COSCDA
Council of State Community Development Agencies

Striving to Build Better Communities
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July 13, 2021

The Honorable Maxine Waters
Chairwoman
House Financial Services Committee
2129 Rayburn House Office Building
Washington, District of Columbia 20515

The Honorable Patrick McHenry
Ranking Member
House Financial Services Committee
4340 O'Neill House Office Building
Washington, District of Columbia 20024

The Honorable Emmanuel Cleaver
Chairman
House Subcommittee on Housing, Community Development, and Insurance
2129 Rayburn House Office Building
Washington, District of Columbia 20515

The Honorable French Hill
Ranking Member
House Subcommittee on Housing, Community Development, and Insurance
4340 O'Neill House Office Building
Washington, District of Columbia 20024

Dear Chairwoman Waters, Ranking Member McHenry, Chairman Cleaver, and Ranking Member Hill:

The *Housing is Infrastructure Act* proposes significant and comprehensive investments to address housing and community development needs. The Council of State Community Development Agencies (COSCDA) welcomes renewed resources in response to the nation's ongoing housing crisis as well as widespread infrastructure deficiencies. To better promote resources and deliver results, capacity and administrative processes must be suitable to support program implementation. COSCDA offers the following recommendations on key waivers and alternative program requirements to aid U.S. Department of Housing and Urban Development (HUD) program delivery:

Housing Trust Fund
Section 109 of the legislation would authorize $45 billion for the Housing Trust Fund (HTF) program.

- 24-Month Commitment Deadline: A statutory deadline is directed in Sec. 1338 (c)(10)(B) of P.L. 110-289 which requires grantees to commit funding towards projects within two years of receiving grant funds. Any uncommitted amounts beyond the two-year period must be recaptured by HUD.
    - A suspension of the two-year commitment deadline is necessary to allow sufficient time to appropriately identify projects and target resources. The current deadline is too difficult for grantees to meet and presents limited opportunity to facilitate pre-project planning and review. Further, an expenditure deadline ensures funds are being directed to projects within a reasonable timeframe.
- Environmental Review Process: HTF environmental provisions follow 24 CFR § 93.301(f)(1) and (2). While similar to HUD's environmental regulations under 24 CFR Parts 50 and 58, HTF's process does not include consultation procedures featured in Parts 50 and 58. As a result, HTF investments are drastically limited to projects outside of commonly-designated tracts.

- The ability to use Part 58 to address HTF's environmental review would accommodate project investments and ensure funds can be applied to sites which would otherwise not offer remediation under the current review requirements. HTF's environmental review process poses challenges for projects located in commonly-designated tracts such as farmlands and wetlands. The process limits where investments may occur without the possibility of recourse. Similar HUD programs follow Parts 50 and 58 which allow for remediation at project sites. Once a non-mitigation provision is triggered in the review process, the ability at the PJ's discretion to apply Part 58 or a similar process should be allowed to address both environmental issues and provide ample opportunity to invest in targeted projects. Part 58 or a similar process allows mitigation following a public comment period. The ability to implement Part 58, if necessary, also aligns HTF with other federal program environmental review processes.

- Administrative Cap: As directed in Sec. 1338 (c)(10)(D)(iii) of P.L. 110-289, administrative costs cannot exceed ten percent of grant amounts.
    - The current administrative cap of ten percent does not meet capacity and resource needs of grantees and related stakeholders; a 15% administrative cap would better accommodate grantees in program management. Grantees must maintain staff to facilitate all aspects of grant oversight and program requirements. Additionally, HTF projects do not exist solely through the grantee as the state is not the developer of the HTF-invested project. Instead, states partner with local governments and non-profits to accommodate project development and administrative costs are shared between these entities. Technical assistance needs are also involved especially among new funding recipients which require further staff and resources. Therefore, an administrative cap increase to fifteen percent is warranted to ensure accountability and promote sound investment of program resources.

