

HOUSING IN AMERICA: OVERSIGHT
OF THE U.S. DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT

HEARING
BEFORE THE
COMMITTEE ON FINANCIAL SERVICES
U.S. HOUSE OF REPRESENTATIVES
ONE HUNDRED SIXTEENTH CONGRESS
FIRST SESSION

MAY 21, 2019

Printed for the use of the Committee on Financial Services

Serial No. 116-27



U.S. GOVERNMENT PUBLISHING OFFICE

37-929 PDF

WASHINGTON : 2020

HOUSE COMMITTEE ON FINANCIAL SERVICES

MAXINE WATERS, California, *Chairwoman*

CAROLYN B. MALONEY, New York	PATRICK McHENRY, North Carolina,
NYDIA M. VELAZQUEZ, New York	<i>Ranking Member</i>
BRAD SHERMAN, California	PETER T. KING, New York
GREGORY W. MEEKS, New York	FRANK D. LUCAS, Oklahoma
WM. LACY CLAY, Missouri	BILL POSEY, Florida
DAVID SCOTT, Georgia	BLAINE LUETKEMEYER, Missouri
AL GREEN, Texas	BILL HUIZENGA, Michigan
EMANUEL CLEAVER, Missouri	SEAN P. DUFFY, Wisconsin
ED PERLMUTTER, Colorado	STEVE STIVERS, Ohio
JIM A. HIMES, Connecticut	ANN WAGNER, Missouri
BILL FOSTER, Illinois	ANDY BARR, Kentucky
JOYCE BEATTY, Ohio	SCOTT TIPTON, Colorado
DENNY HECK, Washington	ROGER WILLIAMS, Texas
JUAN VARGAS, California	FRENCH HILL, Arkansas
JOSH GOTTHEIMER, New Jersey	TOM EMMER, Minnesota
VICENTE GONZALEZ, Texas	LEE M. ZELDIN, New York
AL LAWSON, Florida	BARRY LOUDERMILK, Georgia
MICHAEL SAN NICOLAS, Guam	ALEXANDER X. MOONEY, West Virginia
RASHIDA TLAIB, Michigan	WARREN DAVIDSON, Ohio
KATIE PORTER, California	TED BUDD, North Carolina
CINDY AXNE, Iowa	DAVID KUSTOFF, Tennessee
SEAN CASTEN, Illinois	TREY HOLLINGSWORTH, Indiana
AYANNA PRESSLEY, Massachusetts	ANTHONY GONZALEZ, Ohio
BEN McADAMS, Utah	JOHN ROSE, Tennessee
ALEXANDRIA OCASIO-CORTEZ, New York	BRYAN STEIL, Wisconsin
JENNIFER WEXTON, Virginia	LANCE GOODEN, Texas
STEPHEN F. LYNCH, Massachusetts	DENVER RIGGLEMAN, Virginia
TULSI GABBARD, Hawaii	
ALMA ADAMS, North Carolina	
MADELEINE DEAN, Pennsylvania	
JESUS "CHUY" GARCIA, Illinois	
SYLVIA GARCIA, Texas	
DEAN PHILLIPS, Minnesota	

CHARLA OUERTATANI, *Staff Director*

CONTENTS

	Page
Hearing held on:	
May 21, 2019	1
Appendix:	
May 21, 2019	65

WITNESSES

TUESDAY, MAY 21, 2019

Carson, Hon. Dr. Benjamin S., Sr., Secretary, U.S. Department of Housing and Urban Development	4
--	---

APPENDIX

Prepared statements:	
Beatty, Hon. Joyce	66
Carson, Hon. Dr. Benjamin S.	67

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Waters, Hon. Maxine:	
Written statement of the Cedar Band of Paiutes' CBC Mortgage Agency (the "Chenoa Fund")	77
New York Times article entitled, "What Will It Cost to Fix New York's Public Housing?", dated July 2, 2018	98
Tlaib, Hon. Rashida:	
Detroit Free Press article entitled, "Controversial surveillance program coming to Detroit public housing," dated November 9, 2018	100
Carson, Hon. Dr. Benjamin S., Sr.:	
Written responses to questions for the record submitted by Chairwoman Waters	105
Written responses to questions for the record submitted by Representative Beatty	136
Written responses to questions for the record submitted by Representative Foster	138
Written responses to questions for the record submitted by Representative Chuy Garcia	140
Written responses to questions for the record submitted by Representative Hill	142
Written responses to questions for the record submitted by Representative Maloney	143
Written responses to questions for the record submitted by Representative McAdams	144

HOUSING IN AMERICA: OVERSIGHT OF THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Tuesday, May 21, 2019

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The committee met, pursuant to notice, at 10:05 a.m., in room 2128, Rayburn House Office Building, Hon. Maxine Waters [chairwoman of the committee] presiding.

Members present: Representatives Waters, Maloney, Velazquez, Sherman, Meeks, Clay, Scott, Green, Cleaver, Foster, Beatty, Vargas, Gottheimer, Gonzalez of Texas, Lawson, Tlaib, Porter, Axne, Casten, Pressley, McAdams, Ocasio-Cortez, Wexton, Lynch, Adams, Dean, Garcia of Illinois, Garcia of Texas, Phillips; McHenry, Wagner, Posey, Luetkemeyer, Duffy, Stivers, Barr, Tipton, Williams, Hill, Emmer, Zeldin, Loudermilk, Mooney, Davidson, Kustoff, Hollingsworth, Gonzalez of Ohio, Rose, Steil, Gooden, and Riggleman.

Chairwoman WATERS. The Financial Services Committee will come to order.

Thank you for your patience, Mr. Secretary. We were just working out how we are going to proceed today. We have a classified briefing that is extremely important that will be called about 1:00 or 1:30, and we are not sure how long it is going to last. If it lasts beyond an hour, we will come back, and we will relieve you if you are prepared to go. We will not ask you to stay beyond 1 hour. If it is over in 1 hour, we will come back, and we will continue with the hearing. Otherwise, we will let you know, and you can make a decision.

Is that understood by everybody? Thank you very much.

Today's hearing is entitled, "Housing in America: Oversight of the United States Department of Housing and Urban Development."

Without objection, the Chair is authorized to declare a recess of the committee at any time.

I now recognize myself for 4 minutes to give an opening statement.

Today, this committee convenes for a hearing to conduct oversight over the United States Department of Housing and Urban Development (HUD). Our sole witness is Dr. Benjamin Carson, the Trump Administration's HUD Secretary. I am very concerned about Secretary Carson's actions in leading HUD. Specifically,

under his leadership, HUD has put forth an outrageous plan that would triple rent for the lowest-income households and put 1.7 million Americans at risk of eviction and homelessness at a time when we are in the midst of a national homelessness and housing affordability crisis.

His most recent proposed budget would cut HUD funding by 18 percent. That budget proposal includes the elimination of new funding for the National Housing Trust Fund and the Capital Magnet Fund, essential programs that are in place to increase the supply of affordable housing. As I have said before, what we need is a real investment in affordable housing programs, not senseless budget cuts.

Under Secretary Carson's leadership, HUD has diminished and compromised fair housing protections. Secretary Carson has halted the implementation of HUD's Affirmatively Furthering Fair Housing rule, which is an important rule finalized by the Obama Administration that provides communities with greater clarity on how to help break down residential segregation and barriers to fair housing opportunities.

I am also concerned by the reports about delays in disaster recovery funds reaching Puerto Rico and delays in the HUD Office of the Inspector General inquiry into the matter due to a lack of timely cooperation by HUD.

I was also very troubled by Secretary Carson's recent cruel proposal to terminate housing benefits for families that include individuals with mixed immigration statuses. Of course, existing law prevents Federal housing programs from subsidizing individuals with ineligible immigration status. Prorated rental assistance allows mixed immigration status families to remain together while exclusively subsidizing only those family members with eligible status. The Trump Administration proposal puts mixed status families at risk of being evicted, separated, and left homeless.

Secretary Carson, across the board, these actions are inconsistent with HUD's mission. Instead of helping the hard-working Americans and vulnerable families that the agency is in place to serve, the Trump Administration is actively causing harm, and striving to make housing less available, affordable, and fair. Today, you will face some tough questions about your leadership decisions and mismanagement of the agency.

The Chair now recognizes the ranking member of the committee, the gentleman from North Carolina, Mr. McHenry, for 5 minutes for an opening statement.

Mr. MCHENRY. Thank you, Chairwoman Waters.

And thank you, Secretary Carson. Thank you for your service to the American people and our government.

HUD was created more than 50 years ago by President Lyndon Johnson who intended the new agency to be a major tool in combating poverty, rebuilding our cities, and making housing more affordable for all.

To that end, HUD is involved in several programs, including Federal public and Indian housing efforts, community planning and development initiatives, fair housing and equal opportunity enforcement, FHA mortgage insurance, Ginnie Mae securitization of federally guaranteed mortgages, and, more recently, disaster recovery

efforts, yet HUD also finds itself at a crossroads. It must meet the 21st Century expectations of the American people in a 20th Century framework with 19th Century technology. This is not a recipe for success.

Instead of looking for easy answers to complex problems, Secretary Carson did what Dr. Carson has done countless times before while he was a surgeon. He rolled up his sleeves and set to work to find things, no matter how big the challenge, and there have been challenges.

He has implemented reforms to reduce fraud and abuse in how we finance mortgages through FHA and Ginnie Mae. He reversed a decade-long trend by once again hiring a Chief Financial Officer for HUD to protect taxpayers and combat wasteful spending.

HUD also stood up for housing when it filed suit in 2018 against the New York City Housing Authority for routinely and flagrantly failing to uphold its legal obligations under the Fair Housing Act of 1937. Until HUD stepped in, the New York City Housing Authority put real people in harm's way, serious harm's way, and then repeatedly misled HUD about its wrongdoings.

He also took the fight against housing discrimination into the 21st Century by scrutinizing digital ads that may have violated the Fair Housing Act and were modern day efforts at redlining.

Additionally, Secretary Carson has worked to promote the private-public partnership model of advancing social and economic prosperity for all Americans by chairing the interagency White House Opportunity and Revitalization Council, which works to help distressed communities stimulate development and entrepreneurship through new tools like Opportunity Zones. Opportunity zones are a welcome addition in our Tax Code and are having impacts in our communities but will have a much stronger impact in the coming decades.

I applaud Secretary Carson for his efforts to bring much-needed reform to the agency, including modernizing old programs, updating regulations, and knocking down barriers to individual local investment.

Last week, I sent a letter to Secretary Carson urging his swift movement on several pending regulations, finalizing new rules that reflect modern realities on topics like Affirmatively Furthering Fair Housing and disparate impact will go a long way to helping local communities and consumers. I welcome you finalizing those rules in a timely manner.

The path to reform isn't always smooth. I think there are reasonable questions regarding how HUD communicates information and how it handles the unprecedented amount of disaster aid it administers. I look forward to hearing the Secretary's response to those questions in particular.

Like many other Federal programs, we must recognize that housing in the 21st Century is a partnership between Federal, State, and local governments, one that needs to be collaborative for it to be successful. We must do our part to achieve bipartisan results, to help those who are homeless get in sustainable housing. We must do our part to modernize the Federal footprint with changes in law, and the Executive Branch must do its part in changes to regulation to meet these challenges.

As Secretary Carson has said, we must leverage outside public and private investment in addition to Federal funds to meet our housing challenges. I concur, and I expect a modernized HUD to lead the way towards the future.

And, with that, I yield back the balance of my time.

Chairwoman WATERS. Thank you.

The Chair now recognizes the Chair of our Subcommittee on Housing, Community Development, and Insurance, Mr. Clay, for 1 minute.

Mr. CLAY. Thank you, Madam Chairwoman, and as we mark the 51-year passage of the Fair Housing Act, there is still much work to be done to promote and ensure fair housing in America. In fact, as I noted in recent conversations, residents in my district in the community of Wellston, Missouri, are facing the prospect of dislocation and upheaval.

Although we have had conversations, I want to make it clear for the record that I fully expect HUD to follow through on any and all commitments made and work with my staff and me to ensure that the residents have access to affordable housing. I hope that we can find a solution, such as a grand family development or usage of Section 202 housing, and I stand at the ready to work with HUD.

And, with that, Madam Chairwoman, I yield back.

Chairwoman WATERS. Thank you.

I want to welcome to the committee our witness, Dr. Benjamin S. Carson, Sr., the Secretary of Housing and Urban Development. He has served in his current position since 2017. Mr. Carson has testified before the committee on previous occasions, and I do not believe he needs further introduction.

Without objection, your written statement will be made a part of the record.

Secretary Carson, you are now recognized for 5 minutes to present your oral testimony.

STATEMENT OF THE HONORABLE DR. BENJAMIN S. CARSON, SR., SECRETARY, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Secretary CARSON. Thank you, Chairwoman Waters, Ranking Member McHenry, and members of the committee. Thank you for the opportunity to appear before you today to discuss housing in America.

Let me begin with fair housing. In so many ways, we can't consider our housing markets healthy unless those markets are also fair. In today's interconnected electronic world, discrimination can take less obvious forms. That is why I initiated an investigation into Facebook and, 2 months ago, charged Facebook with violating the Fair Housing Act by using its social media platform to encourage, enable, and cause housing discrimination. Using a computer to limit a person's housing choices is just as discriminatory as slamming a door in someone's face.

This year, HUD is also placing a special focus on protecting the rights of individuals to feel safe and secure in their homes, free from sexual harassment.

Turning to housing finance, HUD oversees \$1.4 trillion in Federal Housing Administration mortgage insurance and more than \$2 trillion in Ginnie Mae mortgage-backed securities. Considering HUD's critical role in supporting affordable and sustainable mortgage finance, it is essential that housing finance reform efforts take a comprehensive view of the marketplace.

President Trump recently signed a memorandum directing Secretary Mnuchin and myself to develop a housing finance reform plan. Our plan will ensure that FHA and Ginnie Mae assume primary responsibility for providing housing finance support to low- and moderate-income families that cannot be fulfilled through traditional underwriting.

In some of our housing markets, we are also struggling against the strong headwinds of disaster. In the time I have been Secretary of HUD, this nation has experienced several major disasters. In response, President Trump has signed into law critical emergency funding to support long-term recovery and directed HUD to allocate these resources among the hardest-hit States. HUD has fully allocated approximately \$7.4 billion through our CDBG-DR program. This money can be used today to help rebuild homes, restore businesses, and repair or replace damaged infrastructure. In addition, we have reviewed and approved State and territorial action plans for another \$10 billion. Recovering from a major disaster is never easy. I want to assure this committee that HUD is doing everything we can to help every grantee accelerate the pace of recovery.

No discussion of housing would be complete without discussing the absence of housing. Homelessness continues to be a vexing problem in this country, but I am encouraged to report to you that homelessness is not an intractable problem. As a nation, we have managed to cut veterans' homelessness in half since 2010. Homelessness among families with children is down nearly 30 percent, and chronic homelessness is down more than 16 percent.

Another area where I believe we can make a difference is ensuring that HUD-assisted housing is decent, safe, and healthy. Shortly after I took office, I ordered a wholesale reexamination of how the Department conducts inspections of public housing as well as private housing under Section 8 contracts, and we are moving quickly to prevent carbon monoxide poisoning in HUD-assisted housing.

Regrettably, there is currently no universal Federal requirement that carbon monoxide detectors be installed in all HUD-assisted housing. That is wrong. Whether through regulation or legislation, it is our intention to require working carbon monoxide detectors in HUD-assisted housing, whether State or local law requires it or not. And to assist public housing authorities (PHAs) with the purchase and installation of carbon monoxide detectors, HUD is providing \$5 million for this simple life-saving device.

Finally, let me turn to something that is rather obvious to all of us. In many parts of our country, there is an affordable housing crisis. The Federal Government cannot solve this problem alone. Let me tell you about a few things we are doing at HUD to find a solution.

To date, our rental assistance demonstration has preserved nearly 114,000 units of public housing and generated more than \$7 billion in construction activity to revitalize these units or replace

them altogether. We are also very excited at the potential for up to \$100 billion in capital investment in Opportunity Zones made possible by the tax reform spearheaded by President Trump. And HUD is proposing a new rule to ensure taxpayer-supported housing supports those who are legally entitled to it. Given the overwhelming demand for our programs, the law requires that we devote ourselves to legal residents who have been waiting, some for many years, to access affordable housing.

Before I conclude, I want to thank the many Members from both parties who have taken the time to meet with me during the past 2 years and who are working every day to find common ground in support of safe, decent, and affordable housing. The work isn't easy, but nothing worthwhile ever is. Thank you.

[The prepared statement of Secretary Carson can be found on page 67 of the appendix.]

Chairwoman WATERS. Thank you very much. I now recognize myself for 5 minutes for questions.

On April 25, 2018, you unveiled a proposal that would triple rents for the lowest-income HUD residents. Previously, when you testified before this committee, I explained to you what your proposal would mean for a low-income HUD-assisted senior in my district named Larry. He would see an increase in his rent of around \$80, and because he lives on a fixed income of just \$1,015, this would be devastating for him.

You demonstrated that you did not fully understand the impact of your proposal when you responded to my question by saying that you did not think it was a "typical situation." But according to the Center on Budget and Policy Priorities, the average rent increase for seniors under your proposal would be \$83 or a 30-percent increase.

Dr. Carson, we are currently experiencing an affordable housing crisis. But again this year, you proposed the same rent increases in HUD's 2020 budget request. I cannot understand why you would make a family choose between eating or staying housed. Do you understand the impacts of your proposal, and do you continue to defend it?

Secretary CARSON. Well, first of all, thank you for the work that you have done on behalf of poor people in our country.

As far as our proposal is concerned, we are talking about increasing rent for the people who pay the minimum rent, and we have protected the elderly and the disabled, hold them completely harmless in that regard. People who pay \$25 to \$50 a month have been asked to contribute more in order to help sustain the program and, also, to encourage them to go out and seek employment.

We are talking about work-able people. We are not talking about people who have to take care of others or have young children. We are talking about people who have perfectly healthy bodies and have opportunities available to them—

Chairwoman WATERS. Before you continue on, Mr. Secretary, have you determined for those for whom you are asking an increase what their income is and where the money would come from? Are these people on fixed incomes, some of them?

Secretary CARSON. We have made a provision, a hardship provision for anybody who is incapable of doing that, but—

Chairwoman WATERS. What about people on fixed incomes? Are they asked to pay an increase in rent?

Secretary CARSON. We have made provisions for anybody who cannot meet the income that we have asked for, but we have also—this is part of a comprehensive program. The rent proposal is to start the discussion. We need to have a discussion with lawmakers on what to do because we have so many perverse incentives in place. For instance, if you make more money, you have to report that, so your rent can go up. That is a ridiculous thing—

Chairwoman WATERS. Okay. Mr. Secretary, the example that I gave was a senior, not a work-able household, and I am really concerned about that because people on fixed incomes don't have any money for an increase. They can't afford an increase, and I would like to know exactly what you are doing with people on fixed incomes.

Secretary CARSON. As I said before, the elderly and the disabled are completely protected in the plan that we are proposing.

Chairwoman WATERS. So they are exempted from any increase?

Secretary CARSON. They have no increase.

Chairwoman WATERS. They are exempted from any increase. Is that correct?

Secretary CARSON. We have protected them from any increase.

Chairwoman WATERS. Okay. Continue with your explanation.

Secretary CARSON. And as I was saying, if you make more money, you are penalized for that. If you bring another income-producing person into your environment, you are penalized for that. You have to report that so your rent can be raised. Don't even think about getting married. You will probably lose all of your subsidies altogether.

