

April 28, 2023

The Honorable Sherrod Brown  
Chair  
Senate Committee on Banking, Housing, and  
Urban Affairs  
534 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Tim Scott  
Ranking Member  
Senate Committee on Banking, Housing,  
and Urban Affairs  
534 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chairman Brown and Ranking Member Scott:

The Council of State Community Development Agencies (COSCALA) extends our appreciation to the Committee for hosting its recent hearing, “Building Consensus to Address Housing Challenges.” Housing is the key issue for communities nationwide as access remains elusive to many, especially low-income households. There are several factors contributing to the exorbitant costs in accessing both rental and owned units. The primary reason though is the lack of available units. By one estimate, the U.S. is lacking 6.5 million units to meet demand as of March 2023.<sup>1</sup>

COSCALA recognizes the importance of quality, affordable housing to community well-being and growth. Our network of state agencies administers federal resources dedicated to housing and community development through the U.S. Department of Housing and Urban Development – Office of Community Planning and Development (HUD-CPD). These programs include the Community Development Block Grant (CDBG), HOME Investment Partnerships (HOME), Housing Trust Fund (HTF), and Homeless Assistance Grants (HAGs). These resources have proven immensely successful in supporting local and state-led activities. However, it is timely to renew these programs and enhance their response to housing and related community development needs.

We offer the following response to legislation accommodating today’s hearing. COSCALA also recommends specific proposals on HUD-CPD programs complementing other public and private investments to advance affordable housing opportunities.

### **The Renewing Opportunity in the American Dream to Housing (ROAD to Housing Act)**

COSCALA is grateful for policy reforms to better encourage housing production and improve use of federal resources. The legislation’s intent is well-placed especially in reducing regulatory burdens, supporting innovation, improving access to data and financial literacy, and promoting agency accountability. We welcome further engagement and extend our assistance from a practitioner-level perspective.

<sup>1</sup> CNN. The U.S. housing market is short 6.5 million homes. Anna Bahney. March 8, 2023.

<https://www.cnn.com/2023/03/08/homes/housing-shortage/index.html>.

Deborah Johnson, Maine, President ■ Alison George, Colorado, Vice-President ■ Rebecca Frawley Wachtel, Massachusetts, Treasurer ■ Traci Watts, Louisiana, Secretary  
Dianne E. Taylor, Executive Director

Specific to the legislation, COSCDA provides the following feedback.

#### Sec. 401: INCENTIVIZING LOCAL SOLUTIONS TO HOMELESSNESS

While COSCDA appreciates the proposal and its attempt to encourage Continuum of Care (CoC) and ESG recipients to better engage on homelessness, an incentive would only dilute available funds to the broad array of recipients; many rely extensively and solely on federal aid to combat homelessness in their respective jurisdiction. Several entities which manage CoC and ESG funds operate through varying means and are not equipped with the same level of resources. States recognize this dynamic as balance of state CoC and ESG administrators primarily serving small and rural communities. Service areas supported by states usually involve large geographic areas with spread out populations. Clientele is therefore harder to reach than in urban and suburban jurisdictions. Additionally, other funding typically provided in larger, more urban settings is often not available for rural homeless response. Incentivizes as outlined in the legislative proposal would be directed to high-performing CoC and ESG recipients which are likely larger, more urban jurisdictions and can draw from other sources of public and private funds to accommodate homelessness response. Federal resources through CoC and ESG are the only means many entities receive to support homelessness activities. If HUD utilizes funds as provided by the proposed set-aside, this could lead to less funds available to the broader homelessness network.

#### SEC. 501. INCREASING HOUSING IN OPPORTUNITY ZONES

We applaud congressional leaders including Ranking Member Scott in advancing legislation creating the Opportunity Zone program. OZs demonstrate an innovative approach to bringing investment and jobs to communities in need of economic development. The proposal in this bill would allow HUD to prioritize program investments to recipients which serve communities in qualified opportunity zones. While the intent is clear to attract additional HUD investment to OZ-designated areas, the directive would create challenges both for HUD and grant recipients.

For HUD's block grant programs including CDBG, HOME, and ESG, funds are allocated annually based on respective formulas. Unless changes are made to the statute revising the current methodologies, HUD would be unable to access any portion of these appropriated funds to direct to OZs.

