



To: Conrad Egan, Executive Director
Kris Siglin, Director of Policy
Millennial Housing Commission

From: Chandra Western, Executive Director
Vicki Watson, Legislative Director

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Subject: Recommendations to the Millennial Housing Commission

Thank you for the opportunity to provide recommendations to the Millennial Housing Commission for what should be included in the Millennial Housing Commission's Report to Congress. First, let us provide you with a brief overview of the National Community Development Association (NCD A). NCD A was created in 1974 and grew out of the Model Cities Directors Association which was created in 1968. NCD A is a national non-profit organization comprised of more than 500 cities, 45 counties, and four states that administer federally supported community development, affordable housing, and economic empowerment programs that primarily benefit low- and moderate-income people. NCD A is committed to the goal of assisting governmental entities to achieve high quality, locally-responsive programs for making communities better places in which to live. All of NCD A's members administer the Community Development Block Grant (CDBG) and the HOME Investment Partnerships (HOME) Program. These two flexible block grant programs form the backbone of local housing and community development programs nationwide and, as such, most of our recommendations focus on these two programs. We have also provided recommendations regarding HUD's homeless assistance programs and HUD's lead-based paint regulation.

Many of the following recommendations are supported by several other national associations, including the National Association of Counties, U.S. Conference of Mayors, National Association for Local Housing Finance Agencies, and the National Association for County Community Economic Development. Together with NCD A, these groups testified before the House VA, HUD and Independent Agencies Appropriations Subcommittee on March 22, 2001 and the House Subcommittee on Housing and Community Opportunity on May 22, 2001. Most of the recommendations below reflect the testimony provided by the groups at these two hearings.

HOME Investment Partnerships Program

Prior to the development of the HOME Investment Partnerships (HOME) Program in 1992, there was little effort on the part of the federal government to directly assist localities with their housing needs, other than through the public housing and section 8 programs, which were tightly targeted. HOME has enabled local governments to begin to meet the housing needs of low- and moderate-income families in a flexible, yet predictable manner. The flexibility of the program allows local participating jurisdictions to use the program funds in combination with other federal, state and local funds, and to work with their non-profit partners, to develop affordable housing, both ownership and rental, based on locally-defined needs.

We Oppose the Administration's Proposed \$200 million set-aside within HOME

Even with the strong merits and the superb track record of the HOME program, it is facing a direct assault on the amount of formula funding that is made available to participating jurisdictions. HUD's FY 2002 budget proposes a \$200 million set-aside within the HOME program for a down payment assistance program. NCDA is strongly opposed to this provision as it would subtract funding from the HOME formula allocation. Also, downpayment and/or closing cost assistance are already eligible activities under the HOME program, so why carve out a separate set-aside for these activities? Further, this set-aside chooses one delivery system – state housing finance agencies – over the existing system in which HOME funds are allocated for no proven programmatic purpose. By proposing this set-aside, the Administration is deciding what it believes is the critical need in communities. It is eroding the flexibility of the program and foregoing local decision making.

A New Affordable Housing Production Program: Local Governments Must Have a Role

Several proposals have been crafted in the last year to create a new affordable housing production program. Most of these proposals recommend that the funding for the new program be allocated directly to state housing finance agencies. NCDA sees this position as a direct assault on local governments and their ability to assist their communities. These proposals fly in the face of the block grant approach, which has afforded local governments the flexibility, the predictability, and, most importantly, the control to provide for the housing needs of their most vulnerable citizens. Local governments are far more capable of understanding the needs of their communities than states since they work on a daily basis within the realm of local housing and community development issues. Furthermore, allocating the funds to state agencies would create another layer of bureaucracy that would serve to increase the time in which localities receive the funds because of drawn out application and award processes (this has been our experience with other state programs). Moreover, states add their own factors -- or criteria -- for localities to receive the funds. What if you don't meet the state's application factors? What if the factors are targeted only to smaller cities and rural areas when the need for housing production is really in larger metropolitan areas? We caution you to be wary of strictly allocating funds solely to states under a new housing production program. Local governments must be direct recipients of a portion of the funds.