These kinds of things have been in our system for a long time. This is all part of a comprehensive plan in order to change that scenario—

Chairwoman WATERS. I hate to keep interrupting you, but I just got another fact. The average rent increase for a household headed by a person with a disability is a 26-percent increase. Are you saying this is incorrect?

Secretary CARSON. I am saying that we have protected the elderly and the disabled from increases.

Chairwoman WATERS. I really don't know what that means.

Secretary CARSON. That means they are not going to be increased.

But the other thing that I hope you just heard me say is that this is to start the conversation about something that is a chronic, persistent problem. We have to come up with better, more efficient ways so that we don't leave people in situations where they become—

Chairwoman WATERS. Thank you.

My time has expired. We can have a discussion all we want about rate increases but if they are not affordable, if they are seniors, if they are on disability, the discussion does them no good, and I am very concerned about that.

And, with that, the gentleman from North Carolina, Ranking Member McHenry, is recognized for 5 minutes.

Mr. MCHENRY. Thank you, Secretary Carson. During your time at HUD, you have been willing to take on a few tough fights, and I want to speak to the example of the suit that, under your direction and leadership, HUD filed against the New York City Housing Authority, which is the largest housing authority in America. It is the largest housing authority not just in the United States but in North America. And your lawsuit was about the deplorable conditions of its housing units, and your accusation and HUD's accusation was that the New York Housing Authority was in substantial default under the 1937 Housing Act, allowing for dangerously high levels of lead paint, unsanitary conditions, rats, mice, nonfunctioning heat in winter, and widespread recurring mold.

In short, things were so bad in so many New York City Housing Authority units that at least 19 children were found to have elevated blood lead levels. Some residents were sleeping with their gas ovens on for heat, and 83 percent of inspected units contained a condition that could pose a health hazard to a tenant.

This was covered up for years, so bad that the U.S. Attorney for the Southern District of New York said that their failure to provide decent, safe, and sanitary housing is simply unacceptable and illegal. You sued the New York City Housing Authority, and then, in January of this year, they voluntarily entered into a consent decree with HUD. So can you walk us through that and the steps that are being taken going forward so that we can keep children and those who are in these units safe and healthy?

Secretary CARSON. Yes. We are very concerned, particularly about the lead situation and the number of children who have been affected. You know, lead poisoning for a child is devastating, not only acutely, but it has a lifelong impact. And not only does it decrease their abilities, but it is very costly to society in terms of their potential.

But in the case of the New York City Housing Authority (NYCHA), they had been prevaricating about what they were doing during their inspections, covering it up completely, and in addition to that, allowing mold to fester which was causing a lot of problems with asthma, which has a very substantial medical cost to it as well, not having up protective barriers where they needed to be, trip hazards, elevators that weren't working. I mean, it was a total disaster.

And in situations like that in the past, HUD has frequently taken places into receivership. I have not taken any place into receivership since I have been here—because in looking over the history of that, it has not turned out particularly well in all cases—and decided that we really would work with the City.

The mayor and myself, who come from very different political places, decided we would put aside the political differences and concentrate on the people and what could be done in order to help the people of NYCHA. We decided to put a monitor, a Federal monitor who has much experience, on that case. We put in measurements that have to be met and times when they have to be met, and we are proceeding along that line. A CEO is in the process of being selected now. And we are going to keep a very close eye on it, and we are going to hold them to the metrics that have been put in place because, again, no one deserves to live in that setting.

Mr. MCHENRY. Well, thank you for speaking to the humanity involved, not the physical structures but actually speaking to the people who inhabit these places, who deserve to live in a healthy, safe place.

I want to raise Opportunity Zones, and I know other people will have questions about Opportunity Zones and your leadership under the White House Opportunity Revitalization Council, but my time is cut short. I thank you for your testimony. Thanks for your leadership and your service to our country.

I yield back.

Secretary CARSON. Thank you.

Chairwoman WATERS. The gentlewoman from New York, Mrs. Maloney, who is also the Chair of our Subcommittee on Investor Protection, Entrepreneurship, and Capital Markets, is recognized for 5 minutes.

Mrs. MALONEY. Thank you, Madam Chairwoman.

Mr. Secretary, the "D" in HUD does not stand for "deportation." I am afraid that a recent proposal of yours will bring nothing but despair to thousands of American families by throwing children out of their homes. Simply put, we cannot create affordable housing for Americans by throwing other Americans out into the street with no place to go.

I am very proud to represent Queensbridge Houses, which is the largest public housing complex in the entire country, along with many other public housing complexes. So I have been working with public housing tenants since 1981, standing up for tenants' rights, fighting against spending cuts, and exposing and ending corrupt mob contracts.

But your plan to create vacancies by making 55,000 American children homeless is among the most damaging proposals I have ever seen in public policy, and, quite frankly, I find it despicable. You know that the current laws already prohibit Federal housing programs from subsidizing undocumented immigrants. Individuals who are not eligible for housing assistance do not receive subsidies.

By evicting mixed status households, you will rip apart families and will be throwing children onto the street. And where will the 55,000 children go? Where will they live? What agency will care for their health and education? Is your plan to have ICE put 55,000 more children in cages on the border? Really. Not in my district and not on my watch. This is a horrible plan.

New York City now spends more than \$600 million per year to support 8,200 children in foster care and \$4.5 billion more every year to tackle homelessness. Have you considered how you would support the newly homeless families and children? Will they be going to foster care? What is your plan?

Secretary CARSON. First of all, thank you for the work that you have done on behalf of the people, and I appreciated our visit in New York.

Mrs. MALONEY. Thank you.

Secretary CARSON. As far as what we are doing with housing, the law that has been provided through Congress states very specifically that the Secretary of HUD may not provide housing assistance to people who are here illegally. It also states specifically that the Secretary has the duty to end assistance if he finds that some-

one is violating that, so we are following the law. I would also point out to you—

Mrs. MALONEY. But may I respond? By law, we already—I agree with you, you don't provide subsidies to people who are here illegally, but these children were born here in America, and even if their families are illegal—it is a mixed family in terms of legality—the children are legal. So you could have a situation where the parents are deported and they leave the children, who are American citizens, here. Who is going to take care of these children? Do you have a plan to take care of these 55,000 children, which is HUD's number that came forward with that they project could be hurt by this plan? Do you have a plan for how to take care of these children, yes or no?

Secretary CARSON. A couple of things here. First of all, there are hundreds of thousands of children as well as elderly and disabled people on the waiting list who are legal American citizens.

Mrs. MALONEY. But Mr. Secretary, these children are legal American citizens. They were born in America. They are legal citizens.

Secretary CARSON. As I was saying, there are hundreds of thousands, if not millions, who are waiting on the list. Do you suggest that we prioritize people who are illegal—

Mrs. MALONEY. You are going to pick one American citizen over another? Again, these children are American citizens. They are legal. And what is your plan to take care of them?

Secretary CARSON. Well, if you read the rule carefully, you will see that it provides a 6-month deferral on request if they have not found another place to live, and that can be renewed 2 times for a total of 18 months, which is plenty of time for Congress to engage in comprehensive immigration reform so that this becomes a moot point, as does the DACA situation and a hundred other things.

Mrs. MALONEY. How in the world can you put forward a plan that could lead to making 55,000 children homeless?

Chairwoman WATERS. The gentlelady's time has expired.

The gentlewoman from Missouri, Mrs. Wagner, is recognized for 5 minutes.

Mrs. WAGNER. Thank you, Madam Chairwoman.

And I thank Secretary Carson for his testimony today and for his service.

Would you like a minute, sir, any more time to respond?

Secretary CARSON. Yes. Thank you very much. The fact of the matter is Congress has a responsibility for making the laws that govern this, and they have the ability to change that. And if, in fact, you want to explain to the American citizens who have been on the wait list for several years in your district in New York why we should continue to support families who are not here legally, I would be happy to join you in helping to explain that to them.

Mrs. WAGNER. Thank you. And I am glad you could finish your answer.

Congressman Al Green and I have written and worked on legislation that addresses major challenges facing the disaster relief funding process at HUD. According to numerous IG reports and a hearing that the Financial Services Committee's Oversight and Investigations Subcommittee held in March, major issues have been

identified with the Community Development Block Grant Disaster Recovery Program.

Some of the difficulties identified are the potential duplication of benefits, slow disbursement of disaster-related funding, and delays in funding for low- and moderate-income citizens. While HUD has become a primary provider of disaster recovery, this program is not codified in statute. HUD uses more than 60 Federal Register Notices to issue clarifying guidance, waivers, and alternative requirements to oversee at least 113 active disaster recovery grants, which totaled more than \$47 billion as of last year.

Codifying the CDBG-DR program would provide a framework for future disasters, reduce the overreliance on Federal Register Notices for each disaster, and speed delivery of disaster assistance to grantees and disaster victims. Codification provides proper controls that protect against waste, fraud, and abuse.

Mr. Secretary, are you aware of these challenges within the CDBG-DR program, and how are you making sure these funds are directed toward the Americans who need it the most?

Secretary CARSON. Thank you very much for that question and for the visits that we have had to discuss this and other matters.

I actually very much agree with the whole concept of appropriate codification. You and Congressman Green have been working on this, I know, with some others, and the big advantage, of course, is you start out on second base instead of starting out from home.

And there are a lot of things that are done consistently all the time, and you can get those things codified and done quickly so that you can decrease the amount of time. I am in agreement with that, and we are very happy to work with you. We are already making some progress in that area, and I think we can do this, because one of the things that has concerned me is the amount of time it takes to get grants out.

Mrs. WAGNER. Right.

Secretary CARSON. And I have asked every office at HUD to look at their own internal procedures and see what they can do to speed it up. If you have 10 offices and 9 of them get things done quickly and one of them takes 6 months, the whole thing takes 6 months.

Mrs. WAGNER. There has to be coordination between HUD, SBA, FEMA, and State agencies all talking to each other to make sure there are not procurement issues. I look forward to working and continuing my work with Congressman Green to bring this to the Floor. So I thank you for your support and for your commitment to this.

Quickly moving on, the world's largest Catholic healthcare system, Ascension, is headquartered in the St. Louis region. Ascension is implementing a comprehensive organizational response to trafficking survivors at its hospitals. Unfortunately, Ascension can only establish these programs where emergency housing is available. I understand that the continuum of care fiscal year 2018 competition focus included \$50 million for housing services for domestic violence and trafficking survivors.

Will HUD extend this program and ensure that projects, including housing for trafficking survivors, are—or are there more permanent ways that HUD can address transitional housing needs for trafficking survivors, sir?

Secretary CARSON. Well, trafficking is obviously horrendous, and there is a lot more of it going on these days, and we definitely need to take care of that, and that was a very good program. It turns out that you all have funded that for the 2019 season, so yes, it will be continued.

Mrs. WAGNER. Wonderful. I am glad to hear that.

My time has expired. I yield back.

Chairwoman WATERS. Thank you very much.

The gentlewoman from New York, Ms. Velazquez, is recognized for 5 minutes.

Ms. VELAZQUEZ. Thank you, Madam Chairwoman.

Secretary Carson, in defending HUD's recently proposed immigration rule, you released the following statement: "There is an affordable housing crisis in this country, and we need to make certain our scarce public resources help those who are legally entitled to it."

Mr. Secretary, do you know how many people are on the waiting list for public housing and Section 8 vouchers?

Secretary CARSON. In your district, you mean?

Ms. VELAZQUEZ. No, no, no. Nationwide.

Secretary CARSON. There are hundreds of thousands.

Ms. VELAZQUEZ. No. There are 4.4 million people, by the way. So do you know how many units would open up as a result of the proposed rule, how many units with that proposed rule?

Secretary CARSON. Probably at least 32,000.

Ms. VELAZQUEZ. Twenty-five to 35 units—so you are going to put children on the streets to open up 25,000 to 35,000 units, and these are American children. Where are they going to go? They will go into the shelter system. They will become homeless children. Those are American children.

So the question is not, where are they going to go? The question to you, sir, is, why, if you recognize that there is a housing crisis in our nation, that there are 4.4 million people on a waiting list, why did you request \$9.6 billion less for HUD's budget for Fiscal Year 2020, including zeroing out the capital fund and requesting \$350 million less for the Section 8 program? Do you understand why this sounds like you are talking from both sides of your mouth?

Your regional director in New York, Ms. Lynne Patton, has been spending nights living in public housing, but apparently, she forgot to talk to you because this budget request doesn't reconcile what she is seeing on the ground. And I found that people come here and talk about this situation of public housing in New York, and you have not been here when we have been advocating for increasing the capital fund so that we could make repairs and we can address the issue of mold.

In fact, when you went to the hearings, confirmation hearings on the Senate side, you said that as a doctor, you will want to take care of the children in public housing, the health of children in public housing. Sir, this budget is shameful. It is immoral. It fails American citizens just for the sake of scoring political points.

So did you have any conversations about this proposed rule with the staff of the White House, including Senior Advisor Stephen Miller or Acting White House Chief of Staff Mick Mulvaney? Did you?

Secretary CARSON. We have conversations all the time about many of our policies.

Ms. VELAZQUEZ. And did you consult with any national affordable housing organizations, tenant rights, or immigration groups?

Secretary CARSON. We have such conversations with such groups all the time.

Ms. VELAZQUEZ. Did you have conversations with the largest public housing authority in the nation, New York. Did you?

Secretary CARSON. I think what is important is, what are we going to do about the problem? That itself would make a lot more sense.

Ms. VELAZQUEZ. Reclaiming my time, don't sit there, sir, and talk about the national conversation. We need to have a national conversation about homelessness in our nation, about the disrepair of public housing in our nation. Do you know what it takes? It takes money. It takes the budget. You have created this crisis by the disinvestment that has taken place in public housing in our nation.

Secretary CARSON. We have a very substantial affordable housing crisis, and there are two ways to approach it: Continue to throw money at it, which has been done for a long time without solving the problem; or ask yourself, why do you have that problem of escalating crisis? I can say more about that.

Ms. VELAZQUEZ. I yield back the balance of my time.

Chairwoman WATERS. The gentleman from Florida, Mr. Posey, is recognized for 5 minutes.

Mr. POSEY. Thank you, Madam Chairwoman.

Mr. Secretary, they continue to ask the questions and not allow you time to answer them. That is pretty selfish, pretty bad behavior. So, if you want any time to answer, then you just give me a thumbs up, and I will yield time for that.

Secretary CARSON. Thank you. I appreciate that. It does seem a little silly to have a hearing where you are asked a lot of questions, and you can't answer them. It seems more like a platform for—

Ms. VELAZQUEZ. Would the gentleman yield?

Mr. POSEY. No.

Ms. VELAZQUEZ. You call me selfish for fighting for the children in America? Shame on you.

Mr. POSEY. Madam Chairwoman, order, please.

Chairwoman WATERS. Order.

Mr. POSEY. Dr. Carson has my time.

Secretary CARSON. In terms of the affordable housing crisis, we have to ask ourselves, why is there an affordable housing crisis in a country like ours? There are so many regulatory issues and zoning restrictions that add to the cost.

For a new construction single-family home now, we are talking 25 to 27 percent. For multifamily construction, we are talking 32.1 percent, up to 42 percent in a quarter of cases. Unless we begin to tackle the things that are driving these prices, we are just chasing our tails by just saying we have to throw more money at it.

We have to analyze these things carefully. We have to use our brains. We have to think logically rather than just emotionally if we are going to solve these problems, and they can be solved if we work together, rather than making everything into a political platform and trying to score points.

Mr. POSEY. Well stated, Mr. Secretary, and I am saddened to see you come here only to be bullied and berated for not breaking the law, actually. And I don't know if they were suggesting that you should separate these children from their families as a way to comply. I don't know if that is their suggestion, but it is off-the-wall thinking, and I respect you for following the law.

All of us here should be impressed that HUD's 2020 budget request continues the Federal goal to prevent and end homelessness by seeking nearly \$2.6 billion to support thousands of local housing and service programs assisting the homeless.

And while a lot of the people up here do a lot of talking, you have actually been doing a lot of work, and you have actually been accomplishing things. And I want you to know that a lot of people do recognize that and appreciate it. Your list of accomplishments is extraordinary, just like the track record of your personal life, and we are pleased that you have chosen to dedicate your clearly superior intellect and desire to help other people in a position that you are. I just can't imagine that you are willing to put yourself and your family through this, but we are so grateful that you are willing to do that.

Secretary CARSON. Thank you.

Mr. POSEY. Mr. Secretary, I have been a vocal supporter of easing restrictions on FHA loans for condominiums, and I have written you a letter before with Mr. Cleaver from the other side. Could you give us an update on where that is?

Secretary CARSON. Yes. The condominium issue is a sticky issue. It is very complex, fraught with risk, and we have been doing a very in-depth analysis working with it, have submitted new rules for it that have gone over to OMB, and we expect to have the final rules on condominiums out by this fall.

Mr. POSEY. That is great. Thank you, sir.

Also, we recently discussed your recent proposed rules issued under Section 3 of the HUD Act of 1968. I just wonder if you could share with us the important improvements you have made?

Secretary CARSON. Yes. Section 3 is an extremely important part of the Housing Act because it requires that if you are getting HUD money, that you have to hire, train, or give contracts to the low-income people in the area. It has been largely ignored because it is so encumbered with regulatory requirements that nobody wants to use it. So we have done an in-depth analysis of it, removed a lot of those encumbrances, added incentives, and the new rules for Section 3 will be coming out this summer.

Mr. POSEY. Excellent. Well, again, my time is about to expire, Mr. Secretary, but again, I want to thank you for your service and express that I am embarrassed by the way you are treated in this committee.

Secretary CARSON. Thank you.

Mr. POSEY. I yield back.

Chairwoman WATERS. Thank you very much.

Let me remind you, Members will refrain from impugning the personal motives of other Members.

The gentleman from California, Mr. Sherman, is recognized for 5 minutes.

Mr. SHERMAN. Madam Chairwoman, the Member controls their 5 minutes. The witness controls the 5-minute opening statement, and many of our witnesses have an outstanding bully pulpit outside this room. To then turn and say to Members that they don't control even their 5 minutes is a denigration of our role as members of this committee.

As to affordable housing, the witness does point out that there are barriers to the creation of more rental units, and we need many, many hundreds of thousands built. We need to keep interest rates low. Zoning in most cities makes it impossible to build rental housing in neighborhoods where people are not poor.

And we can say we don't discriminate against poor people. We just discriminate against people who don't want to live 6 families to the acre or 4 families to the acre. You cannot build affordable rental housing 6 families to the acre.

And we also have the fiscalization of land use planning where cities are financed often based on the money they can get from commercial development, and they fight in my State over who can prevent housing from being built on certain empty acreage. If they can only get an auto dealer there, they get the sales tax. So the fiscalization of land use planning also keeps cities from allowing rental housing to be built.

I know Mrs. Maloney is not here, but, Mr. Secretary, I want to thank you for being perhaps the only person in your Administration to support comprehensive immigration reform, reform which would have provided and which would provide legal status for the families that Mrs. Maloney from New York is concerned about.

As to somewhat more mundane matters, the FHA has specific mortgage requirements, servicing requirements—I am talking about mortgage servicing—some of which are antiquated. In your ongoing efforts to make the FHA program more attractive to lenders, what is HUD doing to better align FHA servicing requirements to those of GSEs?

Secretary CARSON. Well, one of the things that we are doing is working with the Justice Department on the False Claims Act, which has driven away quite a few of the lenders who are concerned about nonmaterial mistakes and the consequences for them, and that will open up a lot more borrowing options for people.