Further, block grants are intended to provide resources for recipients to use for their respective needs; this includes dedicating funds within program guidelines and objectives to projects across a recipient's service area. While OZs may be a consideration in awarding funds in certain jurisdictions, it is far from the only criteria used to identify and dedicate funds.

Lastly, specific to OZ qualification, areas receiving this designation likely have greater socio-economic needs than other areas in their respective state. However, limitations existed as areas were tapped as OZs and many well-deserving communities were left out of final selections.

States, cities, and localities which are closest to the needs of the populations they serve have a much greater understanding of their communities than HUD or other federal entities. It is important to maintain a level of fairness in distributing funds and rewarding communities in OZs only goes in the opposite direction.

## SEC. 601. REQUIRING ANNUAL TESTIMONY AND OVERSIGHT FROM HOUSING REGULATORS

The proposal's directive for the HUD secretary to appear before the Senate and House authorizing committees is meaningful and necessary. Both Senate Banking and House Financial Services committees should take a proactive approach to examination and renewal of HUD programs. COSCDA welcomes an annual hearing dedicated to HUD's program oversight and implementation.

### **HUD-CPD Program Reforms: Strengthen Capacity & Enhance Flexibilities for Improved Outcomes**

In addition to HUD's housing financing and rental assistance programs, Community Planning and Development grants provide direct investment in local-based needs in housing and community development. Funding available to states and localities through CDBG, HOME, HTF, and HAGs supports low-to-moderate income households (with most funds dedicated to low-income populations), promotes local-led projects and services, and provides a strong return-on-investment in leveraging other public and private sources. The programs complement state and local approaches to priorities unique to each community including housing production.

While incredibly beneficial to communities nationwide, some program designs need to be updated so resources can work better for housing and other activities. As outlined in COSCDA's FY2024 Advocacy Priorities, several challenges exist in program use and administration.<sup>2</sup> COSCDA proposes statutory revisions to address these issues and improve program outcomes.

#### Responsive program administration

ISSUE: Existing caps are too restrictive and inhibit program management and performance

In authorizing language, Congress has installed thresholds on the amount of grant funds which can be used for administration and technical assistance. Staff are necessary to program operations which require extensive oversight and response from state and local recipients. Currently, the availability of resources is insufficient to accommodate staff and related administrative capacity.

Administrator responsibilities are considerable and include annual and consolidated planning, sub-grantee and sub-recipient training, addressing cross-cutting compliance standards (labor, environment, relocation, procurement), activity and administrative oversight (2 CFR Part 200), sub-grantee and recipient monitoring, audits and much more. Requirements are expanding as well with new policies coming online; most recently, the Buy America domestic procurement provision (BABA) and Violence Against Women Act's (VAWA) reporting standards for CDBG recipients. Additionally, a pending rule on fair housing will likely add further responsibilities to HUD-CPD grantees. States are also reporting significant barriers to attracting and retaining quality staff due in large part to salary ranges being irresponsive to the job market.<sup>3</sup>

Without change, states and localities will continue to experience these challenges in program implementation. In response, COSCDA requests adjustments to the existing administrative caps for CDBG, HOME, Homeless Assistance Grants (CoC & ESG), and CDBG-DR. Additional resources for administration means state and local

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<sup>2</sup> COSCDA. FY2024 Advocacy Priorities. February 2023. <https://coscda.org/wp-content/uploads/2023/02/COSCDA-FY24-Priorities-FINAL-February-2023.pdf>.

<sup>3</sup> COSCDA. State Responses to COSCDA's FY23 Appropriations Request. June 2022. <https://coscda.org/wp-content/uploads/2022/06/State-Responses-COSCDA-FY2023-Approps-Recommendations-June2022FINAL.pdf>.

programs can enhance their ability to accommodate activities - including housing and neighborhood infrastructure - and ensure accountability of federal funds.

SOLUTION: Raise the percent of grant funds made available to recipients for administration

COSCSA proposes the following updates to existing HUD-CPD administrative caps.