The argument has also been raised that state agencies are in a better position to coordinate other programs and resources to use in combination with a new affordable housing production program. We have not seen this to be the case. Coordination is very difficult at the state level. There is a great deal of “turfism” that exists and a political climate in most cases that restricts state agencies from working well with one another. We urge the Committee to examine this poor argument before making any recommendations to shift the funds for a new production program to states. Furthermore, most local governments have better coordination and just as many resources to provide to a new program. For example, many localities have established housing trust funds. Localities also use general fund monies, tax breaks, and special laws, such as affordable dwelling unit ordinances to target resources to affordable housing. Furthermore, metropolitan areas drive our nation’s economy. In its recent report, *U.S. Metro Economies: The Engines of America’s Growth*, the U.S. Conference of Mayors notes that metro areas generate more than 80% of the nation’s employment, income, and production of goods and services. Metropolitan areas do generate a great deal of resources and should not be discounted; however, the Federal government must continue to be a partner in providing resources for housing and community development with local governments serving to leverage the federal resources.

Finally, we strongly believe that a new program would compete with the HOME program for appropriations. It would be unthinkable to local governments to have the HOME program decreased in lieu of a new program targeted to states. NCDA and other interest groups have to fight very hard every year to make sure that the HOME program is even level funded. It is a very difficult process. We were ecstatic to finally receive an increase in the program last year, and we certainly don’t want to see the program cut to make room for a new, separate program. We are adamantly opposed to these proposals which direct the funds to state agencies and carves local governments out of the process. Instead, NCDA, supports a proposal that would build upon the HOME program, as described below.

Build Upon the HOME Program to Provide New Housing Production

NCDA recommends that the HOME program be looked upon as the catalyst for increasing new affordable housing production. The infrastructure is already in place to implement such an affordable housing production program, since rental housing production is already an existing eligible activity under the HOME program. HOME is a sound program, with an excellent track record in developing affordable housing for households at various income levels. However, HOME is limited by the amount of funding that is appropriated each year. Funding for the program has increased very little since it first began in 1992. The amount allocated under the program in 1992 was \$1.460 billion. The amount appropriated for 2001 was \$1.8 billion. In order to expand efforts to meet the enormous need for affordable housing in this country, adequate resources must be appropriated to programs such as HOME; a program that works and has a proven track record. NCDA recommends that this new element within HOME be funded at \$2 billion in FY 2002, with the existing HOME program receiving a \$2.25 billion allocation in FY 2002. This would mean a total allocation of \$4.25 billion for HOME in FY 2002. The Administration and many on capitol hill may balk at this idea; however, we will *never* solve the housing crisis in this country without adequate funding, no matter how many new programs are

created. Money – a lot more money – to adequately meet the demand that local government agencies face on a day to day basis for affordable housing is needed. We urge the Commission to call for a substantial increase in funding for HOME.

The HOME program has been a catalyst in spurring new affordable housing development since its inception. HOME is extremely useful in providing funding for production, particularly for gap financing for many rental projects. The flexibility of the program allows local participating jurisdictions to use the program funds in combination with other federal, state, and local funds, and to work with their non-profit partners, to develop affordable housing based on locally-defined needs. According to recent HUD data, the HOME program has helped to develop or rehabilitate approximately 595,000 affordable units for low- and very low-income families. Furthermore, the HOME program is deeply targeted. The majority of HOME funds have been committed to housing that will be occupied by very low-income people and a substantial amount will assist families with incomes no greater than 30 percent of median (extremely low income). As of the end of May 2001, approximately 82 percent of HOME-assisted rental housing was benefitting families at or below 50 percent of area median income, while 41 percent was assisting families with incomes at or below 30 percent of area median income. HOME funds also help families realize the dream of homeownership by providing for construction and rehabilitation of housing as well as providing down payment and/or closing cost assistance. Furthermore, HOME is cost effective and provides the gap financing necessary to attract private loans and investments in projects. For each HOME dollar, \$3.88 of private and other funds is currently being leveraged.

