NACCED

National Association for County Community and Economic Development

April 25, 2025

The Honorable Mike Flood
343 Cannon House Office Building
Washington, DC 20515

The Honorable Emmanuel Cleaver
2217 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Flood and Ranking Member Cleaver,

On behalf of the National Association for County Community and Economic Development (NACCED), we appreciate the opportunity to provide feedback on your announced efforts on April 7 to modernize the Community Development Block Grant (CDBG) and HOME Investment Partnerships (HOME) programs.

NACCED was established as an affiliate of the National Association of Counties in 1978 to develop the technical capacity of county government practitioners that administer federally funded affordable housing, community development and economic development programs. NACCED member counties are all CDBG entitlement communities, most have been administering CDBG and HOME activities since the beginning of these programs.

As local governments continue to use both CDBG and HOME as critical tools for neighborhood revitalization, housing development, and essential public services, modernizing the programs' statutory framework is necessary to better meet today's challenges and community needs.

NACCED is grateful for your commitment to updating CDBG and HOME, representing the first comprehensive statutory overhaul in both programs' history. As you consider approaches to modernize both programs, we request you take into consideration the following responses to your call for feedback before issuing drafted legislation. Listed recommendations include regulatory functions in need of statutory clarification.

CDBG Recommendations

Administrative Cap

Currently, the CDBG administrative cap creates challenges in accurate planning and operational needs that adds unnecessary unpredictability and is obstructive to planning rather than supportive. NACCED supports flexibility and improvement to the administrative cap to increase benefit to entitlements. NACCED recommends aligning the treatment of program income when calculating the CDBG administrative cap to how program income is treated for the public services cap.

Currently, the calculation for the CDBG administrative cap is based on the current year's program income. This creates challenges in accurate planning for administrative staffing and operational needs, particularly since the availability of program income can be somewhat unpredictable. NACCED supports a revision to the administrative cap calculation methodology to align it with the approach used for determining the public services cap, which counts program income receipted during the previous program year.

New Construction

NACCED supports amending the CDBG statute to allow use of funds for new residential construction. Current limitations on new construction restrict local governments' ability to effectively respond to housing shortages, particularly in communities where rehabilitation opportunities are limited or where vacant land and blighted properties present opportunities for new, affordable homes.

Providing additional flexibility for CDBG to support new construction would give entitlements flexibility to address local housing needs more comprehensively, aid rural locales, strategically invest in areas undergoing revitalization and serve as an additional funding source to address housing. This change would align CDBG with modern housing market realities, add additional housing funding layers and better complement other federal programs like HOME and the utilization of Low-Income Housing Tax Credits (LIHTC), create more coordinated and impactful approach to housing, community development and decrease barriers for regulatory compliance that result in development delay.

Further, CDBG prohibits acquisition-only housing activities to be conducted by for-profit entities resulting in non-profit organizations as the only eligible entity for this activity type. Such limitations complicate using CDBG projects to support acquisition associated with a new construction project that intends to utilize LIHTC. This is due to the project ownership structure for a LIHTC projects, which generally involve entities that are technically considered a "for-profit" even in a scenario where the general partner or managing member in the tax credit partnership is owned by a nonprofit.

HUD has taken the position that LIHTC tax credit partnerships are not nonprofit and therefore applying CDBG to the acquisition costs for projects that involve acquisition in support of new construction is disallowed. NACCED supports adjusting CDBG to allow for new construction, and further allowing for-profit as an eligible entity. This would better align CDBG rules and regulations with the LIHTC program, enhancing the program's reach and effectiveness in expanding availability of housing.

Low-Mod Residential Area Criteria

Currently, CDBG regulations require low and moderate (Low-Mod) income areas to be primarily residential areas and contain a percentage of low- and moderate-income residents that is 51% percent to qualify for program support. This limits the ability of local governments to invest in mixed-use or commercial areas that are poised for residential redevelopment.

NACCED recommends revising statutory language to remove the restriction requiring areas to be residential at the time of application, allowing entitlements to proactively convert commercial or mixed-use areas into affordable residential communities. This approach would streamline and increase public-private partnerships for enhanced community development. Further, NACCED recommends an increase of flexibility for entitlements to self-certify Low-Mod census block groups. For example, American Community Survey income data suffers from fluctuations with an exceptionally high margin of error. We recommend changing Low-Mod areas from area-benefit to non-area benefit.

Additionally, NACCED recommends aligning federal statute with existing state legislation to allow for redevelopment of commercial properties and conversion of commercial mixed-use areas to residential properties for increased strategic community planning and alignment with local revitalization goals.