- CDBG
  - 6% for states (current 3%;<sup>4</sup> local entitlement jurisdictions are directed 20% per annual appropriations) (HUD requested this update in its FY23 and FY24 budgets<sup>56</sup>)
  - \$500,000 administrative match threshold for states (current \$100,000;<sup>7</sup> entitlements are not required to match administrative funds)
- CDBG-DR: 10% (current 5% per recent supplemental appropriations)
- HOME & HTF: 15% (current 10%<sup>89</sup>)
- CoC & ESG: 10% for grantees (current – CoC 3%;<sup>10</sup> ESG 7.5%<sup>11</sup>)

### Enhanced program flexibilities

ISSUE: Several requirements with HUD-CPD programs are too restrictive in adapting funds to community and project development

HUD-CPD programs respond to critical infrastructure, housing, economic development, homelessness, disaster recovery, and related community needs. As each resource targets funds to meet a particular goal, grantees are consistently challenged in dedicating resources to certain activities including housing. This is in large part due to statutory policies proving to be incompatible with projects and services. Existing rules limit use of funds to eligible activities.

COSCSA recognizes that certain requirements were meaningful when established in authorizing legislation. However, some policies are incompatible with demands and use of federal assistance for housing and related community development priorities. Outlined below are leading program issues cited by HUD-CPD administrators:

1. CDBG
  - a. In order to support housing construction, CDBG funds must 1) be directed to a Community Based Development Organization (CBDO) and 2) the aligning project is required to be a part of

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<sup>4</sup> 42 U.S.C. 5306(d)(3)(A)

<sup>5</sup> HUD. Congressional Justification FY23 – Community Development Fund. March 2022.

[https://www.hud.gov/sites/dfiles/CFO/documents/2023\\_CJ\\_Program\\_-\\_Community\\_Development\\_Fund\\_updated.pdf](https://www.hud.gov/sites/dfiles/CFO/documents/2023_CJ_Program_-_Community_Development_Fund_updated.pdf).

<sup>6</sup> HUD. Congressional Justification FY24 – Community Development Fund. March 2023.

[https://www.hud.gov/sites/dfiles/CFO/documents/2024\\_CJ\\_Program\\_-\\_CDF.pdf](https://www.hud.gov/sites/dfiles/CFO/documents/2024_CJ_Program_-_CDF.pdf).

<sup>7</sup> 42 U.S.C. 5306(d)(3)(A)

<sup>8</sup> 42 U.S.C. 12742(c)

<sup>9</sup> 12 U.S.C. 4568(c)(10)(D)(iii)

<sup>10</sup> P.L. 111-22. Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009. 42 USC 11372a. Sec. 1204.

<https://www.congress.gov/111/plaws/publ22/PLAW-111publ22.pdf>.

<sup>11</sup> Ibid. Sec. 423.

either a neighborhood revitalization plan, or economic development or energy project;<sup>12</sup> as these requirements are challenging to meet, minimal program funds are dedicated for this purpose

- b. As communities seek out resources for increased demands on public services, grantees may only use up to 15% of funds for these activities<sup>13</sup>
- c. HUD's renewed emphasis on fair housing via the agency's latest rule will challenge states and localities to accommodate AFFH<sup>14</sup>; CDBG use for fair housing can only be accommodated as administrative or public services activities both which have respective caps<sup>1516</sup>
- d. Recipients of CDBG Recovery Housing Program (RHP) funds must expend 30% of their respective grant within one year proving irresponsible to identifying and directing resources to quality projects<sup>17</sup>

## 2. HOME

- a. Program recipients must commit funds to projects within two years<sup>18</sup>; the directive is not conducive to identifying and dedicating resources to quality projects
- b. Participating jurisdictions are required to dedicate 15% of funding to Community Housing Development Organizations (CHDOs) within two years and any uncommitted funds after this period must be recaptured<sup>19</sup>; the requirement poses unnecessary burdens on recipients to direct funds to a very limited segment of non-profit organizations engaged on housing development
- c. HOME funds are restricted for use to support non-profit housing organizations which are essential partners in affordable housing development; recipients may only use up to 5% of funds for non-profit operating expenses<sup>20</sup>

## 3. HTF

- a. Like HOME, HTF recipients are required to commit funds to individual projects within two years; any uncommitted funds past this time period must be recaptured<sup>21</sup>
- b. HTF adheres to a specific environmental review process – Part 50<sup>22</sup> – which severely restricts the availability of sites and projects which program funds can be dedicated

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<sup>12</sup> 42 U.S.C. 5305(a)(15)

<sup>13</sup> 42 U.S.C. 5305(a)(8)

<sup>14</sup> Federal Register. Affirmatively Furthering Fair Housing. Published February 9, 2023.

<https://www.federalregister.gov/documents/2023/02/09/2023-00625/affirmatively-furthering-fair-housing>.