Mr. SHERMAN. Do you see a need for legislation for us to somewhat correct the False Claims Act, or can this be done administratively?

Secretary CARSON. We are going to try to do it at the administrative level, but I appreciate the implication that you would help us if legislation is needed.

Mr. SHERMAN. Okay. The Rental Assistance Demonstration program (RAD) focuses on public housing authorities. The program allows public housing authorities to convert housing properties at risk of obsolescence into project-based vouchers under Section 8. Are you familiar with the RAD program, and do you think it is effective?

Secretary CARSON. I am very familiar with it. It is a spectacular program. Already, we have been able to convert well over 100,000 units and contribute \$7 billion towards capital needs. It is one of the most spectacular programs, and one of the things that would

help us tremendously legislatively is to lift the cap on RAD. Right now, it is at 455,000 units. There are so many places across the country that are requesting it, and there is absolutely no reason that it shouldn't be lifted. It has already been demonstrated to be extremely effective.

Mr. SHERMAN. Thank you, and we should look at that.

Now, the FHA is concerned about people having down payments. Some get assistance from their families. Some get assistance from government entities. And the differentiation in default rates is, like, 0.2 percent between whether you get aid from the government, a government entity, or a family member, and yet you are being pretty restrictive on the government entity aid. And this particularly affects some Indian Tribes, who are being told that they can only make loans or provide rental assistance in their own geographic area, which can be a small reservation. Can you look at this?

Secretary CARSON. Yes. We are in the process of looking at that. As you know, there has been a 90-day delay on that, and we are, in fact, looking at it, but it is also in litigation, so I am not really free to talk too much about it.

Chairwoman WATERS. Thank you very much.

The gentleman from Missouri, Mr. Luetkemeyer, is recognized for 5 minutes.

Mr. LUETKEMEYER. Thank you, Madam Chairwoman.

I am over here, Dr. Carson. Thank you, Dr. Carson.

Dr. Carson, one of the areas this committee has examined at length in this Congress is a lack of affordable housing in this country. A main cause for the shortage of affordable housing is the regulatory burdens that increase the cost of the mortgage, which you described a minute ago, actually for some types of housing, 32 to 40 percent.

One pending rule HUD should be focused on that affects the affordability of housing is the impending Current Expected Credit Loss accounting standard, or CECL. This accounting standard requires banks to incur the full loss of a loan at the moment it is originated. I have heard concerns about CECL from numerous industries including regional banks, credit unions, REALTORS, and home builders.

Many of these concerns stem around housing affordability. According to the National Association of Home Builders, who have testified in this committee twice over the last 4 or 5 months, an increase in the cost of a house by \$1,000 prices 100,000 people out of a home.

My question to you this morning is, have you looked at the effects of CECL and what they could have on the ability of someone to afford a home?

Secretary CARSON. Yes, we have. It is difficult when you are trying to project out into the future risks of that nature, and we are in the process of studying that very carefully. We don't want to make a mistake on that.

Mr. LUETKEMEYER. Are you coming up with a study on the effect of the individuals, the number of folks, the effect on, you know, that you are having to reserve and what kind of reaction you have to come up with to increase those reserves?

Secretary CARSON. All of those parameters are being looked at.

Mr. LUETKEMEYER. So, if you have to increase your reserves, what is the source of income for you?

Secretary CARSON. Excuse me?

Mr. LUETKEMEYER. I said, if you have to increase your reserves, what is the source of income by which you would be able to do that?

Secretary CARSON. Where would the money come from to be able to do that?

Mr. LUETKEMEYER. Right.

Secretary CARSON. I am not sure.

Mr. LUETKEMEYER. You would have to increase your guarantee fees, perhaps?

Secretary CARSON. That is one suggestion.

Mr. LUETKEMEYER. Okay. If that happens, that increases the cost of the loan, which home builders say keeps people from having access to the loan, right?

Secretary CARSON. Yes. You have to look at all the possible sources and model it out to see what the long-term effect is.

Mr. LUETKEMEYER. And this is going to affect the GSEs as well. Have you been looking at that effect? Have you talked to Freddie Mac and Fannie Mae to see how this is going to impact them in any sort of coordination with all of these other government agencies that it may or may not impact?

Secretary CARSON. Well, we do talk about that. I will be at an FHA meeting this afternoon, actually. I am sure that topic will come up.

Mr. LUETKEMEYER. Interesting. So are they monitoring this? Are you aware of it? Are they—

Secretary CARSON. I'm sorry?

Mr. LUETKEMEYER. Are they monitoring it? Are you aware if they are monitoring this or coming up with studies to look at the costs that they may incur, what they may do to react to this?

Secretary CARSON. I am not sure what you mean.

Mr. LUETKEMEYER. Okay. Well, in your communications with them, are they looking at how to increase the reserves? Are they going to borrow money from the Treasury? Are they going to increase the guarantee fees? Have you discussed that at all with them, or is that part of the meeting this afternoon?

Secretary CARSON. They are looking at, how do they backstop themselves. Right now, in conservatorship, they don't have to worry about that. If they come out of conservatorship, that becomes a very different question about where that money comes from, and there are multiple discussions about where it would come from.

Mr. LUETKEMEYER. Okay. One of the questions that you were talking about or answering a while ago was with regards to the cost drivers for affordable housing, and I guess my question to you is, how much authority do you have at HUD, if any, with the ability to waive certain rules and regulations or change certain rules and regulations or suspend certain rules and regulations? Are there certain rules and regulations that you have the ability to do that with, or are your hands pretty well tied, and Congress has to be the one to change the way that this all works?

Secretary CARSON. The vast majority of the regulations are done at a local level, so we can't change those. What we can do is try to incentivize people at the local level to begin to look at some of these rules and to address them, and they get preference points when they do that, and a lot of people are actually starting to realize that and do that.

A lot of these regulations have been on the books for 10, 20, 50, 100 years. They have nothing to do with what is going on now. The density requirements frequently don't take into account some of the new modern building techniques.

And, as far as the whole affordability issue is concerned, in addition to financial issues, we have to look at modern technologies that have come to the fore. And I can continue that at some point.

Mr. LUETKEMEYER. My time has expired. Thank you very much for your service, sir.

Chairwoman WATERS. The gentleman from Missouri, Mr. Clay, who is also the Chair of our Subcommittee on Housing, Community Development, and Insurance, is recognized for 5 minutes.

Mr. CLAY. Thank you, Madam Chairwoman.

And, Mr. Secretary, let's discuss the Wellston, Missouri, Housing Authority, which HUD has had in receivership for the last 22 years, and as you are aware, there is a planned demolition of a number of units, which will displace tenants, uproot lives, and cause utter confusion in those lives. Children will be forced to change schools, and some parents will have drastic changes to their life and work schedules.

As you know, we are looking at several options, which we have discussed, including the grand families concept and Section 202 housing. Could you please walk us through a displacement such as this and tell us, what does HUD do to serve the affordable housing needs of these residents and ensure that they have access to safe, affordable, and modern housing?

Secretary CARSON. Thank you for that question. And thank you for the times that we have had a chance to discuss this and to visit in your district, where the people seem to like you very much.

Certainly, we are very concerned about any time people have to be displaced, which is why we have Tenant Protection Vouchers. Not only do we provide those, but we provide relocation services to help those individuals to be able to adjust. And in some cases, they end up finding places that they like considerably better, and they don't even want to come back after the problem has been rectified. But we do want to give them those choices.

We also have been working very vigorously with the Housing Choice Vouchers to make them more palatable because there are many places where landlords won't accept them. And we have done some studies to find out why they won't accept them. Some of them are really quite interesting.

For instance, in San Diego, there was great resistance. And then the City guaranteed all the landlords that they would repair any damage that was done, because the landlords were afraid that these Section 8 people would destroy their property. It cost the city almost nothing because people were not destroying their property. They weren't going to destroy their property. They have been waiting for a long time to get this voucher; they are not going to do

that. But sometimes you have to fight the perception, and that was done. But there are lots of other things that impact that.

But we look very carefully at how we can make sure that those people are taken care of who are displaced.

Mr. CLAY. And speaking of that, St. Louis County government is considering an ordinance that will prohibit source-of-income discrimination as far as housing vouchers are concerned, which I think will address it at the local level.

Can you give us some examples of public-private partnerships that could work for a community like Wellston, or have you given that any thought?

Secretary CARSON. I think there are many of them around the country. Purpose Built Communities like East Lake outside of Atlanta, which, as some people here probably know, was one of the worst places in terms of crime, in terms of poverty, with schools performing at the lowest level in the State. And through the public-private partnerships, building of mixed-income housing, bringing in grocery stores, places for employment, they were able to convert that neighborhood completely.

I went to one of the charter schools that they put in, a high school. I was met by five students playing a harp. The things that they had available were absolutely outstanding. Those schools achieve at the highest levels in the State now, better than many of the private schools.

So, can it be done? Absolutely. It needs to be done in a holistic manner. Do we have the ability to do that in this country? We absolutely do. We will never get it done if we fight each other, but if we recognize the problem and begin to work with each other, everybody has good ideas.

Chairwoman WATERS. Will the gentleman yield, Mr. Clay? Do I hear a commitment to Wellston?

Mr. CLAY. We were getting to that.

Chairwoman WATERS. The gentleman is committing to helping to do—

Mr. CLAY. I will ask the question.

Chairwoman WATERS. Thank you.

Mr. CLAY. Go right ahead.

Secretary CARSON. Of course, we are going to be very interested in Wellston, and, of course, we are going to be interested in helping there.

Mr. CLAY. And you are committed, HUD is committed to working with us in that community to make sure that—

Secretary CARSON. And we want to continue to work with you on that, absolutely.

Mr. CLAY. I appreciate it.

My time has expired, and I yield back, Madam Chairwoman. Thank you.

Chairwoman WATERS. Thank you very much.

The gentleman from Wisconsin, Mr. Duffy, is recognized for 5 minutes.

Mr. DUFFY. Thank you, Madam Chairwoman.

Welcome, Dr. Carson. I imagine, as—I almost said a former doctor, but as a doctor, you probably prefer to deal with the root

causes of someone's health problem as opposed to just the symptom of the problem.

Secretary CARSON. Absolutely.

Mr. DUFFY. And so you are somewhat getting bludgeoned by my colleagues about your rule on noncitizens and your rule that actually follows the law that was passed by Congress, but I would note that it seems like, in the last several months, we have 50,000 illegals coming across our border every month. And when there is an open border and people continue to flood into our country, you are going to have more problems of illegal parents and maybe U.S. citizen children.

And so maybe instead of bludgeoning you as the Secretary of HUD, maybe the Congress should actually deal with securing the southern border, recognizing it is a crisis, and take responsibility ourselves, which I would encourage my friends across the aisle to put up the mirror and say: Maybe we have to deal with this problem; maybe it is not Dr. Carson's fault.

Secretary CARSON. That makes far too much sense.

Mr. DUFFY. I would agree with that.

So, maybe just in regard to your rule, you are basically saying, "I am going to follow the law, and I am going to let U.S. citizens take a priority in housing that comes from HUD." Is that right?

Secretary CARSON. That is correct. Although, I am open. I am not a hard nose. So, if someone can tell me how to follow the law and still take care of their issue, I am all ears. I am ready to hear it.

Mr. DUFFY. So, in the way you structured this rule to actually follow the law that was passed by Congress, did you give some extra time for the Congress to act and maybe change the law?

Secretary CARSON. Yes. They can have a 6-month deferral, and they can renew that twice. So that is 18 months, which should be plenty of time if Congress was actually interested in solving the problem.

Mr. DUFFY. And, again, I just want to put a period on the point that this problem is getting worse, and this is not compassion. I was just at the border. And to look at what is happening to families and the journey and the sexual assaults and the indentured servitude of people who come up through cartels and have to work for the cartels once they get here, this is not compassion. What you experienced is not compassion. But I applaud you because I believe, as an American citizen, we should put Americans first.

Secretary CARSON. Absolutely. And if we are not going to be a nation of laws, what happens if we say, "We can ignore this one, we don't like this one, but this one we will do." Where does that lead in the long run? To nothing but chaos.

Mr. DUFFY. To chaos. I want to pivot, because you had mentioned maybe one of the pathways forward is to look at the cost of housing. Why has it become so unaffordable? Again, we are looking at the symptom of increased cost.

Why don't we look at the root cause? And you mentioned I think regulation and zoning that can drive up the cost of housing. Are there any examples where you have local governments that have actually tried to address their zoning rules and their regulations and maybe allow for more development of multifamily structures that can drive down prices but also improve the stock?

Secretary CARSON. Yes, there are several cities who have engaged in that. They have come to recognize one very important thing: A lot of these barriers are caused by "NIMBYism," "not in my back yard-ism." And I actually understand that, because the most valuable thing that most people have is their home.

And they have in their mind the model of the 1960s and 1970s, where the government would come in and build these massive structures with no forethought, no holistic planning, leave, and they would deteriorate, and nobody wants that around them. But, of course, we have to get the message out that the government doesn't do that anymore. Now we do public-private partnerships. We do things that match the community because we want nurses and policemen and firemen and teachers to be able to live in the same community where they work. That doesn't decrease the value; I think that increases the value of the community.

Mr. DUFFY. But with a little restructuring on zoning and rules, we can actually lower the cost of housing, right?

Secretary CARSON. Absolutely.

Mr. DUFFY. I wanted to get to Puerto Rico. My time is almost up, but I know that you have allowed for what, \$1.5 billion, \$1.8 billion in disaster relief to go to Puerto Rico. You have some strings attached, which I agree with. And any objections from the Puerto Ricans thus far in how you structured the money?

Secretary CARSON. None whatsoever. The Governor and I have been working together. And they have \$1.5 billion immediately available to them, of which they have used \$250,000.

Mr. DUFFY. \$250 million or \$250,000?

Secretary CARSON. \$250,000.

Mr. DUFFY. I yield back.

Chairwoman WATERS. The gentleman from Georgia, Mr. Scott, is recognized for 5 minutes.

Mr. SCOTT. Thank you very much, Madam Chairwoman.

Dr. Carson, over here. It's good to have you back again.

Secretary CARSON. Thank you.

Mr. SCOTT. Dr. Carson, are you familiar with own-to-option mortgage programs?

Secretary CARSON. In general, yes.

Mr. SCOTT. In general. Well, the National Urban Institute has recognized this as an excellent way to move people into home ownership. Have you reviewed this? How receptive are you to it?

Secretary CARSON. I am very receptive to the idea, recognizing that home ownership is the principal mechanism of wealth accumulation in this country. The average renter has a net worth of \$5,000; the average homeowner \$200,000. That is a fortyfold increase. So we are looking at multiple ways, including renter-to-ownership models, to increase home ownership, particularly amongst some of the demographics that have fallen behind.

Mr. SCOTT. That is very good, and I encourage you to continue that as well.

Now, let me go to a project you had mentioned some time ago as being one of your real projects that you can take some authorship in. It is called EnVision Centers. Could you tell us about that? I have spoken with some of the public housing authorities in my district down in Georgia, like East Point Housing Authority and

many others, and they seem to be very excited about this. Tell us a little more about that, will you?

Secretary CARSON. Yes. Well, the idea comes from the Bible. Proverbs 29.

Mr. SCOTT. Hold on. It comes from the Bible?

Secretary CARSON. From the Bible.

Mr. SCOTT. Very good.

Secretary CARSON. Proverbs 29:18 says, "Without a vision, the people perish." So we said, "We will call these Vision Centers."

But then we thought everybody would think they were getting glasses, so we called them EnVision Centers.

But it is a place where we can bring together all of the various services that are available to move people towards self-sufficiency. So, instead of them going to 17 different places, they can get all of these services under one roof. We had the first demonstration of 17 cities, and 13 of them have opened already. Some of them are doing extremely well.

And, this is just a model, which I think is going to explode very soon, and we are going to have a lot of these.

Mr. SCOTT. Let me ask you this now: You mentioned when you made that announcement last April, I believe, you did say, as you just mentioned, 13 centers opened, but, to our available knowledge that has come to us, only 3 have opened, not 13, so there is some discrepancy there. Are you aware of that?

Secretary CARSON. There may be. But there was actually an article in OAN this week that details the 13 that are open.

Mr. SCOTT. Okay. That is good. EnVision Centers. I hope you continue that. Folks in Georgia in my district are very excited about it, and so I look forward to working with you.

Now, tell me and give me a very good update and let me know because the last time you were here, you and I had a very spirited conversation about your desire—or it wasn't your desire. It was, as you said in your statement, somebody said that we ought to zero out the Community Development Block Grant Program.

After you and I talked, tell me, are we secure with that program, or do you and I have to go to battle once more on that?

Secretary CARSON. I don't think we ever have to go to battle, regardless of whether we agree or not.

Mr. SCOTT. Well, let me tell you, if you all move 1 inch to zero out the most effective program that cities and States and counties use to lift themselves up and be the cities and towns that they need, yes, we will go to battle. I am asking you, will we have to go to battle? Are you all still planning to zero out the budget for the CDBG program, yes or no?

Secretary CARSON. Let me just say I don't think we ever need to go to battle, regardless of anything.

Having said that, as I have said before, the CDBG program has been helpful in many cases.

Mr. SCOTT. No. I know my time is short, but have you moved away from zeroing out the budget, yes or no?

Secretary CARSON. It is not a yes-or-no question.

Mr. SCOTT. Yes, it is.

Secretary CARSON. You just want to make it into a battle. It doesn't need to be a battle.

Mr. SCOTT. No, I want a yes-or-no answer. Are you going to do it, or are you not? Apparently, you all still have that on the table.

Chairwoman WATERS. Mr. Scott, your question was not answered.

Mr. Barr, the gentleman from Kentucky, is recognized for 5 minutes.

Mr. BARR. Thank you, Madam Chairwoman.

And, Mr. Secretary, thanks for being back in front of our committee. And I think you are doing a great job. I appreciate the good work that you are doing, despite some of the criticism that you are receiving here today. And I applaud you and this Administration for breaking from the tired old past, the old ways of doing things where you just threw money at welfare programs and expected to cure poverty.

Well, we know after \$20 trillion since the war on poverty was declared in 1964, that didn't work, but what is working is the Trump economy. What is working is tax cuts and deregulation. We have the lowest unemployment in 50 years. We have the lowest unemployment among African Americans, and Hispanic Americans in 50 years of all time for those categories.

We see wages rising faster today than we did since before the Great Recession. We are seeing jobs being created, more people getting off of food stamps, more people moving into self-sufficiency. So Opportunity Zones and these policies are producing growth and lifting people out of poverty and away from government dependency, and I applaud you for that.

Secretary Carson, I want to thank you for taking the time to come to Kentucky and visit St. James Place and the Hope Center and the work that the people are doing there, the nonprofit community, the faith-based groups that are working with people who are recovering from addiction. And as we discussed on your visit, the opioid crisis has hit Kentucky very hard. This issue has had a tragic impact on countless families across our State and across the country.

According to the National Institute on Drug Abuse, every day, more than 130 people in the United States are dying as a result of opioid overdoses, not just pills but heroin and Fentanyl as well. Last Congress, as you know, we passed H.R. 6 to help combat the opioid epidemic, and included in this legislation was a bill that I introduced, the CAREER Act. When fully implemented by your agency, this legislation will create a pilot program to help individuals in their recovery from substance abuse disorder to secure stable transitional housing and job training.

And I want to thank you and HUD for taking the first step towards implementation of this program with the publication of a funding formula in March. That said, as I indicated, 130 deaths a day. We have to move these pilots forward as expeditiously as possible. Is it possible for HUD to move forward with this pilot in this fiscal year?