Unit Count Threshold

NACCED suggests statutory alignment of the Davis Bacon threshold between the CDBG and HOME programs at 12 units. Currently, differing thresholds create confusion and inefficiencies in program administration, particularly for projects utilizing both sources of funding. By establishing a consistent Davis Bacon dollar threshold aligned with the simplified acquisition threshold currently set at $250,000, Congress would simplify compliance requirements and better support the development of small- to mid-sized housing projects, which are critical in both rural and urban markets.

Lead-Based Paint Abatement

NACCED recommends raising the per-unit threshold for lead-based paint abatement activities within the CDBG statute or granting U.S. Department of Housing and Urban Development (HUD) authority to adjust this threshold periodically through regulation. Current limits do not reflect the increased costs of lead abatement activities, creating financial challenges for entitlements working to maintain safe and healthy housing stock. Providing the flexibility to adjust these thresholds based on market conditions and public health needs would improve program outcomes and reduce barriers to project implementation.

Public Service Cap

NACCED supports a statutory increase in the CDBG public service cap from 15 percent to 20 percent. The current cap limits the ability of communities to meet rising service needs, particularly for services addressing homelessness, rural area infrastructure aid and workforce development. Increasing the cap would enable entitlements to better serve vulnerable residents and complement ongoing housing and infrastructure investments made with CDBG funds. This long-overdue adjustment would enhance the program's impact and relevance in meeting today's community development challenges.

Land Use Reporting

NACCED holds concerns regarding language included in the Yes in My Backyard (YIMBY) Act (H.R. 3507/S.1688), previously introduced in the 118th Congress. If passed in future legislative sessions, the YIMBY Act would require CDBG entitlements to submit reporting every five years in addition to current compliance structures resulting in increased documentation and public disclosures related to local land use policies. These new compliance obligations would divert valuable staff time and resources away from direct CDBG implementation and community development activities. NACCED supports future legislative opportunities to decrease administrative burden for entitlement communities.

Timeliness

NACCED appreciates that HUD has attempted to address challenges of its current CDBG timeliness measure in previously proposed regulatory changes. We agree that the proposed timeliness measure would enable, even encourage, jurisdictions to use CDBG funds for larger, more transformative projects.

We believe that program income should be treated separately from entitlement funding in calculating timely expenditures for two reasons. First, the entitlement communities that choose to create revolving loan funds or otherwise set up programs that require repayment should not be penalized for using this structure, which provides an ongoing funding source to meet important needs. Second, planning for program income can be challenging, as loan repayments or other program income are unpredictable and based on multiple factors outside the entitlement community's control.

NACCED supports CDBG to provide increased opportunities for program income to work in favor of grantees rather than against.

We offer several alternative approaches for statutory codification:

1. Reinstate the policy to exclude revolving loan funds from the timely expenditure calculations.

2. Develop an alternative policy in which program income is measured separately for timely expenditures, perhaps with a similar timeline but with clearly separate reporting.

3. Reconsider program income requirements to return to first in/first out expenditures.

4. Allow a blanket one-year exemption for program income from being counted for timeliness.

Increase Flexibility in National Objective Compliance

NACCED recommends expanding use of "presumed benefit" for Low-Mod Housing national objective, particularly as it relates to disability status and households that are presumed to benefit for homeowner rehab activities. Currently the presumed benefit is only allowed for Low-Mod income limited clientele. Additionally, allowing increased flexibility or presumptive eligibility for activities clearly serving Low-Mod income populations (e.g., early childhood education centers, food banks) would reduce the need for burdensome surveys or documentation and speed up critical investments.

CDBG Rehabilitation Projects

Currently, lump sum drawdown is only allowed for rehabilitation activities, not allowed for Public Facility projects, yet these projects are similar in terms of deal structure and construction activities to rehabilitation projects. NACCED supports this flexibility for public facility projects.

HOME Recommendations

Unit Acquisition

NACCED recommends providing greater flexibility for participating jurisdictions (PJs) to acquire newly constructed homes under HOME. Current statutory restrictions limit jurisdictions' ability to respond to market conditions by acquiring new or recently completed homes, which is especially important in areas with limited affordable existing stock. Granting PJs this authority would enhance HOME's responsiveness and effectiveness in addressing housing shortages and supporting homeownership opportunities.

Tenant-Based Rental Assistance

In the area of tenant-based rental assistance (TBRA), we encourage increases to allowable deposit assistance amounts which would decrease administrative fees. Rising deposit requirements by landlords and higher administrative costs are increasingly outpacing the statutory allowances under HOME, leaving jurisdictions with decreased aid for low-income tenants.