<sup>15</sup> 24 CFR § 570.206 (c)

<sup>16</sup> 24 CFR § 570.206 (e)

<sup>17</sup> P.L. 115-271. Enacted October 24, 2018. Sec. 8071(c)(1). <https://www.congress.gov/115/plaws/publ271/PLAW-115publ271.pdf>.

<sup>18</sup> 42 U.S.C. 12748(g).

<sup>19</sup> Ibid.

<sup>20</sup> 42 U.S.C. 12742(g)

<sup>21</sup> 12 U.S.C. 4568(c)(10)(B)

<sup>22</sup> 24 CFR § 93.301(f)(1) & (2)

#### 4. ESG

- a. Several administrative requirements add unnecessary and burdensome reporting duties to grantees and sub-recipients; collectively, these involve significant time and resources posing delays and inefficiencies in homelessness activities<sup>23</sup>

SOLUTION: Update existing policies to improve efficiency and effectiveness of program resources

In response to the ongoing challenges experienced by HUD-CPD recipients and their respective service areas, COSCDA recommends revised policies for enhanced use of federal resources. The abovementioned directives inhibit use of program funds for state and local activities including housing development. COSCDA recommends the following updates for recipients to better facilitate HUD-CPD resources. Respective policy changes are recommended for both authorizing and appropriations legislation.

##### 1. CDBG

###### a. Authorizing

- i. Create a new eligible activity under CDBG for new construction of housing
- ii. Revise the public services cap to 20%
- iii. Establish a new eligible activity for fair housing
- iv. Eliminate the one-year, 30% expenditure requirement on RHP

###### b. Appropriations

- i. Remove the Community Based Development Organization (CBDO) and planning/project requirements on CDBG for housing construction
- ii. Modify the public services cap from 15 to 20% allowing grantees additional flexibility to increase use of CDBG to these activities
- iii. Exempt fair housing from the public services cap
- iv. Suspend the one-year, 30% expenditure requirement on RHP

##### 2. HOME

###### a. Authorizing

- i. Eliminate the two-year commitment deadline
- ii. Broaden the requirements on non-profits to attain CHDO eligibility
- iii. Increase the cap on non-profit operating expenses from 5 to 10%

###### b. Appropriations

- i. Suspend the two-year commitment deadline
- ii. Suspend recapture of uncommitted CHDO set-aside funds following two years

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<sup>23</sup> COSCDA. ESG Requests. October 2021. <https://coscda.org/wp-content/uploads/2022/10/COSCDAS-ESG-Requests-Oct2021.pdf>.

iii. Increase the cap on HOME funds for non-profit operating expenses from 5 to 10%

3. HTF

a. Authorizing

- i. Eliminate the two-year commitment deadline
- ii. Authorize an environmental review process under Part 58

4. ESG

a. Authorizing

- i. Modify specific requirements to remove unnecessary and burdensome administrative duties

b. Appropriations

- i. Extend HUD-directed pandemic-era waivers and flexibilities

HUD-CPD programs provide critical support to local-led community development activities; these resources continue to address affordable housing among related needs. COSCDA views updates as necessary to elevate use and adaptation of these resources benefiting targeted populations. Policies should be examined and revised accordingly. Aligned with this effort, we continue to work with Congress on key legislative initiatives including reauthorization of CDBG and HOME as well as permanent authorization of CDBG-DR.

Thank you again for highlighting the national housing crisis and current federal response. We hope our input proves meaningful to your engagement on this priority issue moving forward. COSCDA looks forward to our future partnership to expand housing opportunities especially for vulnerable and underserved households.

Sincerely,



Dianne E. Taylor  
Executive Director

Cc:

The Honorable Charles Schumer  
The Honorable Mitch McConnell  
The Honorable Katie Britt  
The Honorable Catherine Cortez Masto  
The Honorable Kevin Cramer  
The Honorable Mike Crapo  
The Honorable Steve Daines  
The Honorable John Fetterman  
The Honorable Bill Hagerty  
The Honorable John Kennedy  
The Honorable Bob Menendez  
The Honorable Jack Reed  
The Honorable Mike Rounds  
The Honorable Kyrsten Sinema  
The Honorable Tina Smith  
The Honorable Jon Tester  
The Honorable Thom Tillis  
The Honorable Chris Van Hollen  
The Honorable JD Vance  
The Honorable Mark Warner  
The Honorable Raphael Warnock  
The Honorable Elizabeth Warren