HOME Investment Partnerships
Section 110 proposes authorization of $35 billion for the HOME Investment Partnerships (HOME) program.

- 24-Month Commitment Deadline: Sec. 218 (h) of P.L. 101-625 requires grantees to commit funds to projects within two years of receipt. Any funding which is not committed within 24 months must be recaptured by HUD.
    - A waiver of the two-year commitment deadline will be necessary to ensure projects can be appropriately identified and reviewed ahead of determining investment. The current deadline proves to be too difficult for grantees to meet. In response, Congress has suspended the commitment deadline in annual appropriations since fiscal year (FY) 2017. An expenditure deadline ensures projects are completed within a reasonable timeframe.
- Administrative Cap: Sec. 212 (c) of P.L. 101-625 limits administrative and planning costs to ten percent of grant funds.
    - The administrative cap of ten percent does not meet grant management and technical assistance needs; the administrative cap should be increased to fifteen percent of the funding amount to ensure sufficient capacity and resources to accommodate grantees. HOME resources are dedicated through both state and local grantees as well as partner entities including local sub-grantees and non-profits. Technical assistance is required especially for newer award recipients. Together, a thorough process must be managed between different levels of project administrators

to meet program requirements and intended outcomes. An increase of the administrative cap supports better targeting and oversight of federal resources.

- Revise the CHDO Set-Aside: Sec. 231 of P.L. 101-625 requires Participating Jurisdictions (PJs) to reserve fifteen percent of grant funds for Community Housing Development Organizations (CHDOs). Funds must be directed to CHDOs within two years or any undirected funds are returned to HUD.
    - HOME resources can be better applied to projects if the fifteen percent threshold is updated to include designated non-profits instead of CHDOs. Many housing-based non-profits cannot meet the requirements to become a certified CHDO, or determine CHDO eligibility would involve administrative and organizational changes too burdensome to uphold. In turn, available CHDOs are limited especially for states which primarily serve small cities and rural areas. Recognizing any unspent funds designated for CHDOs are returned to HUD after two years, Congress inserted language to allow unspent funds to instead return to PJs in FY2020 and FY2021 appropriations legislation. Under a revised set-aside, a broader pool of available housing organizations will be eligible to receive HOME funds and in turn, additional projects can be identified for investment by PJs.
- Non-Profit Operating Support: Sec. 212 (4)(g) of P.L. 101-625 limits HOME funds for operating assistance to CHDOs at five percent.
    - An increase from five to ten percent on HOME funds for non-profit operating assistance is important to supporting housing development in service areas. Non-profits provide a critical role in serving disadvantaged and underperforming communities contributing to housing production in areas which generally receive less private-led development. Smaller projects are more likely in these areas and as a result, development fees are typically inadequate to cover operating costs of non-profit sponsors. HOME regulatory compliance as well as adherence to other federal programs can be complicated and requires adequate management. In response, the HOME statute allows up to five percent of HOME funds to CHDOs for operating assistance. Key activities which are eligible under operating assistance include long-term planning, financial and regulatory compliance, and stakeholder capacity-building. Following the abovementioned priority to expand the set-aside from CHDOs to non-profits, an increase of ten percent for non-profit operating assistance is recommended.
- The ability of HUD to provide waivers and alternatives to program requirements would assist program implementation and delivery of funds to housing development.

Community Development Block Grant
Section 112 would authorize $10 billion for the Community Development Block Grant (CDBG) program

Renewed investment in CDBG can respond to significant gaps in infrastructure including affordable housing and water systems. Targeted funding as directed in Sec. 112 is well-intended in supporting housing production and preservation across the southern U.S. border; producing manufactured homes; facilitating updates to local land use policies; and linking funds to Department of Transportation (DOT)-sponsored projects. However, due to the provision’s specific use of funds and varying applicability of these eligible activities to communities, funds will be provided in an unequal and limited basis across the country.