We recommend that any new housing production proposal be incorporated into the HOME program and provide the following:

Eligible Activities - Our proposal would provide grants for new construction, substantial rehabilitation and preservation of multifamily housing. Mixed income projects would be encouraged.

Targeting - All of the resources made available under our proposal must benefit households at or below of 80 percent of median income, with at least 50 percent benefitting those households at or below 30 percent of area median income.

Ongoing Rental Subsidy - NCDA supports the linkage of Section 8 subsidies to those tenants with extremely low-incomes (those households at or below 30% of area median income). Some form of ongoing subsidy is needed in order to ensure that these very poor families are able to pay the rent on the unit in which they reside.

Allocation and Distribution of Funds - Funds would be apportioned using the existing allocation scenario of the HOME program with 60 percent of the funds allocated to local participating jurisdictions (including consortia) and 40 percent allocated to states using a needs-based formula that measures inadequate housing supply and other necessary factors.

We urge the Commission to embrace our production program with HOME.

In addition, there are several other modifications to the HOME program that we offer for the Commission's consideration.

- (1) We recommend that a loan guarantee program be added to HOME, modeled after the very successful Section 108 program under CDBG. Such a program would enable participating jurisdictions to "borrow" against future entitlement grants in order to undertake large-scale housing projects.
- (2) We recommend that HOME's targeting requirements be simplified by conforming them to those applicable to the Low-Income Housing Tax Credit Program, i.e., not less than 20 percent of the units reserved for households at 50 percent of median income or 40 percent of the households at 60 percent of median income, paying no more than 30 percent of their income for rent.
- (3) We recommend a legislative change to sections 220(a) and 220(d) that would permit participating jurisdictions to provide match on a program year basis, instead of a fiscal year basis. This change will recognize the consolidated planning process, permit match accounting and record requirements to conform with other programmatic requirements and simplify program administrations for participating jurisdictions and HUD.
- (4) We recommend permitting the substitution of a substantially equivalent state or local environmental review requirement for the environmental review requirements under NEPA.
- (5) We recommend providing an exemption from the environmental review requirements for rehabilitation of one to four units and all owner-occupied rental and homeownership projects.
- (6) We recommend deleting the current law requirement that the Secretary establish per unit subsidy limits. The statute already requires participating jurisdictions to certify that they have not provided more funds than are necessary to assure a project's financial feasibility.
- (7) Section 225(b) of the Cranston-Gonzalez National Affordable Housing Act requires an owner of a HOME-assisted unit seeking to terminate tenancy or decline to renew a lease to provide 30 days advance written notice specifying the grounds for the proposed action. This provision conflicts with many state and local statutes that permit more immediate action, particularly when the tenant is engaged in illegal activities or endangering the health or safety of other tenants. We recommend that the requirement for 30 days' advance written notice be eliminated and instead require that any termination or refusal to renew a lease be consistent with State and local law.
- (8) We recommend that the administrative fee under the program be increased. Currently, the program provides a 10 percent administrative fee for participating jurisdictions to administer the

program. This fee has not been increased since the program first began and many cities, particularly larger cities, are finding it difficult to administer their HOME program with this very limited fee level, particularly with the need to monitor projects. We recommend that this fee be increased at least to the level of inflation annually.

Community Development Block Grant Program

Now in its 27th year, the Community Development Block Grant Program is perhaps the most successful federal block grant program. The CDBG program's success stems from its structure which provides local and state governments with a predictable stream of funding annually which is then used with maximum flexibility to address the community development needs that is unique to every community that receives the funds, such as neighborhood revitalization, housing rehabilitation, homeownership, job training, daycare and elderly services, economic development, and a myriad of other activities. CDBG provides needed resources for housing too, primarily housing rehabilitation and homeownership.