Secretary CARSON. Yes. We are already moving forward with it, recognizing, as you said, that this is a national tragedy. And we need to actually stop and look at, how do we integrate the various agencies, Federal, State, and local agencies, in order to take care of this, because it is a national problem? And what people need to

recognize about opioids is you can get hooked on them in a matter of a week or two, but the changes that occur in the brain frequently take 12 to 18 months to correct.

So, unless you are involved in an ongoing program, you are probably not going to be successful; you are going to have relapses. And then that continues to drive up the cost. So we really need to have a much more comprehensive way that we look at it. The CAREER program is going to help us do that.

Mr. BARR. Thank you for your leadership and for working with us to move that program forward as quickly as possible so that we can save lives and move folks out of recovery and into long-term jobs and an addiction-free life.

Just yesterday, sir, HUD rescinded its May 2017 carport letters that did not go through the proper administrative process to begin with and required alternative construction approval for all homes that were built carport-ready. I want to thank you for this because that policy proposed a costly and time-consuming hurdle for the production of manufactured homes that negatively impacted consumers and forced many manufacturers to stop offering these carport-ready homes.

We talked about affordable housing. Overregulation from HUD in the past has been an impediment to affordable housing, particularly manufactured housing. But we still see that this Manufactured Housing Consensus Committee (MHCC), this advisory committee, has put forward a lot of recommendations like this, and HUD still has not finalized more than 100 recommendations by the MHCC, some going back a decade. What can be done to change the internal processes at HUD so that more of these recommendations are more promptly adopted?

Secretary CARSON. Well, we have beefed up the division that is working on manufactured housing recently so that they are not just sort of treading water; they are able to really make forward progress right now.

But, on the whole concept of affordable housing, manufactured housing is a critical part of that. About 10 percent of single-family housing units are manufactured housing units. The technology has increased dramatically so that it is better than site-built housing in many cases.

Mr. BARR. Thanks for your attention to that, sir.

I yield back.

Chairwoman WATERS. The gentleman from Texas, Mr. Green, who is also the Chair of our Subcommittee on Oversight and Investigations, is recognized for 5 minutes.

Mr. GREEN. Thank you, Madam Chairwoman. I thank the ranking member as well. I thank the witness for appearing today. And I would like to also thank Mrs. Wagner. She initially called to my attention this CDBG-DR program, the possibility of getting something done. And she and I have worked together to try to perfect it to the extent that it can be perfected. So I am grateful to her. I am also grateful to our staffs for working on this. While she and I presented concepts, the staff actually worked together to make sure that our ideals were achieved to the extent that they can be.

So let's just talk for just a moment about the time that you mentioned earlier with the CDBG-DR disaster relief. For edification

purposes for persons who may be listening and not privy to information about this, this program is something that comes into being after we have had a disaster, and we currently reinvent the wheel each and every time. We don't always have the institutional knowledge available to us. People move on. And we sometimes have to not only reinvent the wheel; we have to reinvent some of the various components. It would be a good thing, in my opinion, to codify this program.

Can you speak briefly to the timeline and how the timeline could be benefited by codification?

Secretary CARSON. Yes. There is no question that, particularly early on, after a disaster, some of the coordination that has to occur between small business, FEMA, and HUD is duplicative. And there are ways that we can streamline that process.

And then some of the basic things that have to be done in order to get the grant money out is absolutely the same thing over and over again. And that is what I meant when I said, if we can get those things codified, we can start out on second base on our way home rather than having to go completely around the whole thing.

So what you are talking about makes 100 percent sense, and I am 100 percent in agreement with it, and we are going to be continuing to work with your group to make sure it gets done.

Mr. GREEN. Thank you for the announcement of support.

Let's move on to H.R. 123, which is the FHA Additional Credit Pilot Program. There are many people who are first-time home buyers who have thin credit, but they do pay utilities—light bill, gas bill, water bill, phone bill—and they do this religiously. They are not late. But these things are not always scored. It can be done on an individual case-by-case basis.

This is important not only to the person who may be able to purchase a home, but it is also important to the rest of us because, when that home is purchased, washers and dryers and curtains and other things are purchased that will impact the economy. I am hopeful that you will be able to support the FHA Additional Credit Pilot Program. It doesn't mean that other credit options that are scored will cease to be scored. This is not a substitute; it is in addition to.

Would you comment, please, on this program and the possibility of your supporting it?

Secretary CARSON. Well, there is no question that some people come with a very thin credit record, and they are placed at a very significant disadvantage. And I was recently looking at a study in which they looked at how a person paid their rent and how often they paid on time, how often they paid late, and they factored that into the credit rating. And in most cases, it actually improved their credit score and made it better. So we are doing some more in-depth looking at that.

The FHA Commissioner and I have been talking about this, alternative credit scores, again, recognizing that it has to be done in a responsible way because you remember, before the housing crisis, people were going through some things that weren't quite legitimate and put a lot of people into houses that they could not afford. And as a result of that, they lost their house, they lost their credit,

and they lost their future opportunities. We certainly don't want to get into that situation.

So we will study it carefully, but I am very open to that alternative credit, and I appreciate your working on that.

Mr. GREEN. I thank you, and I look forward to our continued work to bring these two programs to fruition.

Thank you, Madam Chairwoman.

Chairwoman WATERS. The gentleman from Colorado, Mr. Tipton, is recognized for 5 minutes.

Mr. TIPTON. Thank you, Madam Chairwoman.

And, Mr. Secretary, thank you for being here, and I appreciate the comments you have made so far today.

I did want to bring up some local issues for us in Colorado. I had the opportunity to be able to visit with some of our local housing authorities. And in Colorado, they have been indicating that it seems HUD has a one-size-fits-all approach to its guidelines.

One program I have heard to be particularly challenging for some of the smaller housing authorities is the Real Estate Assessment Center (REAC) program. They have been suggesting that the inspection guidelines are stringent and difficult to be able to meet, especially in physical inspection demand by the staff, who need to be able to visit multiple scattered sites.

The GAO recently released a list of recommendations to be able to improve the Physical Inspection Program process and oversight for the inspectors. Has your Department reviewed some of these recommendations and considered including them into the execution of the program?

Secretary CARSON. Yes. This is an area that has really captured my interest because I was so interested when I came in and found people getting passing REAC scores in places that I wouldn't want a dog to live in and vice versa. It just made absolutely no sense, and it was so inconsistent.

So we are doing a top-to-bottom analysis of the whole REAC scoring process, changing it. We have moved out some of the inspectors who had questionable character and brought in another host of inspectors. But we are also looking at the way that we do the procurement of the inspectors. Before, you would take the lowest bidder always, and sometimes you get what you pay for. So you obviously have to be cognizant of that.

Mr. TIPTON. Great. Thank you for that. And I would like to be able to get your opinion just in regards to regulations, their flexibility. Do you think you have enough flexibility to be able to accommodate large and small operators as well as urban and rural areas?

Secretary CARSON. Well, we always would like more flexibility. There is no question about that. It gives us a lot more ability to move quickly and to be able to do things. But we will manage with what we have.

Mr. TIPTON. And I appreciate that. That is really one of the challenges. We obviously have legislators from urban areas who also represent a rural area. And so some of the distinct differences between being able to accommodate and to be able to be responsive to be able to meet those needs, I think is very important.

I have heard from some of my constituents that programs like the housing authority scoring system don't account for important considerations like individual market conditions. Have you given any thought to making it a more geographically driven approach to some of the regulations?

Secretary CARSON. I am always in favor of local control and not heavy-handed Federal bureaucracy. So, if you have some specific suggestions about things that we should be doing to make that even more available, I am very happy to work with you on that.

Mr. TIPTON. Thank you. And we will follow up with you on that. We are trying, like you, to be able to have it locally driven as best we can to be able to meet those needs at home, and so we will be happy to reach out to you and your office.

And, Mr. Secretary, just one last question: One worry that we have heard on the board in Colorado is that, at all areas of government, we are seeing Federal dollars that are allocated for State distribution that do not make it out of the metropolitan areas into the rural areas. A lot of the grants that will go to our States, unfortunately, sometimes stay just in the large metropolitan areas.

Do you see a better way to make sure that we are reaching all of the constituents and not discarding people who live in rural America?

Secretary CARSON. Well, thank you for mentioning that. One of the reasons the Opportunity Zones were left up to the Governors in each of the States is so that they could target some of the rural areas. As a result of that, about 40 percent of the Opportunity Zones are in rural areas. So I think that is going to be a tremendous help. Manufactured housing is also a big item in rural areas, twice as much as you find them in suburban and urban areas.

So anything that we can do to enhance the manufactured housing industry is going to be helpful for the housing situation in rural areas.

Mr. TIPTON. Great. Thank you again for being here.

I am out of time. I yield back.

Chairwoman WATERS. The gentleman from Missouri, Mr. Cleaver, who is also the Chair of our Subcommittee on National Security, International Development, and Monetary Policy, is recognized for 5 minutes.

Mr. CLEAVER. Thank you very much.

Thank you for being here, Mr. Secretary. I am glad you brought up the Opportunity Zone because that is kind of where I wanted to hang out for a few minutes. I have gone through the last iteration from the Treasury Department's rulemaking period, and I am assuming that there are going to be some additional rules coming out. What they are calling it so far is general rules.

I have read everything that comes out on Opportunity Zones, and so my concern is, right now, I am not sure—well, let me ask it this way: What is HUD's role going to be? Treasury seems to be doing the rulemaking. And since there is no application process, how will HUD fit into all this?

Secretary CARSON. Well, 35 million Americans live in Opportunity Zones, and 2.4 million HUD-assisted individuals live in Opportunity Zones. The household income in Opportunity Zones is about 37 percent below the State levels. High school graduation

level, 22 percent don't graduate in Opportunity Zones versus 13 percent statewide.

So what we are talking about are the people that HUD has a tendency to serve are in Opportunity Zones. That is the reason that HUD has been selected to Chair the Opportunity and Revitalization Council, which consists of 16 Federal agencies and Federal/State agencies, so they can focus their attention on the Opportunity Zones and remove the barriers quickly, rather than having them go hither, thither, and yon. And so, obviously, HUD will be playing a very significant role.

Mr. CLEAVER. But the regulatory responsibility will remain with Treasury?

Secretary CARSON. Well, remember, all the regulations come from a variety of different agencies. That is why we have 16 different ones. And we will be able to coordinate and focus their attention and remove the regulations quickly that need to be removed. Some regulations are important; we recognize that.

Mr. CLEAVER. So if an Opportunity Zone fund is presented with an investment to capital gains taxes of a place in this fund, does a NOFA come from HUD or—

Secretary CARSON. No. If you are talking about a tax issue, that would be Treasury.

Mr. CLEAVER. So that the actual monitoring of it—this is a question—would be at the end of the year? If you don't apply, you go in, and then you actually deal with it during the tax season.

So I am just hoping that there is not a situation where opportunity funds are supposed to invest at least 90 percent of the money into the project, and let's say something goes awry. It is not going to be known until the end of the year, is that right?

Secretary CARSON. In terms of the financial consequences, perhaps. But we have an Executive Director who has an office, so that we can get real-time feedback all the time so the program can be changed as we roll it out.

Mr. CLEAVER. Okay. That is the part I was not familiar with. Will the Director be in HUD or—

Secretary CARSON. The office is in HUD. Scott Turner is his name.

Mr. CLEAVER. Okay. Do you have any idea when the final regulations—when it first came out, we had a two-pager, and they were saying this is going to be the least regulated project. And then we got 2 or 3 weeks ago something that looked pretty thick. And so I am assuming that the final would be extremely thick or much thicker.

Secretary CARSON. Most of the regulations have been put forward already in the first two tranches. The last tranche should be relatively small. And I think the rules are pretty well set out at this point. And a lot of money is coming in; a lot of activity is occurring.

Mr. CLEAVER. Yes. Thank you, Mr. Secretary.

Chairwoman WATERS. Thank you very much, sir.

The gentleman from Texas, Mr. Williams, is recognized for 5 minutes.

Mr. WILLIAMS. Thank you, Madam Chairwoman.

And thank you, Secretary Carson, for being here today. In 2015, you wrote an op-ed entitled, "Experimenting With Failed Socialism

Again” about the previous Administration’s Affirmatively Furthering Fair Housing Rule. Under your leadership, HUD has committed to reexamining this rule.

I want to thank you for being a strong capitalist, first of all, and for your service to this country. So can you elaborate on why a more socialist heavy-handed government approach to fair housing would fail low-income individuals and minorities?

Secretary CARSON. Yes. Well, one of the reasons that I took this job is because I was very concerned about what was happening, particularly to a lot of disadvantaged people in our society, in that we collectively, the government, are actually keeping people mired in poverty and dependency because we keep going down the same track, whether Republicans or Democrats.

And so we want to find ways that we can liberate people from those kinds of things, and all of our policies are really aimed at doing that. Affirmatively Furthering Fair Housing, do I want to do that? Of course, I want to do that. But there was a system in place, an assessment tool, that basically just gave you statistics, and created a big screen with purple dots and pink dots and green and yellow, if you move some of the pink ones here and the yellow ones here. I am not sure that that actually solves the problem.

Why do you have segregation in housing? It is not because George Wallace is standing at the door blocking people; it is because people can only afford to live in certain places. So what we really need to do is ask ourselves, how do we liberate people from that? That is why we have been spending so much time and effort on looking at housing choice vouchers and how to make them more palatable. That is why we have been looking at ways to decrease the regulatory cost so that it is possible to build another place, so we can build places like East Lake and Purpose Built Communities.

That is why when we concentrate on community development, we concentrate not only on the houses, but on the schools, on grocery stores, on transportation, on all of the things that allow people to thrive and move up. And that is why we try to create programs that enable people to become self-sufficient. That is why we provide the services and the information about the services because it doesn’t do good to have services people don’t know about.

Mr. WILLIAMS. Opportunities are a good thing. There has been a lot of talk about the proposed rule that would prevent noncitizens from receiving taxpayer-funded Federal housing assistance. We have talked already about that today.

On May 15th, you received a letter from 12 Democrats that stated the following, “The Administration’s approach to this proposed rulemaking runs counter to the goals of providing housing assistance to the most vulnerable Americans.”

I personally totally disagree with that. I define a “vulnerable American” as a legal citizen who is not receiving any benefits at the cost of someone who is in the country illegally.

So, Secretary Carson, because of your knowledge of the wait list for these affected programs, I want to give you the opportunity to justify this move of putting the needs of American citizens first.

Secretary CARSON. Well, it seems only logical that tax-paying American citizens should be taken care of first. It is just like when

you get on an airplane and they make the announcement: In case of an emergency, oxygen masks will drop down; put yours on first, and then help your neighbor.

It is the same concept. And it is not that we are cruel or meanhearted; it is that we are logical. This is common sense; you take care of your own first.

And it is also common sense that you ask yourself, why are you having all of these kinds of problems? And the answer to that is because we won't deal with the underlying problem. And until we are willing, collectively, both Democrats and Republicans, to sit down and solve the problem, we are going to continue to have these problems crop up continually. And why would we be fighting the symptoms when we can get to the root cause of the problem?

Mr. WILLIAMS. Quickly, have illegal immigrants been able to exploit the hole in HUD's regulations, and are you confident that you will be able to fix this issue?

Secretary CARSON. I think that we can fix this. We now have the SAVE system through DHS, which allows us to identify people quickly. This was not the case when this rule was put in place.

Mr. WILLIAMS. Thanks for your testimony.

Chairwoman WATERS. The gentleman from California, Mr. Vargas, is recognized for 5 minutes.

Mr. VARGAS. Thank you very much, Madam Chairwoman.

And thank you, Dr. Carson, for being here. I appreciate it. I do want to continue the questioning of my friend from Texas. One of the things that wasn't mentioned here, and I am a little bit surprised you haven't mentioned it, is actually if a person is undocumented in a household, the aid is prorated. So the person who is undocumented actually doesn't get any subsidy. It is the child. It is the American citizen child who is, in fact, helped.

That is one of the things that wasn't mentioned here, and I thought it would have been up to now because, again, the law as it currently stands and the rules say this, that those children that are American citizens, they are helped, again, by Americans, even though I would go, of course, and extend it further. As a Christian, I don't make the difference between someone who is undocumented or not. But the rules as they are today say: No, we only take care of the child. That has not been brought up in all of this conversation. It should have been. My understanding is that is the rule today. Sir, am I incorrect about that?

Secretary CARSON. You are not incorrect. And, also, interestingly enough, prorating, how do you prorate a roof over somebody's head?

Mr. VARGAS. By the number of people who are in there. You are taking care of the child, and you do, in fact, prorate it against anyone who is ineligible because of their legal status or for some other reason. But the child is an American citizen.

And those 55,000 children are going to be somehow thrown out into the street or something else. In fact, your agency itself, you guys determined, your analysts, that it was going to be more expensive to the Federal Government if this rule goes forward. That is not our determination. My understanding is that is your determination.

Secretary CARSON. It is our determination. I thank you for making that point because the reason it would be more expensive is be-

cause the people who are on the waiting list are even more needy than the ones who are in there. So, yes, we do need to take care of them.

But, as I mentioned before, I would love to be able to take care of everybody, but we have to do this within the framework of the law. And if people don't like the law, they should change it.

Mr. VARGAS. Well, we do have a rule, actually, and it takes care of it today. I have to say you did quote and I appreciate it, Proverbs 18:17, and I believe there is a second part to that. I believe—

Secretary CARSON. 29:18.

Mr. VARGAS. 29:18. I believe the second part says something like: And those who—where there is no vision, people perish, but happy is the man who follows the law for he is joyful. Something like that. There is also Proverbs—Proverbs 29 is one of my favorites. Also 7, I believe, goes something like: The righteous care about justice for the poor, but the wicked have no such concern.

Now, I don't believe you are wicked in any way. In fact, I think you are trying to figure out how to propose something to push reform—

Secretary CARSON. Trying very hard.

Mr. VARGAS. —and I don't necessarily disagree with that. And I don't believe that this rule could have come from you. I was there in 2013 when you spoke at the National Prayer Breakfast. I go every Thursday to the Prayer Breakfast, and I was the national co-Chair for 1 year. I don't think you are mean-spirited at all. I disagree with some of your policies. But I have to say, taking these 55,000 children and putting them on the street I do think is mean-spirited. I don't think it is your nature. I hope you review that.

Secretary CARSON. It is not my nature to want to put anybody out on the street, and that is why we provided the 18-month period.

Mr. VARGAS. Well, I hope and pray that you re-think that. Again, I don't agree with all your policies, but I certainly know we challenge your view of humanity and that you have been a good person and tried to do the right thing. I hope you review that.

I do want to ask about DACA recipients also. My understanding has been that DACA recipients have been eligible for FHA loans, and, in fact, I want to quote you, to make sure this quote is correct.

I asked around after I read the story, and that is that DACA recipients were being denied FHA loans by HUD instructions. No one was aware of any changes that have been made to the policy whatsoever. I am sure we have plenty of DACA recipients who have FHA loans. So are you familiar with any changes? Have you made any changes?

Secretary CARSON. No. The same policy has been in place since 2003, which was reaffirmed in 2015 by the previous Administration. And we have not made any changes to that whatsoever.

Mr. VARGAS. Thank you. I hope that that becomes clear out there in the community.

Again, I thank you for being here. Again, we disagree on some issues, but I appreciate your openness also towards comprehensive immigration reform.

Secretary CARSON. Thank you for being able to disagree without being disagreeable.

