

Mr. Arthur Jemison  
Principal Deputy Assistant Secretary  
Office of Community Planning and Development  
U.S. Department of Housing and Urban Development  
451 7th Street SW  
Washington, DC 20410

April 30, 2021

Dear Mr. Jemison,

The American Rescue Plan (ARP) Act of 2021 created an important \$5 billion homelessness assistance and supportive services program to be administered through the U.S. Department of Housing and Urban Development's (HUD) HOME Investment Partnerships program (HOME-ARP). This new program will provide much needed resources to help persons experiencing homelessness and other at-risk households, who are especially vulnerable now due to the public health and economic impacts of the COVID-19 pandemic. Housing Partnership Network, Local Initiatives Support Corporation, National Housing Trust, and Stewards of Affordable Housing for the Future (SAHF) were pleased to see Secretary Fudge's April 8, 2021 announcement that these funds had been allocated to help communities across the country create affordable housing and services for people experiencing or at risk of experiencing homelessness.

In the ARP, Congress provided HUD broad authority to waive statutory and regulatory provisions to expedite and facilitate the use of HOME-ARP funds. The ARP also explicitly waived certain HOME statutory restrictions. These flexibilities are necessary since the ARP authorized new uses of HOME funding and recognize the impacts of COVID-19 on affordable housing development projects and program activities. Our organizations urge you to consider the following recommendations as the Department develops HOME-ARP program guidance so Participating Jurisdictions (PJs) have the information they need to utilize this funding in the most impactful manner for their communities. We also urge HUD to release program guidance as quickly as possible so states and localities can begin to use HOME-ARP funding to meet needs.

#### **Affordable Housing Operating Assistance**

HOME-ARP funds are targeted to persons experiencing homelessness, those at risk of homelessness, people fleeing domestic violence, and others. It is expected that many of the populations served with this funding will be extremely low-income, with limited ability to contribute to rent. Developers using HOME-ARP funds for permanent supportive housing and other affordable housing projects will need rental assistance to cover the project's operating costs. This is why our organizations support the National Council of State Housing Agencies (NCSHA) request in their April 16<sup>th</sup> letter for HOME-ARP to be allowed to cover operating deficit reserves throughout the development's compliance period.

We fully agree that "HUD should allow PJs to use HOME-ARP funds to capitalize an operating deficit reserve for HOME-ARP-assisted units. Funds from an operating deficit reserve account would cover the difference between the rents paid by qualifying individuals and families and the actual cost of operating the project, including providing services essential to the building's successful operation and resident well-being. PJs should be allowed to size the operating fund so that it may be used to cover operating

costs as necessary through the full compliance period. Moreover, funds should be considered expended once the account has been funded for purposes of meeting the HOME expenditure deadline. "<sup>1</sup>

It's critically important that HOME-ARP funds be utilized for operating deficit reserves as proposed since rental assistance sources are very scarce in most markets and often not project-based or aligned to the full term of the property's financing. Allowing for this use will ensure there is operating assistance available to support HOME-ARP funded affordable housing projects for the high needs population targeted with this funding.

### **Definition of Greatest Risk of Housing Instability**

The ARP statute states that eligible households include those for whom "providing supportive services or assistance" would "serve those at the greatest risk of housing instability." We recommend HUD's HOME-ARP guidance define "greatest risk of housing instability" to mean households at or below 50 percent of area median income for ease of administration and since there are severe housing affordability constraints for households under this income level. This would be consistent with the Low Income Housing Tax Credit (LIHTC) program and would align HOME-ARP resources with existing affordable housing resources. This is important since HOME-ARP funds will be utilized in conjunction with LIHTC and other sources.

We also urge HUD to enumerate some acceptable uses of HOME-ARP Funds to give PJs assurance as they build out their HOME-ARP programs. In particular, HUD should provide examples of acceptable uses of HOME-ARP funds including use in mixed-income properties that have units set aside for permanent supportive housing, which are often important sources of high quality homes for eligible households. Also, please clarify that where appropriate these funds can be used to help with homeownership as well as rental housing

### **Nonprofit Housing Organization's Operating Expenses**

The ARP states that "a grantee may use up to an additional five percent of its allocation for the payment of operating expenses of community housing development organizations (CHDO) and nonprofit organizations carrying out activities under this section" if funds are used to develop the capacity of the CHDO or nonprofit organization and these organizations comply with the statutory limitation on assistance. These additional resources will be important for nonprofit housing organizations utilizing HOME-ARP funding, especially as many local nonprofit housing organizations have experienced declines in operating revenue due to the economic impacts caused by the COVID-19 pandemic.

Community Housing Development Organizations are currently the only entities that can receive HOME assistance for operating expenses although the ARP allows a broader set of nonprofit organizations to be eligible. A more expansive set of nonprofit organizations should help PJs as they look to partner with more local organizations. We recommend that HUD define Nonprofit Housing Organizations consistent with the definition utilized for the Capital Magnet Fund program as "nonprofit organizations that have the development or management of affordable housing as one of their principal purposes."<sup>2</sup> Under CMF, a Nonprofit Housing Organization has to meet the following requirements, which we believe are reasonable for HOME-ARP:

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<sup>1</sup> [https://www.ncsha.org/wp-content/uploads/NCSHA-Letter-to-HUD-on-HOME-ARP-Guidance-April\\_16\\_2021.pdf](https://www.ncsha.org/wp-content/uploads/NCSHA-Letter-to-HUD-on-HOME-ARP-Guidance-April_16_2021.pdf)

<sup>2</sup> <https://www.cdfifund.gov/sites/cdfi/files/documents/1.-cmf-nofa-2020-11580.pdf>

- Has been in existence as a legally formed entity for at least 3 years;
- Demonstrates, through articles of incorporation, by-laws, or other board-approved documents, that the development or management of affordable housing are among its principal purposes;
- Demonstrates by providing an attestation that at least thirty-three and one-third percent of its total assets are dedicated to the development or management of affordable housing; and
- Has audited financial statements for its two most recent fiscal years.

Our organizations also support other recommendations provided by NCSHA in their HOME-ARP letter, including allowing: service provider master leases to accommodate supportive housing projects; recycling of any program income into the general HOME program; streamlined environmental reviews; extension of HOME waivers; and expedited substantial amendments to the consolidated plan and annual action plans.

Thank you for your consideration of our suggestions. We look forward to working with you to effectively implement this critical housing resource. Please reach out to Shannon Ross at [ross@housingpartnership.net](mailto:ross@housingpartnership.net) or Althea Arnold at [aarnold@safhnet.org](mailto:aarnold@safhnet.org) if you would like to discuss any of these recommendations further.

Sincerely,

Housing Partnership Network  
Local Initiatives Support Corporation  
National Housing Trust  
Stewards of Affordable Housing for the Future (SAHF)

Cc: Richard Cho  
Virginia Sardone  
Peter Huber