Further, based on extensive feedback from our membership, we offer two recommendations on how to codify HOME TBRA regulatory requirements and TBRA programs more effectively:

- First, the HOME TBRA program should only require income eligibility screening at new admission and not require it thereafter (i.e., during the annual certification process), putting it in line with current Section 8 income eligibility screening requirements.
- Second, the HOME TBRA program should also not have a lease renewal requirement after a new admission. Currently, HOME TBRA requires lease

renewals whereas the Section 8 program does not require it after new admission (lease renewal is implied and does not have to be verified).

Additionally, we recommend removal of the requirement that $1 of HOME funding be spent before costs billed to CDBG can be reimbursed. Due to the tight housing market, it can take a few weeks and multiple applications before a household is accepted into housing. Nonprofit providers must hold these costs, including additional administrative fees landlords are now charging, before being able to bill for those costs. This also causes delays at the end of contracts, due to costs needing to be paid within the period of performance.

For example, a housing provider has a contract ending December 31 with a new contract starting January 1, incurring housing application fees in December, but the household does not get accepted into housing until January. Because HOME funds have not been expended for that household, they cannot bill for those costs and must find other funds to cover the costs of the application fee and the case management time it took to help that household find housing.

Administrative Cap

NACCED urges Congress to raise the administrative services cap under HOME from 10% to 20% to enable jurisdictions to fund services that complement housing activities and address the broader needs of low-income communities. These statutory changes would make HOME more effective, equitable, and responsive to public needs. Additionally, we recommend permanently allowing the use of HOME funds for pre-award costs. This would allow for more efficient project financing and reduce administrative delays.

CHDOs

NACCED supports moving to a statewide approach for Community Housing Development Organization (CHDOs) that would maximize CHDO assistance. Existing opportunities for CHDO designation should not hold a requirement of having development expertise on payroll due to rural area staffing capacities. By eliminating development expertise requirements on rural CHDO staffing, statewide CHDOs would have the opportunity to participate at an increased level and increase capacity capabilities.

Public Housing Resource Options for HOME

NACCED supports allowing optional use of leveraging public housing administrative resources and training materials for HOME to allow for robust income qualification tools with increased built-in and supportive features. HUD’s Enterprise Income Verification System and National Standards for the Physical Inspection of Real Estate inspection software are examples of additional resources PJs could utilize with existing HOME income qualification tools.

HOME for ADUs

NACCED supports the evaluation of elder cottage HOME regulations, 92.258 and modernization to include all types of tiny homes and Accessory Dwelling Units for all low-income populations.

Build America, Buy America Impacts on CDBG and HOME

NACCED remains concerned about the feasibility and fiscal impacts of the Build America, Buy America program (BABA) on CDBG and HOME. The home building industry and CHDOs, with whom we partner on CDBG and HOME projects, have expressed frustration over limited BABA waiver availability and heightened expenses associated with sourcing domestic materials. The lack of detailed guidance from HUD on BABA compliance has compounded challenges for developers and contractors, hindering their ability to provide feedback and navigate program requirements effectively. Additionally, it could undermine the program's stated affordability goals due to the program's emphasis on sustainability, which will likely lead to increased project costs and demands for limited waivers.

CDBG and HOME Reporting Requirements and IDIS Modernization

NACCED recommends increased congressional funding for HUD to simplify, modernize and digitize reporting (e.g., a single portal with automated data pulls from local systems) to reduce duplicative narrative reporting and allow for enhanced access to additional robust reporting tools from entitlements and PJs. Modernizing reporting requirements and IDIS grantee access will decrease grantee administrative burden and benefit efficiency for participants with limited staff.

Section 3 Reporting Requirements

The Section 3 program requires recipients of HUD funding to direct employment, training and contracting opportunities to low-income individuals and the businesses that employ these persons within their communities. NACCED supports the intent of Section 3; however, the data collection and reporting requirements are extremely burdensome for developers, PJs and entitlements.

Conclusion

We appreciate your commitment to modernizing CDBG and HOME in ways which will continue to help our members meet the development and housing needs of their communities. We encourage you to continue exploring opportunities to improve, streamline and align federal affordable housing and community development program standards to more effectively leverage limited resources.

We look forward to continuing to work alongside you to incorporate future federal legislative CDBG and HOME changes at the county level. If you have any questions, please contact NACCED Policy Director Josh Brandwein at jbrandwein@nacced.org.

Sincerely,

Laura Petty

Executive Director

National Association for County Community and Economic Development