Mr. VARGAS. Thank you.

Chairwoman WATERS. The gentleman from Arkansas, Mr. Hill, is recognized for 5 minutes.

Mr. HILL. Thank you, Chairwoman Waters.

Mr. Secretary, it's good to have you back before the committee.

Secretary CARSON. Thank you.

Mr. HILL. I am very pleased you made your second trip back to the Second Congressional District in Arkansas. We appreciated you coming to our State's Fair Lending and Fair Housing Conference, and I heard a lot of positive remarks about your comments.

And we want to have you back as we explore the Opportunity Zones with Senator Scott down in the district. And what is interesting is one of the Opportunity Zones also abuts one of our Historically Black Colleges and Universities (HBCUs), Philander Smith College, and to me that is a really interesting opportunity because not only has the President asked you to work on the Opportunity Zone issue, he has also empowered the HBCU executive order to try to maximize all Federal resources to enhance the position of our Historically Black Colleges and Universities. So this could be a really interesting opportunity.

When you were in Little Rock 2 years ago, you visited with Our House, which is a housing homeless holistic approach. We don't separate sort of the moral from the economic there, to paraphrase Arthur Brooks. It is a holistic approach to education and healthcare and childcare as well as getting people lifted up and getting back to a productive life. And they were very interested in potentially being an EnVision Center partner to a local public housing authority.

Will there be another cohort where public housing authorities can offer proposals for partnership?

Secretary CARSON. Yes. We have a real operator in place now when it comes to spreading those programs. So the initial cohort was really to gain some information on how to do this and make it work effectively. So, yes, that will be happening.

Mr. HILL. Good. Another area I have also listened to in my district relates to our local public housing authorities and their certification of landowners for use in Section 8 vouchers. And one of my City Council members, Doris Wright, and I toured an apartment complex that, while it also has a good mentorship program with a local church that helps with childcare and mentoring the residents there, the conditions are just deplorable, meaning the physical conditions.

Can you follow up maybe in writing with what the standards are that a city council, a local city council should hold the local public housing authority to on certifying that a landowner is qualified for receiving a Section 8 voucher?

Secretary CARSON. I think we can get that information to you, no question about it. But we do trust to some degree the landowners to be reasonable people and have some concern for the people. And we do have some degree of oversight. But there are legal remedies for people who abuse the tenants as well.

Mr. HILL. Yes. This was a pretty rough—and I am not passing judgment either. I am not a lawyer. I am not a HUD inspector. But when you do a cruise through this particular complex and look at

some of the conditions of the units, one might question whether or not they are eligible for Section 8 money.

We have had a lot of talk about overcrowding today and issues, and we passed legislation here in the Congress. I was shocked when I first came to the Congress that New York, a big city with a big demand for public housing, I think had a waiting list and something like 500,000 units, and yet there were tens of thousands of units that people were occupying who were making too much money to be qualified to be in public housing. And so Congress in the last couple of years reacted. I think President Trump signed that into law.

Are we doing a better job of making sure if you are earning too much money, that you have opportunities elsewhere to live so that we can make room for some on these long waiting lists?

Secretary CARSON. Well, we are trying to create an environment where people feel freer to exit the supported housing. And, it is sort of a catch-22, because we have also gotten into a situation where, when people begin to climb the ladder, we pull the ladder out from underneath them. And then everybody else is watching that and they say: I am not climbing that ladder.

So we have to be a little careful about the way that we do that, allowing people to exit in a way that they will be able to continue climbing that ladder and that they feel comfortable going out there. And those are the kind of programs that we have to be creating.

Mr. HILL. Thank you, Mr. Secretary.

I yield back.

Chairwoman WATERS. Thank you very much.

The gentlewoman from Ohio, Mrs. Beatty, who is also the Chair of our Subcommittee on Diversity and Inclusion, is recognized for 5 minutes.

Mrs. BEATTY. Thank you, Madam Chairwoman.

Mr. Secretary, I have several questions, and because of our 5-minute time period, I am going to try to get through them at rapid speed. As you know, you were here before, and I am going to ask you the same question that I have asked every one of your colleagues. And I am very hopeful that you can give me a yes on this.

Are you familiar with OMWI and what it is?

Secretary CARSON. With whom?

Mrs. BEATTY. OMWI.

Secretary CARSON. Amway?

Mrs. BEATTY. OMWI. Come on, Mr. Secretary. Now, I asked you this when you were here last year, and you asked me to be nice to you, and you turned to your staff. OMWI. And you have an OMWI Director. And we wrote you a letter about it. OMWI, the Office of Minority and Women Inclusion. Do you have an OMWI Director? Do you work with the OMWI Director?

Secretary CARSON. Well, of course, we have an Office of—

Mrs. BEATTY. OMWI. Not Amway, OMWI. Do you know who that person is?

Secretary CARSON. We have—

Mrs. BEATTY. Do you know who that person is?

Secretary CARSON. I cannot give you the name.

Mrs. BEATTY. Okay. Would you do me a favor, would you find out, and would you send me a note back so we don't ever have to repeat this again?

Secretary CARSON. We can send you a note on that.

Mrs. BEATTY. Okay, thank you. I had a lot of individuals from my district, a group of people who are here today in the audience who have questions about FSS. Are you familiar with that program?

Secretary CARSON. Family Self-Sufficiency?

Mrs. BEATTY. Yes.

Secretary CARSON. Yes.

Mrs. BEATTY. So one of the questions is, what measures are instituted to ensure public housing residents have fair and equal access to FSS?

Secretary CARSON. Well, anybody who comes and applies for it or asks for it, unless there is any particular reason to deny it—the problem is not so much that people are denied access to it as that we don't have enough people asking for it.

Mrs. BEATTY. Okay. So the next part, I represent Columbus, Ohio, and I am very proud of my public housing authority. And I meet with them on a regular basis. As you know, I have spent more than 20-some years working in public housing and relocation.

One of the things that my president and CEO asked me to ask you about is increased funding for FSS, to allow them to grow the program to serve more families, both in public housing and in Section 8. It is my understanding that much of the money goes for staffing versus service. So I would like to ask you if you would look into that to see what we could do with that program.

And I can also tell you and, Madam Chairwoman, I would like to enter this document into the record, it is about my district. All politics are local. We have an outstanding FSS program, where we have had successful graduates; we have had in individual financial counseling some 116 people.

Chairwoman WATERS. Without objection, it is so ordered.

Mrs. BEATTY. Thank you.

The other question is, now that you have had more time to think, on the CDBG, my colleague Congressman Scott asked you about those funds. Have you had more time to think that you would certainly not cut those funds, or is that something you want us to get an answer from after you consult with your team?

Secretary CARSON. I have an answer for it. I wasn't given an opportunity to finish it. First of all, let me just say with Columbus, there is a tremendous job with transitional housing.

Mrs. BEATTY. Thank you.

Secretary CARSON. One of the best in the country.

As far as CDBG, as I was saying, it has done a lot of good things. The problem is that the formula is sometimes inappropriate. For instance, it says to give this money to this group if the houses were built before 1940. Well, a lot of those houses are million dollar mansions.

Mrs. BEATTY. Okay. And I hate to interrupt you, but my time is running, and I have just one more question I want to ask.

Secretary CARSON. So the program needs to be modified.

Mrs. BEATTY. Okay, thank you. Also, I was talking with some friends and colleagues. As we look at the number of teens who are couch surfing, the number of single moms, would you be interested in having a dialogue with community leaders?

I have talked to people who run programs like Susan Taylor's program, like public housing, and they feel we should be doing more creative things in helping our young folks in the housing areas, which helps them with their entire lifestyle. Would you be interested in doing something like that?

Secretary CARSON. We are very interested in that. I had an opportunity to do some of that with Senator Collins in Maine recently. It is an area that needs attention. And Jean Lin Pao is the person who heads up the Office of Small and Disadvantaged Business Utilization.

Mrs. BEATTY. Thank you.

Chairwoman WATERS. The gentleman from Tennessee, Mr. Kustoff, is recognized for 5 minutes.

Mr. KUSTOFF. Thank you, Madam Chairwoman, and thank you, Mr. Secretary, for coming today. You have had a number of members thank you for coming to their district. I also thank you for coming to Memphis and to west Tennessee—

Secretary CARSON. Absolutely.

Mr. KUSTOFF. —last year.

I have met with constituents who have an interest in strengthening the low-income housing tax credit. And in the last Congress, I think there was a bill, the Affordable Housing Credit. The tax credit, in my opinion, it is a vital source for affordable housing.

You have stated in the past that HUD has taken steps to streamline projects that utilize this particular tax credit. Can you expand on that, Secretary Carson?

Secretary CARSON. Well, the low-income housing tax credit (LIHTC), is probably responsible for the largest number of new affordable housing in the country, so obviously we are interested in it. Traditionally, it has about an \$8 billion budget that has been provided to Treasury for that program.

Utilizing that along with the RAD program, along with the monies that will be coming through Opportunity Zones, provides us with an unprecedented opportunity, not only to create affordable housing, but really to expend the economic opportunities and business opportunities which then have a domino effect in terms of creating other economic activity around them.

Mr. KUSTOFF. Thank you, Mr. Secretary.

Last Congress, when the Affordable Housing Credit Improvement Act was introduced, it seemed to have pretty good bipartisan support. One of the provisions in the bill would have created a 4 percent credit rate, permanent rate, and further credit expansion. What are your thoughts on a permanent 4 percent credit rate?

Secretary CARSON. For individuals or for communities?

Mr. KUSTOFF. For both.

Secretary CARSON. Well, obviously we want to expand credit in a responsible way as much as we possibly can, being cognizant of the fact that when we do it inappropriately, we actually aren't doing people any favors. We are actually making their lives more difficult when that happens.

So any ideas that you have for appropriate expansion of credit, we are always going to be in the market for doing that. Our FHA Commissioner, Brian Montgomery, is very open to that concept as well.

Mr. KUSTOFF. Thank you, Mr. Secretary.

There have been a number of questions today asked about community development block grants, and in my district and in Memphis and west Tennessee, these block grants in the past have been used successfully. Given the CDBG program was put into place during the Ford Administration, we could probably look at modernizing the program to some extent.

What are your thoughts about modernizing CDBG to better incentivize, if you will, in streamlining permitting processes and other policies that may create barriers to the development projects?

Secretary CARSON. Sure. There are about 1,210 communities now that benefit from the CDBG program, and they are the only ones. I think it really should be a much more competitive program. I think there are a lot of things that could be done so that we really target the low- and moderate-income people the way it was supposed to be done. It has been just abused, quite frankly. I would be very open to modernizing it and working with Congress to get that done.

Mr. KUSTOFF. If I could, as it relates to the funding portion and what is known as Formula B which is, in part, based on data from pre-1940 housing, I know that there are some communities that benefit from Formula B, and there are some that obviously are harmed by it.

Would HUD consider looking at Formula B and maybe modernizing it or better utilizing it for other communities to tap into that formula?

Secretary CARSON. Absolutely, and I think a lot of other communities would be absolutely delighted. And it is not that I am against the concept of why it was created. We are more against what it has become.

Mr. KUSTOFF. Thank you, Mr. Secretary.

Thank you, Madam Chairwoman. I yield back my time.

Chairwoman WATERS. The gentlewoman from Michigan, Ms. Tlaib, is recognized for 5 minutes.

Ms. TLAIB. Thank you, Madam Chairwoman.

Thank you, Secretary Carson, for coming before this committee. I am not sure if you remember the first time we met, but it was in the gymnasium of Southwestern High School, our alma mater. I was excited that you took the time to come and speak to the young people there. You walked the same hallways I did, that those very young people did. You grew up in the same challenged neighborhoods.

Secretary Carson, instead of helping the very community you grew up in, you have decided to dial back on protections and resources that help those in need, that stop housing discrimination. This is happening while measures are being put in place to criminalize and surveil those very residents that we serve.

And, Secretary Carson, I commend you, I commend HUD in recently suing Facebook for the use of racial—facial; it should be called racial—facial recognition technology. When asked about this

lawsuit, you stated that, “using a computer to limit a person’s housing choices can be just as discriminatory as slamming a door in someone’s face.”

Yes or no, did you benefit from Section 8 housing?

Secretary CARSON. Did I what?

Ms. TLAIB. Benefit from Section 8 housing.

Secretary CARSON. No, I did not.

Ms. TLAIB. You didn’t. Okay. I do have quotes from the past, I think, when you were running for President of the United States that you did claim that you did receive some sort of voucher for Section 8 housing.

Secretary CARSON. I never claimed that. Other people—

Ms. TLAIB. That is okay.

Secretary CARSON. Other people claimed that, not me.

Ms. TLAIB. Oh, I understand. I apologize.

Would you be okay with facial recognition technology being used by law enforcement and other agencies in the neighborhoods that you grew up in, including public housing?

Secretary CARSON. I think we obviously have to adjust with the technology as it is rapidly advancing. It can be abused, and of course, that is one of our jobs to make sure it is not.

Ms. TLAIB. So, Secretary Carson, are you aware of Project Greenlight in Detroit?

Secretary CARSON. Where the mayor is putting up the lights to deter crime?

Ms. TLAIB. Well, in Detroit, Project Greenlight enables the police to identify and track residents captured on hundreds of private and public cameras. The same surveillance has since expanded to include lower-income housing.

Are you aware that the Detroit Housing Commission that receives funding from HUD is currently moving towards using Project Greenlight’s facial recognition technology for public housing?

Secretary CARSON. I think the project has done some great good. The mayor has told me that it has solved a lot of the crime problems and brought it down. It doesn’t mean that we don’t have to be very careful about how that technology is used in the future.

Ms. TLAIB. So you don’t oppose the use of it?

Secretary CARSON. I am not saying—I oppose the inappropriate use of it.

Ms. TLAIB. Okay. Well, currently, my colleague, Representative Pressley, and I are introducing a bill that bans the use of real-time facial recognition technology in federally- funded housing, and I hope that maybe your Department can take a look at it and maybe help us move that forward so there is no abuse and intentional discrimination towards those of color.

Secretary Carson, the neighborhood that you grew up in, the one that really believed in you and I before anyone else did, is very much hurting because they have been feeling left behind. I believe 71 percent of them, especially in the State of Michigan, spend more than half of their income on housing costs and utilities. The conditions in HUD housing are getting worse with the continued decrease in funding, while backlogs for affordable housing grow.

That day at Southwestern High School, do you remember what you told us?

Secretary CARSON. I don't remember now.

Ms. TLAIB. You said something pretty spectacular, and it was very inspiring. You said that no matter if you are poor, you can succeed.

This seems very hard for our people, Secretary Carson, today, because the same programs that helped you and I are being scaled back. It is your turn to give back, for you to remember where you came from, and use your experience of growing up poor in Detroit.

Lastly, you keep saying we are a nation of laws. I hope, Secretary Carson, that you and my colleagues who agreed with you in that statement would also apply that to the President of the United States.

Madam Chairwoman, I ask unanimous consent for this article entitled, "Controversial surveillance program coming to Detroit public housing" to be submitted for the record. And I yield back the balance of my time.

Thank you, Mr. Secretary.

Chairwoman WATERS. Without objection, it is so ordered.

The gentleman from New York, Mr. Zeldin, is recognized for 5 minutes.

Mr. ZELDIN. Thank you, Madam Chairwoman. And thank you, Mr. Secretary, for your service, past, present, and future, to our country.

First, before I ask a question, I just want to point out, the reason why you wouldn't recognize the term "OMWI" in HUD is that HUD doesn't have an OMWI. The Dodd-Frank Act doesn't require an OMWI. There are other agencies that have it. As you point out, you have the Office of Small and Disadvantaged Business Utilization, which seeks to accomplish many of the same goals, but it's a pretty unfair question to ask you who the director is of an entity that obviously doesn't exist within HUD. So, my apologies on behalf of my colleague.

Secretary CARSON. Thank you for clarifying that.

Mr. ZELDIN. In my district, I talk to potential homeowners and the REALTORS and lenders who serve them, and one thing I hear over and over again is how otherwise credit-worthy, hard-working families can't get into a new home because they aren't liquid enough to make that big down payment even though they can otherwise afford to pay a mortgage.

That is why the FHA loan is so essential to Long Island families looking to purchase a new home that will help them build their own version of the American Dream, and most importantly, help them stay on Long Island. These are middle-class people with good jobs and good credit scores, but maybe they aren't liquid enough to put up a large down payment in a region with some of the highest real estate values in the nation.

Over the past several years, we have seen traditional lenders like banks, which are subject to stringent capital requirements and are well regulated, flee FHA lending as a result of the use of the False Claims Act to pursue them for allegedly "defective" loans. The False Claims Act was passed by the Lincoln Administration to prevent horse theft and other fraud during the Civil War, but a cen-

tury and a half later, it is being exploited by frivolous lawyers, and these unfair lawsuits are scaring lenders out of the FHA market.

Overzealous enforcement of the law by the previous Administration encourages bad behavior instead of reining it in. A misplaced comma or a staple on a stack of mortgage paperwork should not be grounds for a massive lawsuit against an honest lender who is helping someone get an FHA loan. For many reasons, these lawsuits or just the threat of these lawsuits have negative ramifications for FHA and Ginnie Mae and are hurting access to affordable housing in my district and nationwide.

What are you doing to bring traditional lenders back into this important program?

Secretary CARSON. Well, thank you for that question. And thank you for the work that you are doing in your district in New York, and I have enjoyed our visits in the past.

We have been working very closely with the Office of the Attorney General and with the Justice Department because we recognize that they also have issues, and they want to make sure that people don't get away with things. But the problem is that it has been much too difficult to sort out what is the defect and what is not.

So we have reexamined the defect taxonomy and finding ways that we can clarify for everybody easily and bring this into the digital realm so that it is not just somebody sitting behind a desk. It makes it much easier if we use technology, IT, to just get rid of a lot of the immaterial mistakes and not have them count toward any untoward action for that person.

Mr. ZELDIN. Thank you for your work on this issue. It's very important for my district, and I know that you and your team are laser focused on it, which really is something that my constituents are grateful for.

Something that is very personal to us is the issue of veterans' homelessness, and I want to thank you for your personal efforts on this particular issue. It is a huge challenge, and any veterans who raises their hand willing to lay down their life in defense of our freedoms and liberties should have food on their table, a roof over their head, and shoes on their feet. And anything that you can do, and really, working with this committee, working with the chairwoman, the ranking member, and working with you as well, if we can pursue any new victories during this Congress to help get our veterans—just like we really want to get as a goal, really want to get every American off of the streets. The one that certainly is most personal is when that person goes, deploys into combat and they come home, and they are on the street, which is outrageous.

Secretary CARSON. I understand.

Mr. ZELDIN. So I thank you for your work on the veterans' homelessness issue. I appreciate that HUD and the DOJ are working together, because regulatory clarity on the issue that we just discussed is essential here so we can make sure bad government policy isn't putting up roadblocks to hard-working American families who are pursuing the dream of home ownership.

And I yield back.

Secretary CARSON. Thank you.

Chairwoman WATERS. The gentleman from Utah, Mr. McAdams, is recognized for 5 minutes.

Mr. McADAMS. Thank you, Madam Chairwoman.

Secretary Carson, thank you for being here today. Mr. Secretary, would you generally agree that policymakers make better policy decisions when they consider all data and facts before making the decision?

Secretary CARSON. Yes.

Mr. McADAMS. And would you also agree that it is important for policymakers to be transparent and hear from interested persons who may be affected by a particular policy?

Secretary CARSON. Yes.

