The cap on the amount of funds for emergency shelter activities needs to either be removed or increased to recognize the increasing costs to operate emergency shelters.

Most costs of shelters are fixed costs; therefore, a 10% reduction in the number of persons served does not result in a 10% reduction in shelter costs. Even much of shelter staffing is fixed and staffing levels cannot fluctuate weekly or daily based on the shelter's census. With much greater emphasis on diversion and helping persons avoid entering the homeless system at the front end, emergency shelters are becoming much more difficult to serve populations. Many shelters have had to hire additional staff or staff with special training and licensure to more effectivity work with persons with increasingly more challenging issues. Therefore, **COSCDA asks HUD to increase the proportion of ESG funds that can be used for existing shelters.**

- ### Clearly Define Policy on Transitional Housing

The interim ESG regulation restricts future funding of transitional housing providers. Many states are concerned about HUD's focus away from transitional housing, given its importance to specific homelessness groups, such as persons in early stages of recovery, domestic violence victims and homeless youth. **HUD should more clearly define its policy on transitional housing**. While HUD continues supports transitional housing through the CoC, the scoring structure clearly guides applicants away from transitional housing. COSCDA understands HUD's focus on rapid-rehousing and states acknowledge the importance of this practice. However, states and their sub-recipients also see the value in transitional housing for certain populations and are best positioned to know the needs of their communities and the types of shelters that will accommodate these needs.

- ### Encourage PHAs to Cooperate with CoCs

While HUD has encouraged PHAs to collaborate with local COCs within program rules to utilize resources to end homelessness, **COSCDA requests that HUD provide more incentives for PHAs to participate in the collaboration.** CoCs are mandated and evaluated on progress towards collaboration in each annual CoC Program NOFA competition, but for CoCs covering large geographic areas where multiple PHAs operate, the efforts are more often than not, one-sided. Operating with limited resources and long wait lists, many PHAs do not see the need to pursue homeless preferences or reduce barriers to program entry – both vital components to homeless clients being able to access public housing or Housing Choice Vouchers. In fact, only 25 percent of PHAs are strongly engaged in addressing homelessness utilizing their various programs; Project Based and Housing Choice Vouchers to name two. (Study of PHAs' Efforts to Serve People Experiencing Homelessness, 2014).

Without HUD giving specific direction or incentives, CoCs are very limited in effectively engaging and getting the needed support from PHAs. It's difficult to have multiple funding sources from HUD with different coordination requirements and uneven accountability of these agencies to comply.

Collaboration between PHAs and community stakeholders would benefit both and ultimately improve the lives of people who are experiencing abject poverty and homelessness. The above mentioned report prepared for HUD by Abt Associates Inc in 2014 could be used as a guide for HUD to move this issue forward.

- ### Guidance is Needed on Homelessness Data Integration

HUD should provide guidance regarding data from the Violence Against Women Act (VAWA) as well as the Veterans Administration Supportive Housing program (VASH). Regarding VAWA, HUD should provide more guidance on how to incorporate domestic violence provider data systems (comparable databases) into the overall data reporting system. The new Domestic Violence Bonus funding was made available in recent CoC funding, therefore states need more direction on how to get consistent data from the comparable databases.

Regarding VASH, guidance is needed from HUD and the Veterans Administration regarding VASH data entry in the CoC's HMIS. It is important to have this data entered in order for CoCs to not incur penalties from excluding full bed coverage reported to HUD on the Housing Inventory Chart (HIC).