Unfortunately, the program faces a direct assault by legislation – H.R. 1191 – introduced by Rep. Carrie Meek that would take away much of the flexibility that communities now enjoy with the program. The legislation would turn the CDBG program into an “anti-poverty” program, something Congress never intended. The bill increases from 70 percent to 80 percent the aggregate (i.e., over three years) amount of funding that must benefit low- and moderate-income persons. The legislation further limits the flexibility of the program by requiring that 40 percent of this amount be targeted directly to low-income persons (those persons at or below 52 percent of the area median income). The bill further targets CDBG funding by disallowing low- and moderate-income benefit credit for activities undertaken in areas that are not primarily residential in character. In other words, use of CDBG funds in downtown areas that are not primarily residential would not count against the proposed 80 percent and 40 percent principal benefit tests. Yet, downtown business districts in many smaller communities are the central location for services and commodities available for the low- and moderate-income residents of these neighborhoods. We think it is inappropriate to establish national policy and restrictions on the use of CDBG funds, as the bill would do, to resolve what we understand is essentially a local issue. We strongly urge the Commission to oppose this harmful legislation.

There are several refinements to the CDBG program that we offer for the Commission's consideration.

- (1) We recommend that the threshold for application of the Davis-Bacon requirements for CDBG conform to that of the HOME program (i.e., 12 units or more).
- (2) We recommend making CDBG expenditures for fair housing a direct eligible activity, rather than its being subject to the 20 percent administrative cap. This will take some of the pressure off of the administrative cap.
- (3) We further recommend eliminating the current law requirement that housing service activities under CDBG be subject to the 20 percent administrative cap. This is a technical correction.

The law prior to the 1992 amendment did not place these activities under the cap.

- (4) We recommend permitting the substitution of substantially equivalent state or local environment review requirements for the environmental review requirements of NEPA.

We were pleased that Congress provided a \$200 million increase in funding for the CDBG program in FY 2001. This was the first increase in the formula allocation since 1996. Since 1995, formula funding had been eroding due to the proliferation of set-asides within CDBG. We strongly urge the Commission to support an increase in the program this year. We are seeking formula funding of \$5 billion for the program in FY 2002.

We also strongly urge the Commission to recommend that a permanent technical assistance component be incorporated into the CDBG program. In the last few years, Congress has not appropriated any funds for technical assistance for CDBG grantees. Grantees need continued, ongoing technical assistance in administering the program.

McKinney-Vento Homeless Assistance Programs

Many of NCDA's member communities administer HUD's homeless assistance programs. The programs are extremely important to communities in providing resources to meet the needs of homeless people; however, several of the programs – Supportive Housing Program, Shelter Plus Care, and Section 8 SRO for Moderate Rehabilitation – require communities to apply for funding under these programs every year, through a very rigorous application process. We urge the Commission to urge Congress to consolidate these competitive programs into a formula-driven block grant that would be allocated to local governments and state governments along the same allocation scenario as the CDBG program, with local governments receiving 70 percent of the funds and state governments receiving 30 percent of the funds. NCDA has long supported this approach. In the last two congresses, Rep. Rick Lazio achieved House passage of a combination formula-driven block grant and a 30 percent set-aside for permanent housing. Last year, at NCDA's and other groups' urging, Senator Allard introduced a pure homeless block grant bill. Such a block grant should be funded at no less than \$1.2 billion.

The problem of homelessness is not solved by a "one size fits all" solution and it is for this reason that we advocate an approach which provides states and localities with the maximum flexibility to fashion a program which best suits their particular local needs. Furthermore, it takes entirely too much time to apply for funding under HUD's competitive process. This not only includes the annual application process, but the enormous amount of time it takes HUD to announce the awards and distribute the funds to grantees. Consolidation of the programs will enable local jurisdictions to receive funding more quickly. Moreover, consolidating the programs based on a formula distribution of funds would ensure a stable commitment of resources and would allow recipients to effectively plan for and address the issue of homelessness in their communities.

As part of a block grant, NCDA believes that the following principles should be considered:

Local Planning - The block grant should provide for extensive local planning and priority setting to tailor funds to local needs. NCDA supports the creation of a local planning board which is appointed by the chief elected official of each community and which consists of a mixture of homeless service providers, homeless individuals, advocates, and local officials.