Mr. McADAMS. In fact, I am happy to hear that. It is even in HUD's policy statement, 24 CFR § 10.1, so it is great to hear these answers from you, and I agree.

Mr. Secretary, in my home State of Utah, housing prices continue to climb dramatically, as in many places around the country, and our area is facing a shortage of thousands of homes. Just for reference, the median sale price of a new home in Salt Lake County in 2018 was up 61 percent from the median price in 2010. Three other Wasatch Front counties have had similar rates of increase. And since 2010, new households in Utah have outnumbered new housing units, so that is new households created have outnumbered new housing units by over 40,000, which explains a lot of the cost increases of housing.

Because of this, HUD's mission of supporting affordable housing access and affordable housing development is vitally important to me and to my constituents. So I want to specifically ask you about a recent HUD action that may make it harder for low- and moderate-income individuals to be able to purchase a home.

Mr. Secretary, last month, FHA issued a mortgage letter claiming to clarify documentation requirements for loans originated that have down payment assistance from governmental entities. That mortgage letter, however, issued new requirements for a number of entities, many of whom had been originating mortgages for years and suddenly were no longer able to do so. The result of this is that low- and moderate-income individuals in my district and in many districts around the country may no longer be able to purchase a home with no longer having access to some of these programs.

And I understand that this policy is currently under litigation, so I respect that you probably can't discuss the details of this litigation, but I want to talk to you a little about the process, which I think you can discuss.

Mr. Secretary, what formal process and public comment period did HUD or FHA undertake before FHA issued this mortgage letter?

Secretary CARSON. I am not aware of a public process.

Mr. McADAMS. That is absolutely correct. There was no public process.

Mr. Secretary, HUD previously announced that it would address governmental down payment assistance programs through a rulemaking in both the 2018 spring and fall regulatory agendas. What changed at HUD to warrant a decision not to advance rulemaking and instead to just issue this guidance through a mortgage letter?

Secretary CARSON. I think it was the feeling of those involved that it was creating damage to people and that they wanted them to understand what the parameters of being able to offer this kind of assistance were and that it should be done within one's own jurisdiction. That it tended to metastasize outside of one's jurisdiction is when the problems began to occur.

Mr. MCADAMS. But again, I would go back to HUD's policy statement that policymakers make better decisions when they consider all data and facts before making a decision and that it would be important to include policymakers and other interested persons before adopting a particular policy. And that is why I think I was disappointed, especially with the negative impacts, understanding that there may be rational reasons for looking at this, but the negative impacts of proceeding with the mortgagee letter before doing a formal rulemaking as had been previously promised.

Secretary CARSON. Your point is well taken.

Mr. MCADAMS. Thank you, Mr. Secretary.

It is also my understanding that the mortgagee letter may negatively affect tribal government entities more than it would affect other housing finance agencies. Do you have any evidence that these DPA loans are performing worse than other DPA loans?

Secretary CARSON. I am not familiar with the data that was used.

Mr. MCADAMS. I think that is because there is no data. HUD does not collect taxpayer IDs that differentiate between a tribal HFA and a nontribal HFA.

So, Mr. Secretary, I appreciate the role that you must play in protecting taxpayers and the MMIF, but if you do not currently collect the appropriate data to judge the success of a DPA program, then perhaps we should collect that data before moving forward with this policy.

I yield back.

Secretary CARSON. I agree with you, actually.

Mr. MCADAMS. Thank you. If you do agree, I hope that maybe we can revisit this and look at engaging the public in the process before continuing. Thank you.

Chairwoman WATERS. Thank you.

The gentleman from Ohio, Mr. Gonzalez, is recognized for 5 minutes.

Mr. GONZALEZ OF OHIO. Thank you, Madam Chairwoman.

Thank you, Dr. Carson, for being here and for your attention and for all your service to the country.

I want to start by first commending you for taking on Facebook and uncovering what I think most Americans, if they knew the details of, would be sickened by.

Could you just briefly sort of describe what you found and kind of give an update as to the status of the investigation?

Secretary CARSON. Well, as you know, it is in Federal court now, so I can't say too much, but I will say, in general, that they are able to collect enormous amounts of information about people, and people have no idea that it is being collected.

The real problem is when you use that information to discriminate against people, to either deny information to them or to send information only to selected groups of people based on the various

demographic data that you collect. And this is just going to become a progressive problem if we don't nip it in the bud. So, I see this as something that is going to be very important in our society.

Mr. GONZALEZ OF OHIO. Absolutely. Would it be fair to say that what you found was essentially that if you are somebody—let's say you are a REALTOR and you want to target ads on Facebook, that you could essentially completely lock out individuals based on race, gender, ZIP Code, basically anything you want using the data and tools that Facebook provides?

Secretary CARSON. Correct.

Mr. GONZALEZ OF OHIO. I would consider that, quite frankly, some of the most aggressive redlining this country has ever seen. It is redlining in the digital age.

Secretary CARSON. Technical redlining.

Mr. GONZALEZ OF OHIO. Technical redlining in the digital age. And I, again, want to commend you for your work in cracking down on this abusive practice.

Secretary CARSON. Thank you.

Mr. GONZALEZ OF OHIO. You sort of alluded to, in your first response, that this problem is going to become more profound, and I agree with you, as more of our lives move to the digital realm. Could you talk a little bit about any discussions that you have had internally or investigations that you are undertaking or thinking of undertaking with respect to Twitter and Google and sort of additional platform security?

Secretary CARSON. Well, we have been in contact with them and asked for certain information from them and reserve the right to pursue it further, depending on what the investigations show.

Mr. GONZALEZ OF OHIO. Great. And I look forward to following that because, again, I think it is incredibly important.

There was a point when we thought that these platforms were essentially going to be liberation technologies, and it wasn't that long ago, and I think what we have seen over time is that, in the wrong hands, bad actors can use them for very nefarious methods.

Secretary CARSON. Absolutely.

Mr. GONZALEZ OF OHIO. And again, I commend you for it.

Last question, and I will just kind of turn it over to you. Is there anything that you want to share with the committee that you haven't quite had a chance to with respect to the ongoing work at HUD?

Secretary CARSON. Yes. I share from my heart my concern about our country. We have a very strong country, and the only people who can bring us down are ourselves if we continue to allow ourselves to be made into enemies instead of being able to use our collective abilities and talents to focus on the problems that we have and to solve those problems. These are things that we are capable of doing. This is America. It is a great nation.

And you look back at the early part of our country, a lot of people are critical of us. They said you have the Fords and the Kelloggs and the Rockefellers and the Vanderbilts and all of these people with all of this money, and then you have all the poor people. You can't have a government like that. You have to have an over-arching government that equitably distributes everything.

What they didn't realize is that those people that I just named in our country, instead of just being greedy and passing money down from one generation to the next, what they did is built the transcontinental railroad and the seaports and the textile mills and the factories that allowed us to have the most dynamic middle class the world has ever known, which rapidly propelled us to the pinnacle of the world.

They didn't stop there. They built schools and universities and libraries and museums and things that really helped to create the American Dream. And it is about providing opportunities for our fellow citizens, because our most precious resource is our people. And if we develop our people, we will be successful.

Mr. GONZALEZ OF OHIO. Thank you, and I yield back.

Chairwoman WATERS. The gentlewoman from New York, Ms. Ocasio-Cortez, is recognized for 5 minutes.

Ms. OCASIO-CORTEZ. Thank you, Madam Chairwoman. And thank you, Secretary Carson, for joining us today.

Secretary Carson, in December 2017, you delivered a keynote at the Manhattan Institute where you stated, "The war on poverty sometimes conflicted with the war on drugs, which often dealt harshly with nonviolent offenders, taking men away from their families and disproportionately affecting minority communities."

Are these your words?

Secretary CARSON. Yes.

Ms. OCASIO-CORTEZ. Do you acknowledge that the war on drugs disproportionately impacted black communities and communities of color despite marijuana and other drug use levels being comparable to white communities?

Secretary CARSON. Traditionally, that has been the case.

Ms. OCASIO-CORTEZ. And are you also aware that when a formerly incarcerated person is homeless, there is a 60 percent chance that they will be rearrested, but if that same person has access to housing, the percentage drops to 29 percent?

Secretary CARSON. Housing is one of the factors that is beneficial in preventing recidivism.

Ms. OCASIO-CORTEZ. I am concerned here that the war on drugs has not been solely limited to incarceration and that the negative impact of the war on drugs has not been limited to incarceration, but also, we have legislative rippling effects that also seem to have been codified in our housing system.

Are you aware of HUD's one-strike rule which evicts tenants for a single incidence of criminal activity, no matter how minor, with no holistic review?

Secretary CARSON. There is the ability of local jurisdictions to alter that rule.

Ms. OCASIO-CORTEZ. But federally, this provision still persists, correct?

Secretary CARSON. As far as I know, it is still intact.

Ms. OCASIO-CORTEZ. And so a person could be stopped and frisked and be found in possession of a small amount of marijuana, and then be evicted or have their entire family evicted from public housing?

Secretary CARSON. That is a possibility.

Ms. OCASIO-CORTEZ. Are you aware that owners of public housing authorities can subject tenants to tests for alcohol and drugs?

Secretary CARSON. They can require that, yes.

Ms. OCASIO-CORTEZ. And I see here that we also have no-fault policies where an entire family can be evicted for the criminal activity of a guest of the household, even without the knowledge of anyone in that household. Are you aware of that provision as well?

Secretary CARSON. The use of such activity is extremely limited, if ever used.

Ms. OCASIO-CORTEZ. But they are still codified in Federal law, correct?

Secretary CARSON. Is it on the Federal books? As far as I know, it has been on the books for many, many years.

Ms. OCASIO-CORTEZ. Do you support reversing some of these provisions?

Secretary CARSON. Which provisions?

Ms. OCASIO-CORTEZ. Say the no-fault policy.

Secretary CARSON. I can talk about that in individual cases, if you have an example that you want to talk about.

Ms. OCASIO-CORTEZ. Like, say, would you support being able to move some of these policies over to a more holistic review? You, yourself, asked for a case-by-case consideration. Should that case-by-case consideration be codified in Federal law instead of having blanket one-strike or no-fault policies?

Secretary CARSON. I am always in favor of more flexibility.

Ms. OCASIO-CORTEZ. Well, I am happy to hear that, Secretary Carson.

I would also like to highlight, there has been much talk about the issue with NYCHA and public housing. And it is horrifying the conditions that are happening in NYCHA. It is horrifying that people are living through winter without heat, opening their ovens to try to make sure that they are able to sleep through the night.

But I think it is important to note that this is not about throwing more money to the problem; this is about throwing the money at the problem. NYCHA and public housing across the country has been starved by Members of Congress for over 15 years, and that deficit has built up for many, many years, which has led to, in New York City alone, a \$32 billion price tag to make sure that we get people basic heat, hot water, and so on.

And I don't think, no matter what policy changes we make, that you can take food away from a child and then not understand why they can't or don't eat. And I think that is exactly what is happening with our public housing program.

Madam Chairwoman, I would like to seek unanimous consent to submit to the record a New York Times article on what it would take to fix New York's public housing.

Chairwoman WATERS. Without objection, it is so ordered.

Ms. OCASIO-CORTEZ. Thank you very much. And I would also like to note that the provisions that we wanted to reverse, including one-strike and no-fault policies, are being introduced in our bill on the Fair Chance at Housing Act.

Thank you very much.

Chairwoman WATERS. The gentleman from Tennessee, Mr. Rose, is recognized for 5 minutes.

Mr. ROSE. Thank you, Chairwoman Waters.

And thank you, Secretary Carson, for being with us today and for your frank testimony today. I can't help but acknowledge your great personal life story, as I begin today, and know that you came up under very tough circumstances. And through the leadership of folks like your mother, you were able to overcome those circumstances.

I am wondering, though, as you have now had a couple of years in government service as Secretary of Housing and Urban Development, do you find the challenges of serving in this way to be tougher than those that you experienced as a neurosurgeon very successfully tackling many problems?

Secretary CARSON. Well, I can tell you as a neurosurgeon, the operating room was a haven. You could go in there and get away from all the problems of the world. But one of the great things about medicine is you are able to intervene in people's lives and give them a second chance.

And despite the difficulties of this job and the attacks and criticism, there is an opportunity to change people's lives, to change the trajectory of our nation, to change the way that we do things, to go from just taking care of people to actually setting people on a trajectory towards success.

Mr. ROSE. You talked earlier about the situation where, due to planned improvements in public housing, sometimes people are displaced, and how very often they find that after they have moved on, they find a better solution. I wonder if there are any lessons that you may have learned or the Department may have learned from seeing that, that might help guide us toward helping people move beyond public housing?

Secretary CARSON. Well, the key thing that I have seen is when we develop communities in a holistic way, it almost doesn't matter where they are. You provide the sustenance through what people need in order to develop.

One of the things I learned from the HUD-Veterans Affairs Supportive Housing (HUD-VASH) program—that is for veterans and veteran homelessness. HUD provides the housing, and the VA provides the wraparound services. It doesn't work when we just give them housing. It doesn't work when we just give them wraparound services. But when we put both together, we have a tremendous impact in terms of getting those veterans back to being self-sufficient again. That is the same policy that I want to use today for the people who are being assisted in housing.

Mr. ROSE. In Tennessee, we have a very successful housing finance agency, the Tennessee Housing Development Agency (THDA). Because THDA is highly integrated into local communities and has staff who understand both national programs and State-run programs, they are able to have great success in prudently and affordably housing folks in the 6th District in Tennessee. In general, they do not utilize a one-size-fits-all approach. Instead, they tailor their work to best help the individual constituent.

I tend to think that local problems often require local solutions. In fact, they usually do. The housing issues in Memphis are not the same as the ones in Nashville, just like the issues in New York City are not the same as for my constituents in the 6th District of

Tennessee. For example, manufactured housing may not make sense in Manhattan, but it is a significant or an integral part of rural housing in Tennessee.

How can we best leverage these State finance agencies in trying to address the affordable housing shortage in our country?

Secretary CARSON. Well, I think we just have to keep an open mind, as you said, recognizing that the needs are going to be different in every different district. We also need to concentrate on modernizing our building techniques.

And on June 1st through June 5th, there will actually be a showcase of new housing techniques on the National Mall. I invite all of you to come to it. 3D printed housing, manufactured housing, all kinds of new techniques and materials, some of which cost considerably less than what we are doing now. Integrating those kinds of things into our housing policy, I think is going to be something that will help us out tremendously.

Mr. ROSE. Do you share my view that local problems require local solutions, and as a country, we need to take responsibility at the community and local level, rather than simply solving every problem by spending more and more Federal dollars?

Secretary CARSON. I not only share it, but I enthusiastically endorse it. It has to be all of us working together, not pointing fingers at each other, but working together.

Mr. ROSE. Thank you, and I yield back.

Chairwoman WATERS. Thank you.

The gentlewoman from North Carolina, Ms. Adams, is recognized for 5 minutes.

Ms. ADAMS. Thank you, Madam Chairwoman. And thank you, Secretary Carson, for being here today.

We have had some discussion today about the choice vouchers, and many public housing agencies have wait lists. In my district in Charlotte, North Carolina, in Mecklenburg, we have more than 30,000 people who are on the wait list for a housing choice voucher. That includes women and children and families, people with disabilities, seniors, young people, and the list goes on.

If you can just give me a yes or no to this because I have a couple of other questions, do you believe that the Federal Government is dedicating enough funding and resources to ensure that individuals who are most in need of housing can access an affordable place to live?

Secretary CARSON. Would I love to be able to give a lot more? Of course.

Ms. ADAMS. Okay. Thank you.

So given the severe shortage of public housing and Federal rental assistance, why did the budget request for Fiscal Year 2020 zero out programs like CDBG, the Public Housing Capital Fund, and HOME, and you only asked for \$8.7 billion less than 2019?

Secretary CARSON. Because we have to make tough choices in a budget because we have a \$22 billion deficit—debt, and we have children and grandchildren and people who will be coming after that who will be responsible for that, so real compassion includes them as well.

Ms. ADAMS. Okay. So when we talk about the housing choice vouchers, was there any reason that you didn't ask for more funding for that?

Secretary CARSON. For exactly the same reason. Would I love to be able to have enough for everybody to have one? That would be great.

Ms. ADAMS. Okay. Let me ask this question in terms of the vouchers. In 2016, we had 127 people in Charlotte who received the voucher, and 45 of those vouchers expired. So that means that individuals who were searching for housing, they were doing that for 120 days, as I understand, it is 4 months, and so they are going to have to give them back. They have been turned away because landlords and property managers don't want to rent to folks with Section 8 vouchers. And so I think that there may be some income source discrimination. I think that is unfair and that it is just plain and simple that that is unfair.

So given this data, do you believe that we need a Federal law prohibiting this income discrimination?

Secretary CARSON. I think we certainly need to be looking at what are the impediments for people to accept those vouchers, and that is exactly what we are doing right now. If we go through that process and it is still a problem, maybe a Federal law may be necessary.

Ms. ADAMS. Okay. What about in terms of the folks who are having to give them back? Is there a way to extend the timeframe? I mean, 4 months obviously is not enough in some cases.

Secretary CARSON. There are hardship exemptions in existence which can be utilized in those situations.

Ms. ADAMS. Okay. Since we—I have a few more minutes. Since you have rolled back the Affirmatively Furthering Fair Housing rule, what specific actions is HUD currently taking to ensure its guarantees are fulfilling their fair housing obligations to tackle segregation and housing discrimination?

Secretary CARSON. Well, when I took office, there were 602 discriminatory actions. We are down to about 100 now. We have gone through all of those. And in addition to taking care of the new ones that have come in, we get about 8,000 a year, so we have been extremely active in pursuing those. And I have made it very clear to all the organizations, if anybody knows of discriminatory activity that is going on that we are not already addressing, please let us know.

Ms. ADAMS. Okay. Have you received any complaints at this point?

Secretary CARSON. Like I said, we get about 8,000 a year, and we deal with them as they come in.

Ms. ADAMS. Okay. Do you know about how many you have resolved?

Secretary CARSON. The resolution is about 80 percent.

Ms. ADAMS. Okay. Thank you.

Madam Chairwoman, I yield back.

Chairwoman WATERS. The gentleman from Wisconsin, Mr. Steil, is recognized for 5 minutes.

Mr. STEIL. Thank you, Chairwoman Waters.

And thank you, Secretary Carson, for coming today. I want to talk to you about Opportunity Zones. In southeast Wisconsin, we have a handful of Opportunity Zones, in particular in the Cities of Janesville, Racine, and Kenosha. There is a lot of opportunity in these Opportunity Zones, and people are quite excited about the possibilities that they bring to bring rejuvenation into these cities.

Could you comment on what you are working on at HUD in supporting qualified opportunity fund investments in housing?

Secretary CARSON. Yes. We actually have a lot of components that are working on this. For instance, when it comes to economic empowerment and development, the Commerce Department is spearheading the activity. When it comes to entrepreneurship, Small Business is spearheading the activity. When it comes to education and workforce development, both the Labor Department and Education Department. When it comes to safe communities and environmental concerns, the Department of Justice is spearheading that. And when it comes to assessment of what is going on and measurement, the Council of Economic Advisers is spearheading that. So we have a number of different spearheads tackling the problem.

Mr. STEIL. I appreciate that. And I would ask you, if your schedule permits, sometime to come to southeast Wisconsin and explore firsthand what opportunities these Opportunity Zones present to some of the communities in the area that I have been privileged of being a voice for.

Secretary CARSON. I would love to. I have been there before, Racine in particular, at SC Johnson. Good things are going on there.