CDBG is an important resource to communities responsive to the specific state and local needs. From FY2005 to 2020, most CDBG resources supported public improvements with a third of program funds dedicated to roads, bridges, water systems, public buildings and related types of projects. Other key investment areas follow including housing rehabilitation, economic development, and public services. Each category is not isolated and instead accommodates other areas of community development; adequate utilities and public services for instance are necessary in supporting stable housing and safe neighborhoods. CDBG's flexible use of funds allows localities to address extensive and widespread needs unique to their community.

Section 112 directs resources to an exclusive list of activities which will only accommodate communities with these corresponding needs. A limitation of program funds to listed activities (housing; reforming local zoning and related land use policies; and DOT-eligible projects) means resources will only be relevant to those communities which have these needs and can accommodate these activities. No community has the same set of priorities or deficits. Specifically, many communities do not maintain comprehensive land use policies which obstruct affordable housing development nor receive DOT investment; these communities, mostly small and rural jurisdictions, would be left out in demonstrating eligibility and applying CDBG funds as directed in the provision.

Further, while nearly every community is facing a housing shortage, the *Housing is Infrastructure Act* already provides considerable resources to other programs dedicated to producing more units. Regarding the $2 billion set-aside for colonias, while support to housing is clearly needed along the southern U.S. border, funding targeted to these developments excludes most other parts of the country. Manufactured housing should be facilitated as communities deem appropriate as well. However, manufactured housing may be better accommodated in some communities whereas others cannot support this type of housing due to location, availability of utilities and other infrastructure, and climate.

To bolster community development across varying infrastructure, the following recommendations for CDBG would greatly benefit the goals of the *Housing is Infrastructure Act*.

- CDBG funds should be allocated through formula grants to ensure communities of all locations and populations will be able to access and apply program funds to project needs; few jurisdictions generally with more capacity and resources will be positioned to participate in a competitive grant ie larger, urban communities. Additionally, with the recent influx of federal funds for housing and community development from Treasury and HUD, jurisdictions have even less bandwidth to develop and submit proposals for funding. If adjusted to be formula funds with eligible activities therein, CDBG would be an important and necessary resource to support housing development provided by other provisions in the legislation.

- Promote adequate program administration

    - The bill's CDBG proposal should reserve 20% of funds for administrative purposes aligning the program with the annual CDBG program. Program implementation and oversight oftentimes occurs between different levels of stakeholders. Sufficient administrative capacity and response is expected and can only be met with dedicated funds for staffing and related costs.

    - Capacity and technical assistance can be provided from the state to improve response in service areas (small and rural communities). An administrative and technical assistance cap of 5% for states would facilitate this critical support (currently capped at 3%).

- Administrative match

    - In the CDBG formula program, state grantees are required to match every dollar over the first $100,000 of funding for administration. Due to budgetary uncertainty particularly for small states, an elimination of the match requirement is warranted. At minimum, the threshold should be raised to a reasonable level of $500,000 to account for wavering budgets at the state level and available funds for administrative purposes.

Lastly, increased support for HUD capacity-building is necessary to carry out the legislation's proposed programs and federal resources. Recently, considerable focus has been directed on the agency's severe shortage of personnel. HUD predicts 63 percent of employees, and nearly 50 percent of managers and supervisors, will be eligible for retirement in 2022. As a result, satisfactory program outcomes cannot be expected without a significant change in personnel and hiring. Technical assistance and planning needs continue to grow and HUD's current path does not facilitate this type of support to grantees and other stakeholders.

Renewed attention and resources are direly needed to address staff and capacity gaps at HUD - Community Planning and Development as well as across the agency. Specifically, Congress should consider further action on promoting additional staff at the agency, including expediting the federal hiring process, and advancing HUD's technical capabilities to improve data collection, program monitoring and reporting, and coordination of federal resources to maximize project outcomes.

Thank you for your consideration of our recommendations and comments. Please reach out if you have any questions regarding this letter.

Sincerely,

Dianne E. Taylor
Executive Director