Access to Mainstream Programs and Services - The McKinney- Vento programs were originally intended to provide emergency assistance, and as such, are not equipped to provide all the housing and services necessary to end homelessness. Greater collaboration among federal agencies is needed so that all of the federal homeless assistance programs provide greater access by local communities to receive as much funding as is available to assist in meeting their homeless needs.

Discharge Planning - In order to assist in addressing the enormous homeless population, all agencies within a community must become involved, not just the local housing and community development agency or social service agency. Prisons and jails as well as mental health institutions and other agencies which release people into the streets with no housing must be required to develop responsible discharge plans which provide housing for persons that do not have adequate housing.

Eligible Uses - The McKinney-Vento programs should allow for a wide range of activities to be included as eligible uses. Included as eligible uses should be: outreach, homelessness prevention, emergency shelter, transitional shelter, supportive services, supportive housing, and permanent housing.

Administrative Costs - We support a 10 percent administrative fee for local jurisdictions in administering the homeless assistance programs. We also support the allowance of additional funds for technical assistance for grantees.

Hold Harmless Clause - We support a temporary “hold harmless” clause for those communities that have competed and received funding through HUD’s Continuum of Care application process, until a more adequate formula for the program is developed.

We also urge the Commission to call on Congress to renew expiring rent subsidy contracts under the McKinney Act’s homeless housing programs. In order to assure continuity of services and rental assistance in these projects we recommend that the Supportive Housing Program renewals and the Shelter Plus care renewals be transferred to the regular Section 8 rental program. This would allow more funding to be available under HUD’s homeless assistance programs for the development of new projects to assist the homeless.

Lead-Based Paint

We support efforts to eliminate the hazard of lead-based paint in the nation’s housing stock and are committed to implementing Title X of the Housing and Community Development Act of 1992.

However, we recognize that to do so will require a substantial increase in federal funding to address this issue. We have been working with HUD and others to determine the additional cost and to help build the capacity in the public and private sectors to contain or abate lead-based paint, as appropriate, under regulations promulgated by HUD. We have further called for an explicit exemption for ownership housing occupied by the elderly. With the substantial cost need to address the need to abate lead paint, we believe that the priority should be on households at the greatest risk – those with children under six years of age. Therefore, we recommend that the Commission urge Congress to provide adequate funding to address this issue as well as to provide an explicit exemption for ownership housing that is occupied by the elderly.

We also recommend that Title X of the 1992 Housing and Community Development Act be amended to substantially increase the current threshold requirement of \$25,000 per unit in federal rehabilitation funds that triggers “abatement” activities. Abatement is much more expensive than activities that focus on lead-safe work practices, and such a low trigger level discourages many communities from investing in rehabilitation projects. Furthermore, the threshold level is unrealistically low given today’s actual rehabilitation costs. We recommend that this threshold level be substantially increased.

We also recommend that HUD provide permanent, ongoing training to grantees and other personnel required under the rule (i.e., abatement supervisors, clearance technicians, inspectors, etc.) to ensure an educated, stable source of personnel to carry out the regulation.

Conclusion

We appreciate the opportunity to provide recommendations to the Commission on the core housing and community development programs administered by local governments. We urge the Commission to recommend to Congress that local governments be active partners in any new housing and community development programs that are created in the future.

Since the Housing Act of 1937, Congress has enunciated, and repeated in subsequent housing acts, that, as a matter of national policy, the Federal government has an obligation to assist states and local governments in providing decent, safe and sanitary housing for lower income households. Perhaps, Congress said it best in a “Declaration of National Housing Policy” included in Section 2 of the Housing Act of 1949:

“The Congress hereby declares that the general welfare and security of the nation, and the health and living standards of its people, require housing production and related community development sufficient to remedy the serious housing shortage, the elimination of substandard and other inadequate housing through the clearance of slums and blighted areas, and the realization as soon as feasible, of the goal of a decent home and suitable living environment for every American family.”

We submit to you that, while progress has been made toward this goal, it has not been fully achieved.

The Federal government must continue its commitment to this National Housing Policy, backed by the necessary resources, with which to continue the battle against neighborhood deterioration and a decaying housing stock.

We urge the Commission to provide our recommendations to Congress in its upcoming final report.