Mr. STEIL. We would love to have you back.

I want to shift gears in my limited time and talk about State and local barriers to development. And so, Secretary Carson, many of my colleagues seem to believe that the answer to our housing is simply in the amount of money we spend, but I think we are coming to a bipartisan consensus and it is emerging. And we are recognizing also the role of State and local barriers to development, in particular, those that are restricting access to housing.

Strict land use laws in places in particular like New York and San Francisco and Los Angeles are making it hard to deliver affordable housing, and this is pricing low-income families out of their neighborhoods. It makes it hard for the striving young people to move to a place where jobs are actually plentiful.

Can you talk about the high regulatory cost and how it is making it harder for HUD and local housing authorities to serve those in need?

Secretary CARSON. Yes. Well, when you look at zoning regulations, for instance, you take a place like Los Angeles, 70 to 80 percent of the land is zoned for single-family housing with a certain amount of property. And then you throw on top of that all of the regulatory barriers, including recently, the need for some solar input. Are you kidding me? So this just piles up, and that is why you see people who make \$50,000, \$60,000, \$70,000 a year living on the street in tents.

This can be resolved, but it needs to be resolved with Federal, State, and local authorities. I understand that Mayor Garcetti has

recently begun to look at allowing accessory dwelling units, which will certainly help the situation. Those are the kinds of things, though, that we have to be looking at.

As I said before, we can solve this problem. Don't make it political. Let's just use what we have and solve it.

Mr. STEIL. I appreciate those comments. It is an incredibly important topic, and we need to continue to look at the local aspect of these land zoning rules that are driving up the cost of housing in very particular communities in the United States. And I appreciate your time today.

I yield back. Thank you.

Secretary CARSON. Thank you.

Chairwoman WATERS. Thank you.

The gentleman from New Jersey, Mr. Gottheimer, is recognized for 5 minutes.

Mr. GOTTHEIMER. Thank you, Chairwoman Waters. And thank you, Mr. Secretary, for being here today.

Secretary CARSON. Thank you.

Mr. GOTTHEIMER. One of the issues that I am particularly focused on is the tightening of the credit box. I know that you and my colleagues on both sides of the aisle, we all agree that we need to expand access to credit in a responsible manner so that those who deserve to be in a home can be. We also know that HUD plays a critical role in getting people in homes.

Secretary Carson, in your opinion, what is the biggest factor that has caused the credit box to shrink, and what is HUD doing to combat it?

Secretary CARSON. Fear, I think. Risk. Fear of risk and looking at things that have happened historically.

What are we doing about it? We are trying to expand the number of people who will give credit by alleviating some of their anxiety. I just mentioned what we are doing with the False Claims Act so that we can bring more people who can provide credit into the market.

Mr. GOTTHEIMER. Are you seeing a shift?

Secretary CARSON. I think it is starting to shift, absolutely. It is going to take a while for people to trust what is going on, but they will see, over the course of time, that we are consistent.

Mr. GOTTHEIMER. Thank you. And also, I was hoping to ask you about a specific extension of credit and expanding—you started to talk about this in a previous answer, so just one level down on Federal housing authority loans, right, which you have covered.

In your testimony specifically, you said that you have noticed a greater number of borrowers looking for FHA loans with higher debt and lower credit scores, and HUD is using closer scrutiny before issuing these mortgages to mitigate risk. How is HUD currently working to strike a balance between promoting access to credit via FHA loans and managing risk?

Secretary CARSON. Well, we are trying to look at data, and using that rather than just using ideology when it comes to issuing credit. That really comes from my days in medicine where evidence made a lot of difference, and that is the difference between the fact that at the last turn of the century, before 2000, the average age of death was in the 50s. In 2000, it was approaching the 80s. The

main difference is that the medical profession began to use evidence in their policy, and it made a huge difference in our longevity.

Mr. GOTTHEIMER. And when you said closer scrutiny in your testimony, is that using the data? How are you using the data differently? How has that process changed, if you don't mind me asking?

Secretary CARSON. Well, you look at things—you look at best practices. You look at things that have worked in some areas, and you say, why is that working? You try to dissect that out, and then you see if you can make that more broadly applicable.

Mr. GOTTHEIMER. Great. And I thank you very much for your time today.

Thank you. I yield back.

Chairwoman WATERS. The gentleman from Texas, Mr. Gooden, is recognized for 5 minutes.

Mr. GOODEN. Thank you, Madam Chairwoman.

And thank you, Secretary Carson. Is there anything you haven't talked about today you would like to discuss?

Secretary CARSON. Oh, boy. That opens up a big box. But I will tell you, the thing that I am most concerned about is the affordability of housing. We have more than 8 million families in the United States who pay more than 50 percent of their income for housing, and we need to really focus a lot of attention on that and get this problem solved.

Mr. GOODEN. Do you think spending more money will solve that problem?

Secretary CARSON. Spending more money is not the solution. Again, getting to the etiology of the price increases and what can we do that will enable us to build more housing, more affordable housing.

Mr. GOODEN. Several of my colleagues have mentioned you have been inaccessible. Have you met with leadership of this committee and with my colleagues across the aisle to discuss their ideas?

Secretary CARSON. I have tried. The chairwoman has not had time to meet with me, but I have met with several other members and we have made some good progress.

Mr. GOODEN. Well, I would encourage those discussions to continue. And I thank you for your work and the hard work you have done at your organization and for what is to come.

Thank you. I yield back.

Chairwoman WATERS. Thank you.

The gentlewoman from Virginia, Ms. Wexton, is recognized for 5 minutes.

Ms. WEXTON. Thank you, Madam Chairwoman.

And thank you, Secretary Carson, for joining us here today. As you may be aware, the House last week passed the Equality Act, which includes a lot of broad protections for the LGBTQ community. But for our purposes, one of the things I am most pleased about is that we are explicitly including the LGBTQ community as part of the Fair Housing Act's nondiscrimination protections.

Do you agree with this inclusion?

Secretary CARSON. Well, I certainly agree with nondiscrimination and with being fair to every single individual in our society.

Ms. WEXTON. So you would approve of the inclusion of the LGBTQ community as a part of the Fair Housing Act's protections explicitly protecting them from discrimination in housing?

Secretary CARSON. If you want to include them as one of the protected classes, I think that is something that Congress will be responsible for.

Ms. WEXTON. Very good. And I guess one of your responsibilities would have to do with the rulemaking and the rules for HUD and inclusion within HUD. Is that correct?

Secretary CARSON. And our responsibility is to make sure everybody is treated fairly.

Ms. WEXTON. In March 2017, your agency removed links to key resource documents informing emergency shelters on best practices for serving transgender people facing homelessness, and you withdrew a proposed policy that would have required HUD-funded emergency shelters to post notices to residents to inform them of their rights to be free of anti-LGBTQ discrimination under HUD regulations, right?

Secretary CARSON. We are creating a situation where there is more local jurisdictional control.

Ms. WEXTON. But you removed that guidance from the site, and it has not been replaced?

Secretary CARSON. That is correct.

Ms. WEXTON. Okay. And last month, while you were testifying before the House Appropriations Committee about HUD's withdrawal of these guidance documents, you said that they were not needed and that the equal access rule was in place. Is that correct?

Secretary CARSON. The rules from 2012 and 2016 adequately provide for fairness for all communities.

Ms. WEXTON. So those rules are still in place?

Secretary CARSON. Yes. They have not been removed.

Ms. WEXTON. Okay. And you also stated, "We have not made any attempt to change them." Is that correct?

Secretary CARSON. We have not changed any of the rules.

Ms. WEXTON. And that was the case when you testified in Appropriations. Is that still the case today?

Secretary CARSON. It is still the case today.

Ms. WEXTON. Okay. And can you assure this committee that you will not make any—that HUD does not have any current or future plans to eliminate the equal access rule in rulemaking?

Secretary CARSON. I am not going to say what we will do in the future about anything. We don't know what we are going to do in the future.

Ms. WEXTON. Are you currently anticipating doing that?

Secretary CARSON. I am not currently anticipating changing the rule.

Ms. WEXTON. Well, what has your agency done to ensure that the equal access rule is implemented and that recipients of HUD funding are aware of their responsibilities under the equal access rule?

Secretary CARSON. We have left the rules up from 2012 and 2016, and we have made it very clear that we will continue to enforce fairness for everyone. And when something is brought to our attention that is not fair, we will deal with it.

Ms. WEXTON. So you are not being proactive; you are just going to be reactive on this issue?

Secretary CARSON. We are being very proactive in terms of making sure that discrimination is not occurring.

Ms. WEXTON. But, Secretary Carson—

Secretary CARSON. As I told you—

Ms. WEXTON. —you just testified that you took down the guidance, right, and it has not been—

Secretary CARSON. The guidance was not necessary. The guidance was providing a lot of regulatory input, a Federal thumb on everything, as opposed to allowing local jurisdictions to make their rules based on the 2012 and the 2016 rules.

Ms. WEXTON. So you don't think it is appropriate for HUD to do that at the national level?

Secretary CARSON. Not on that issue, no.

Ms. WEXTON. Okay. So you have removed the guidance. You testified that you have no plans to eliminate the equal access rule, but you are also not proactively enforcing it. You are waiting for complaints to filter their way up to HUD, and then you will deal with it. Is that what you are saying?

Secretary CARSON. No. One of the things that I am saying is if you want to do something different about the definition of gender, that is a congressional duty.

Ms. WEXTON. Thank you. I have no further questions. I will yield back.

Chairwoman WATERS. The gentleman from Virginia, Mr. Riggleman, is recognized for 5 minutes.

Mr. RIGGLEMEN. Thank you, Madam Chairwoman and Ranking Member McHenry.

Secretary Carson, I appreciate you taking the time to answer all of our questions today. Having escaped poverty and lived in public housing, you certainly bring an important perspective to many of the housing challenges we are facing today, and we are grateful to have you here.

In your June 28th testimony before the Financial Services Committee, you mentioned the issue of the FHA having to deal with what you called very archaic IT. Just last Thursday, HUD received a Federal Information Technology Innovation Award for advancements in data analytics and digital transformation, with which I am a little bit familiar.

Secretary CARSON. Thank you.

Mr. RIGGLEMEN. Could you expound on some of the things HUD has been working on over the last year to modernize old IT systems? And in your opinion, what specific things still need to be done in order to bring HUD's IT programs up to date?

Secretary CARSON. Well, still, a lot of our platforms are 40 years old, so technology has been left behind. But what we have done is been able to create a dashboard that gives us real-time information about where our grant money is and how it is being spent. And this allows us to provide more flexibility to the various jurisdictions. So that is something that I am very excited about.

In FHA, thanks to Congress, we have been able to at least start updating our information technology platforms. It is going to take quite a bit more, but we are getting there. And that is the impor-

tant thing, because we don't want to fall behind all the other servicers, and that puts a lot of taxpayer money at risk, but it also makes us inefficient. And that is something that we want to change as quickly as possible.

Mr. RIGGLEMAN. Thank you. Because I think, 40 years ago, I was playing pong. So I am glad that you say there are some advancements going on here. So thank you for that.

And another topic I would like to address are Opportunity Zones, and the reason is because I have the biggest district in Virginia. It is actually bigger than six States. It is bigger than New Jersey. And we have the most—even though we have one of the 11 districts, I think we have 18 percent of the Opportunity Zones throughout the entire State. They were created under the Tax Cuts and Jobs Act of 2017 to stimulate economic growth and job creation.

Could you discuss some of the things HUD is doing to incentivize, as far as incentivizing economic growth in low-income communities through Opportunity Zones? And are the criteria for designating Opportunity Zones changing or expanding in the future?

Secretary CARSON. Yes. We are providing preference points for people who were willing to go into Opportunity Zones. And you can buy something there. You can build something there. You can invest in something there. There are a number of mechanisms that you can utilize.

We are also providing expertise, people who can help people create programs that will attract other resources into the area and ways to partner with entities that already exist within the Opportunity Zone.

Mr. RIGGLEMAN. And as everybody knows already, I am very supportive of Opportunity Zones, especially with the Fifth District of Virginia having so many. And we don't have a lot of time, but I think I have one more question here. And I thank you again very much for answering these questions.

Over the last several years, we have seen a dramatic increase in natural disasters. In my district particularly, we have been affected by multiple hurricanes and flooding. In your opinion, how would you rate HUD's response to the most recent disasters?

Secretary CARSON. Well, we have had an unprecedented number of disasters since I became the HUD Secretary. I hope I haven't caused them. But the fact of the matter is I think the response has been good. I am never satisfied with it. That is why I am always asking, is there something else we can be doing to get these funds out faster? But I do recognize that HUD is the long-term entity when it comes to a disaster. SBA, FEMA, and the Army Corps of Engineers are the short-term responders. Having said that, I still want to speed the process up.

So the whole concept of codification in certain arenas is a good concept. Taking out unnecessary steps is a very good concept. And I would personally like to get it down to when you have a disaster, in 6 months you will have everything you need.

Mr. RIGGLEMAN. Thank you, Secretary Carson, very much. I yield back.

Chairwoman WATERS. The gentlewoman from California, Ms. Porter, is recognized for 5 minutes.

Ms. PORTER. Good afternoon, Dr. Carson. Are you in favor of or opposed to adjusting the interest curtailment penalty schedule for FHA loans that are in default?

Secretary CARSON. I don't know that I can say broadly. I think you—

Ms. PORTER. Well, I am asking you to state specifically.

Secretary CARSON. I think you have to look at specific cases. In some cases, I might be in favor of it; in some cases, I might not.

Ms. PORTER. Okay. Do you know what the interest rate curtailment schedule is at FHA and how it is different from the GSEs?

Secretary CARSON. Well, we tend to try to maintain a lower interest rate at FHA because we are trying—

Ms. PORTER. I am not asking you about the interest rate, sir. I am asking you about debenture interest curtailment penalties.

Secretary CARSON. Please explain.

Ms. PORTER. So FHA uses different servicing and conveyance procedures than the GSEs do. And the result is that the cost of mortgage servicing at FHA for a nonperforming mortgage is 3 times the cost of doing the equivalent servicing at the GSEs for a nonperforming loan.

That tripling of cost in servicing then has the effect of reducing the credit availability to the American people, because when you drive up servicing costs, then servicers overlay with cost overlays, and it makes the loans more expensive for the very homeowners that FHA is designed to serve.

So my question I am trying to drive at here is, why is FHA, to use a term that I think we can both understand, lousy at servicing mortgages?

Secretary CARSON. Okay. I have not had any discussions about that particular issue, but I will look it up, and find out what is going on.

Ms. PORTER. So, as you look it up, I would also like you to get back to me, if you don't mind, to explain the disparity in REO rates. Do you know what an REO is?

Secretary CARSON. An Oreo?

Ms. PORTER. No, not an Oreo, an REO. REO.

Secretary CARSON. Real estate.

Ms. PORTER. What does the "O" stand for?

Secretary CARSON. Organization.

Ms. PORTER. Owned, real estate owned. That is what happens when a property goes to foreclosure, we call it an REO. And FHA loans have much higher REOs, that is, they go to foreclosure rather than to loss mitigation or to nonforeclosure alternatives, like short sales, than comparable loans at the GSEs.

So I would like to know why we are having more foreclosures that end in people losing their homes, with stains to their credit and disruptions to their communities and their neighborhoods, at FHA than we are at the GSEs.

Secretary CARSON. I would be extremely happy, if you would like, to have you work with the people who do that.

Ms. PORTER. Well, Dr. Carson, respectfully, that was my day job before I came to Congress. So now it is my job to ask you to work with the people.

Secretary CARSON. I am talking about the people at HUD who do that. I would be happy to—

Ms. PORTER. I have spent a decade working with the people at HUD on this problem. So what I would like you to do is to take this back to FHA and to ask the folks at FHA, because, since 2007, I have been writing about the problems in FHA's servicing. I am a huge fan of FHA. I am a believer in their mission, and I am a champion for them. Are you?

Secretary CARSON. Of course, I believe in the mission of FHA.

Ms. PORTER. Are you a champion for the institution, the organization?

Secretary CARSON. Very much so.

Ms. PORTER. Okay. So let me make sure you understand. When a loan—the most common outcome for an FHA loan that goes into default is REO. There is a conveyance process. Are you familiar with this?

Secretary CARSON. I know about the conveyance process.

Ms. PORTER. So let me ask you about conveyance. What actions is HUD taking to change the conveyance process at FHA to address the loss recovery differential between FHA loans and GSE loans?

Secretary CARSON. Well, again, you are getting way down in the weeds here.

Ms. PORTER. Because real American people are out of their houses. So they are literally in the weeds when they are foreclosed on.

Secretary CARSON. Understood. And I am very happy to put you in contact with the people who deal with that. If I got down in the weeds on every issue, I wouldn't get very far.

Ms. PORTER. Okay. I appreciate that, but this has been a problem for years. The Urban Institute issued a major report on this, and I will be happy to send you a copy.

Secretary CARSON. I appreciate you bringing it to my attention.

Ms. PORTER. I want to make sure you—let me ask you this: Given these problems, the outcome is that FHA is the leading cause of blighted homes in the United States. What can you do about that? Do you understand the relationship between the blight and the servicing problems?

Secretary CARSON. Well, I understand that blight is a huge problem and that—

Ms. PORTER. And that it comes from your agency's inaction on servicing.

Secretary CARSON. I am not sure that I am willing to accept that FHA is the cause of all the blight that we have.

Ms. PORTER. I hope you feel differently after you read the report. Thank you.

Chairwoman WATERS. The gentleman from Illinois, Mr. Garcia, is now recognized for 5 minutes.

Mr. GARCIA OF ILLINOIS. Thank you, Madam Chairwoman.

And, Secretary Carson, thank you for being here with us today and engaging us in conversations about HUD. I want to begin with a proposal pending before this committee known as the Safe Hous-

ing for Families Act. It recognizes and seeks to take action in the aftermath of 13 deaths that have occurred in federally subsidized housing since 2003, including as recently as February when Anthony and Gwendolyn Fleming died of carbon monoxide poisoning at Hickory Hollow Cooperative, a HUD-subsidized housing complex in Wayne, Michigan, near to your childhood home. The Flemings' deaths were the third and fourth deaths to occur this year. Since April, as you know, HUD has been developing a rule to put an end to these preventable deaths by requiring CO2 detectors in public housing, but it could be many months before that rule is finalized, as the process goes.

On Friday, a story ran on NBC News' website in which a HUD spokesperson is quoted as saying, "Congress can fix this by passing legislation requiring carbon monoxide detectors for those living in HUD housing units where detectors are needed."

Secretary Carson, that legislation is before this committee today. This is that public hearing. The Safe Housing for Families Act would codify the rule so that you are developing into law and would provide \$10 million in funding over 10 years to carry out the objective of stopping avoidable deaths like the ones I mentioned. This is double the amount that HUD announced yesterday would be made available.

Secretary Carson, would you support the Safe Housing for Families Act?

Secretary CARSON. As I mentioned to you in the past, I am 100 percent for getting this carbon monoxide issue settled, and I appreciate your help in helping getting that done. And as quickly as we can get it done, it is going to get done.

Mr. GARCIA OF ILLINOIS. Great. Thank you, Mr. Secretary. I accept your endorsement.

Changing gears and returning back to a topic we were discussing previously, the mixed status rule, I would like to share with you a story about Joyce Bell. She was raised in Chicago and has always struggled to have clean, green, safe, and affordable housing. She has experienced homelessness, and, when not homeless, rented from slumlords. A landlord broke into her home and turned off her electrical services. She has lived in buildings that were foreclosed on, then taken over by banks, and in homes with dangerous conditions.

She has been on the waiting list at the Chicago Housing Authority for over 5 years. There is an estimated shortfall of about 3.6 million affordable rental homes in this country, and every day that HUD doesn't have the resources to fill that shortfall, Joyce and many people like her suffer.

According to your agency's own analysis, implementing replacing mixed status families under your proposal will increase the Federal cost of subsidizing units. Can you explain to Joyce why she should remain on the waiting list so that HUD can pay more money to implement a rule it acknowledges is unnecessary?

Secretary CARSON. Well, the people who are on the waiting list tend to have even greater needs than the ones who are not on the waiting list, which sort of bolsters the point that those are the people who perhaps should be getting the housing assistance.

But I want to reemphasize the point that what we are doing is following the law of the land. When we begin to pick and choose which laws we are going to enforce, I think we lead to Congress. And if Congress doesn't like the rule, they have the power to change it.

Mr. GARCIA OF ILLINOIS. Well, thank you for that. Let me finish with this, Mr. Secretary. HUD's regulatory impact analysis states that, "Perhaps the likeliest scenario would be that HUD would have to reduce the quantity and quality of assisted housing in response to higher costs."

I think my colleagues will have some follow-up questions on that.

So, when you claim that evicting eligible children from their homes will free up space for those on the waiting list like Joyce, that simply isn't true. It is not consistent with what your staff analysis, career staff at HUD have concluded.

Secretary CARSON. Again, what they concluded is that the reason that the costs would be higher is because the people are more needy who are on the waiting list.

Mr. GARCIA OF ILLINOIS. Thank you, Madam Chairwoman.

Chairwoman WATERS. The gentlewoman from Texas, Ms. Garcia, is recognized for 5 minutes.

Ms. GARCIA OF TEXAS. Thank you, Madam Chairwoman.

And first, I would like to say both to our witness and, in fact, even to a couple of Members from both sides of the aisle that I have found the word "illegal" to be very offensive, and I wish that more people would just stop using that word. As someone who has deeply held religious beliefs that we are all God's children, I also have a firm belief that no human being is illegal.

So, Madam Chairwoman, I would hope that, in the future, we would discourage any testimony or any reference to that term. It is offensive, and it is something that should just be, quite frankly, stricken from the record.

In line with that, I do want to follow up, Mr. Secretary, with some questions on the exchange that you had both with Mr. Williams and Mr. Vargas. Could you just make it clear for the record with a yes or no that, right now, as the law stands, noncitizens are not eligible for public housing?

Secretary CARSON. People who are not here legally. There is a difference between a noncitizen—

Ms. GARCIA OF TEXAS. Sir, the question is noncitizens.

Secretary CARSON. There are some noncitizens who are eligible.

Ms. GARCIA OF TEXAS. There are some?

Secretary CARSON. Yes.

Ms. GARCIA OF TEXAS. Could you tell me which program, please?

Secretary CARSON. If you are in the United States legally and you are not a citizen, then you are a noncitizen, but that doesn't make you illegal.

Ms. GARCIA OF TEXAS. Right. Because to me, sir, it is really difficult for anyone in the capacity of a housing authority official to determine who is here authorized or unauthorized. There are so many different categories of immigration law that I, frankly, do not see how anybody would be able to determine at that level whether someone is here legally or illegally.

But the point is really not about the legal or illegal. The point is that they shouldn't even be called illegal. They are either here unauthorized. There are so many people who are brought here against their will, whether through human trafficking, through drug cartels. They may have just had an expiration of their visa.

But, again, that underscores my point. There is just no way for someone to determine at a housing authority level that anyone is illegal, because, in fact, isn't it true that you prorate the rent now?

Secretary CARSON. It is true that you cannot prorate a roof over somebody's head.

Ms. GARCIA OF TEXAS. That is not the question I am asking, sir. Do you not prorate the rent, that if there is someone there that you think is unauthorized, that person does not get that portion of the rent?

Secretary CARSON. The concept of prorating makes no sense in this context.

Ms. GARCIA OF TEXAS. But, sir, the question is, isn't that, in fact, the process that you use now?

Secretary CARSON. You may call it prorating, but it doesn't make any sense, and that is not what it does.

Ms. GARCIA OF TEXAS. Well, what do you call it, sir?

Secretary CARSON. I call it giving aid and assistance to people who are here illegally.

Ms. GARCIA OF TEXAS. Well, it is interesting to me, because your staff seems to call it prorating and everybody else does.

Let's go one on to another point about cost. Are you going to be able to reimburse all these housing authorities if this rule were put in place for the millions of dollars it is going to cost to evict these children?

Secretary CARSON. What fascinates me is how you can be so interested in the symptoms without wanting to get to the root cause of the problem.

Ms. GARCIA OF TEXAS. Sir, I am the one asking the questions, with all due respect. There is about a \$13 million cost that I have come across, and it is an estimate, only an estimate, in any of these evictions. Is HUD going to provide any funding for the local authorities if this rule is put in place?

Secretary CARSON. All of HUD's current programs are in place.

Ms. GARCIA OF TEXAS. All right. So you are going to shift 55,000 children from being with their families then to a homeless status. What is going to happen with these children? Have you thought this program through?

Secretary CARSON. Well, maybe what will happen with them is that you and Congress will do your job and solve the problem.

Ms. GARCIA OF TEXAS. Well, sir, it is your problem now, and it is your solution to try to do this mixed status rule. I am asking, have you thought this through? Again, this Administration is attempting to separate children. Are you going to keep track of them? Are you going to be able to put them somewhere, or will they just be on the streets as little urchins?

Secretary CARSON. Well, as I mentioned multiple times, they have a 6-month deferral that can be requested. That can be renewed 2 times, which gives you 18 months.

Ms. GARCIA OF TEXAS. So I take it you have no plans of how you are going to handle this.

Secretary CARSON. They have 18 months, which is enough time for Congress to engage in what is needed to be done to solve the problem.

Ms. GARCIA OF TEXAS. Well, sir, I think it is your responsibility because it is your rule. And I would hope that this separation of children policy would be a little bit better thought through, because the last one has been a total disaster at the border.

Moving on quickly, I am concerned that you all have HUD regulations that tell projects what they must have to make a home environmentally sound, you know, hot water, cold water, heating. But in the South, like in Texas and Houston, it is really extremely hot, but it does not include air conditioning. Why is air conditioning not as important as heating in New York?

Secretary CARSON. I think air conditioning is very important.

Ms. GARCIA OF TEXAS. So why is it not included?

Secretary CARSON. It is in the process of being worked on right now.

Ms. GARCIA OF TEXAS. Well, please keep me posted on that, sir. Thank you.

Chairwoman WATERS. The gentlewoman from Massachusetts, Ms. Pressley, is recognized for 5 minutes.

Ms. PRESSLEY. Thank you, Madam Chairwoman.

Secretary Carson, I have waited a long time for this moment, but the residents of my district, the Seventh Congressional District of Massachusetts, have been waiting far longer for your agency to do its job. Colleagues across the aisle earlier were critical of the passion, many of them outraged, that we had expressed on this side of the aisle. I make no apologies for that. This matter is very, very personal.

Let me be clear: Housing is a fundamental human right, and the displacement of families should be regarded as the public health crisis that it is. Mr. Secretary, your pioneering work in pediatric neurology is historic, and it is something to be commended. And so it pains me that your gifted hands and mine are doing the bidding and carrying the water of what I believe to be one of the most morally bankrupt Presidents in our nation's history.

Increasing rents, evicting families. You mentioned that the operating room was a safe haven away from all the troubles of the world. A safe haven, that is exactly what a home should be and what every single person, in particular our children, deserve.

Today, you are not here as a doctor or even as our surgeon general, which I think might be better suited for your talents, but as the official tasked with leading the agency overseeing our nation's crumbling housing stock. And for that, I do believe you are unqualified. You said this was not a political matter, but it does seem that political views are being played out in the policies that are being rolled out every single day. When you imply that people are living in public housing either because of a desire to be self-sufficient, questioning of work ethic, when we are eliminating stock but not increasing supply—people in the Massachusetts Seventh Congressional District would have to work 84 hours to afford a decent one-bedroom at fair market rent.

Doris Bunte was a former Massachusetts State Representative in my district and was the first African-American woman to hold the position of head of BHA, the first public housing tenant to lead a public housing agency in a major city. She said being poor is not a character flaw. I agree.

But, again, given your medical background, perhaps you could weigh in on the health consequences of failing to invest in safe housing. Mr. Secretary, since I am short on time here, yes or no, is stable and safe housing a social determinant of health?

Secretary CARSON. It sounds like you have not been here and heard most of my testimony.

Ms. PRESSLEY. Please just answer the question, reclaiming my time. Yes or no, is stable and safe housing a social determinant of health?

Secretary CARSON. There is no question that housing is an important part of health.

Ms. PRESSLEY. Yes or no?

Secretary CARSON. No question that it is a part of health.

Ms. PRESSLEY. It is well documented that health problems such as lead poisoning, asthma, and injuries from trips and falls, especially amongst our senior population, can be linked to substandard housing conditions. Combined, these conditions result in billions of dollars a year in healthcare costs. Many of those most at risk of developing these conditions reside in public and federally assisted housing.

Yes or no, do you believe the substandard public housing conditions pose a risk to tenants' physical, mental, and emotional health if left unaddressed?

Secretary CARSON. Yes or no, can you ask me some questions yourself and stop reading—

Ms. PRESSLEY. You don't get to dictate what my line of questioning is. Reclaiming my time. You are a very smart man—

Secretary CARSON. You can reclaim it all you want.

Ms. PRESSLEY. —so you understand the question. Please answer it. Yes or no, if left unaddressed, which I believe they are unaddressed because this budget does not reflect the need, do you believe the substandard public housing conditions pose a risk to tenants' physical, mental, and emotional health?

Secretary CARSON. You already know the answer to that.

Ms. PRESSLEY. Yes or no?

Secretary CARSON. You know the answer.

Ms. PRESSLEY. Yes or no? I know the answer. Do you know the answer? Yes or no?

Secretary CARSON. Reclaiming my time.

Ms. PRESSLEY. You don't get to do that.

Chairwoman WATERS. The time belongs to the gentlelady.

Ms. PRESSLEY. The evidence is clear that if we do not invest the necessary funds today, we will pay the price in people's health tomorrow. And what is this Administration's response? Cuts, cuts to crucial funding like the Public Housing Operating Fund and the Family Self-Sufficiency Program, Section 202 housing for the elderly, and Section 811 housing for persons with disabilities, and even the complete elimination of the Public Housing Capital Fund.

These policies are devoid of empathy and humanity, and you have been talking in the abstract, but I want to get specific. There is a Ms. Norcross, a mother and a grandmother, living in Brighton in my district. She has raised her children and now cares for her grandchildren in a property with thick mold on the walls. Her son was recently hospitalized—look at the pictures here—because of bone tumors in his arm and leg. He needs surgery to save and improve his quality of life, but he won't get it because the family must have a sanitary, stable housing condition first. Their actual home literally poses a risk of post-op injury and infection.

Her question to you is, what do they become? When you raise children in these conditions, what can they become? So yes or no, do Ms. Norcross and her family deserve to live in these conditions because they are poor?

Secretary CARSON. If you have listened to anything that I have to say—

Ms. PRESSLEY. Yes or no, do they deserve to live in these conditions because they are poor?

Secretary CARSON. —then you know very well—

Ms. PRESSLEY. Would you let your grandmother live in public housing? Would you let your grandmother live in public housing, yes or no?

Secretary CARSON. You know very well—

Ms. PRESSLEY. Under your watch and at your helm, would you allow your grandmother to live in public housing under these conditions?

Secretary CARSON. It would be very nice if you would stop—

Ms. PRESSLEY. You stated—

Chairwoman WATERS. The gentleman from Florida, Mr. Lawson, is recognized for 5 minutes.

Mr. LAWSON. Thank you, Madam Chairwoman. It is a great day in America.

Dr. Carson, welcome to the committee. When I was 5 years old, we lost everything we had, our house, everything, and we moved a number of times, with 6 of us in the family. And my father had to recover, and eventually, we built a house. And I still own that house today after they are gone. So I do believe that if people work hard enough, and they want to survive, they can survive, sometimes without the government's help, because there was no government help then.

But one of the things that I would like to do, as you said earlier in your testimony—and I lived in all kind of conditions—is to ask for the help from your Department to develop housing IRAs. And I am going to give you a chance to respond to that. And what I mean by that is to try to see if we can move people out of public housing into home ownership, and maybe a certain portion of the rent might go into the deferred account where eventually they can get enough money to get a down payment and be able to live in a home.

The other thing, with all the millennials that we have now, is also to develop affordable, deductible, tax-deferred IRAs, so as they are renting all of this time that they can also set aside funds on a tax-deferred basis so they at one point will be able to have home ownership.

And I really appreciated the opportunity when you came down to Jacksonville with Senator Rubio and myself to meet at Eureka Gardens on the conditions that we had down there with these management companies and so forth, which cause a lot of problems in a lot of public housing and is kind of hard to regulate.

So, with those IRAs, I have been working on some legislation on that. I probably have a long ways to go to get the concept accepted, but I think it is something that we could move forward with is to move people—and I am going to stop right now where you can talk before my time runs out.

Secretary CARSON. Well, thank you. And thank you for the work that you have done on behalf of the people who, particularly in the Jacksonville area, were suffering very significantly.

And that is what we should be doing, looking for ways to get those people into a different type of environment. And, really, that is what this is all about. It is not about ideology and who is evil and who is bad. It is about the people themselves. And when we can actually focus on them, that is how we are actually able to solve the problems.

That is why I was able to come to an agreement with Mayor de Blasio in New York, even though we have very different views on things, by focusing on the people. That is always going to be the solution for the problems that we have here.

Mr. LAWSON. How do you feel about the deferred IRAs for housing?

Secretary CARSON. I think that is a very excellent idea. And we are trying to find better ways to expand that Family Self-Sufficiency Program. One of the ways that I have been talking about and suggesting is that people be able to take part of their monthly subsidy and put it into an escrow that is used specifically for the maintenance of their apartment. If they don't have a lot of maintenance, it just continues to grow. And then if they leave public housing within a certain period of time, they get all that money that has accumulated and can use it for a down payment, because there are a lot of people who can keep their head above water, but they never will be able to accumulate a down payment. And as I said earlier, the key method of wealth accumulation in this country is home ownership.

Mr. LAWSON. And I want to thank you for all your hard work, and I would like for your agency to work with us to try to see if we can craft some legislation to bring before Congress because I think this is a key thing we can do.

Secretary CARSON. I would love to work with you on that.

Mr. LAWSON. Okay. Thank you very much.

Madam Chairwoman, with that, I yield back.

Chairwoman WATERS. Thank you.

The gentleman from Minnesota, Mr. Phillips, is recognized for 5 minutes.

Mr. PHILLIPS. Thank you, Madam Chairwoman.

And welcome, Mr. Secretary.

Secretary CARSON. Thank you.

Mr. PHILLIPS. One day in the distant future when you look back and reflect on your work at HUD, what do you want your legacy to be?

Secretary CARSON. Well, I am frequently asked about my legacy. And to be honest with you, I am not a legacy person. But I would very much like to see the organization turn from one that just takes care of people to one that sets people on a trajectory of success.

Mr. PHILLIPS. And in general terms, what is your philosophy relative to the role of our Federal Government in providing housing to the least advantaged in the country?

Secretary CARSON. Well, I think we definitely have a responsibility to take care of those who cannot take care of themselves. So, the elderly, the disabled, those who simply aren't able to do anything.

But I think we have a responsibility to help those who are workable to get on a trajectory of success where they begin to believe in themselves. And, as I said before, the most important resource that we have in this country is our people. And we only have 330 million people. That is not a lot of people compared to China that has 4 times that many, and India with 4 times that many. We have to compete against them. We will never be able to compete with them in the future if we don't concentrate on developing our people.

Mr. PHILLIPS. I would agree. And if I gave you a magic wand right now and you could wave it and effect one policy change that you think would lead us to that end, what might it be?

Secretary CARSON. If I could do one thing with a magic wand, I would make this country stop hating each other.

Mr. PHILLIPS. Hear, hear. I would join you with that.

Secretary CARSON. We would get a whole lot done.

Mr. PHILLIPS. I will share the wand with you.

I do have a question about mortgage insurance premiums. And, as you know, this is before you became Secretary, but the Trump Administration suspended the proposed decrease by a quarter point in the premium rate. And I am just curious, have you considered that and your thoughts on it and why this indefinite suspension continues?

Secretary CARSON. Well, certainly when I first came, there was a lot of pressure to lower the premium by 25 basis points. And they said more people would be able to get mortgage guarantees. But if we had done that, we would have ended up with less than 2 percent, the capital ratio that is required by Congress. It would have ended up at 1.7 percent.

Now, we are in reasonable shape, but we still have to be very careful because we have a lot of things that impinge upon the Mutual Mortgage Insurance Fund. So, it is done on a day-by-day, week-by-week, month-by-month-basis, looking at the risks and making adjustments as necessary.

Mr. PHILLIPS. So, prospectively, a chance that it could be reduced?

Secretary CARSON. Always, absolutely.

Mr. PHILLIPS. I hear votes. My last question is on your position on establishing parity on mortgage insurance with the private market. Your thoughts?

Secretary CARSON. With the private market? We want to bring as much private equity into the system as we possibly can. Obviously, we need to have government backstops in order to provide

confidence in the market. But we need to enact policies that encourage private capital to come in.

Mr. PHILLIPS. Agreed. And your thoughts relative to the 78-percent threshold that, when reached, no longer requires mortgage insurance in the private market vis-a-vis FHA?

Secretary CARSON. I can understand why people come up with numbers like that. I think, again, we have to look at the risks that are involved and what are the risks that we are looking to mitigate against, and is there a one-size-that-fits-all model where 78 percent is the magic number? I am not sure that there is.

Mr. PHILLIPS. What number might you select if you could choose one?

Secretary CARSON. Well, I think it depends on the circumstances.

Mr. PHILLIPS. All right. Thank you, sir.

I yield back.

Chairwoman WATERS. Thank you very much.

I would like to thank Secretary Carson for his time today. The conversation that we had earlier about taking a break is not necessary now. We are going to go to our classified briefing, and there is no need for you to remain.

The Chair notes that some Members may have additional questions for this witness, which they may wish to submit in writing. Without objection, the hearing record will remain open for 5 legislative days for Members to submit written questions to this witness and to place his responses in the record. The Chair asks the Secretary to please respond as promptly as you are able to. Also, without objection, Members will have 5 legislative days to submit extraneous materials to the Chair for inclusion in the record.

And, with that, this hearing is adjourned.

[Whereupon, at 1:35 p.m., the hearing was adjourned.]

A P P E N D I X

May 21, 2019

Opening statement of Representative Joyce Beatty

- Secretary Carson, since another Member brought it up, I quickly wanted to just say that I was trying to get you to recognize that HUD does not have an Office of Minority and Women Inclusion, unlike almost all the other federal agencies under the jurisdiction of this Committee.
- HUD has very few requirements under the law with regards to diversity and inclusion and reporting to Congress, if any – certainly none that I am aware of.
- I have been exploring legislative language to change this which would require HUD to be more accountable to Congress with regards to diversity and inclusion at the agency and with the businesses they contract with.
- I yield back.



**Testimony of Benjamin S. Carson, Sr.
Secretary of Housing and Urban Development**

House Committee on Financial Services

May 21, 2019

Chairwoman Waters, Ranking Member McHenry, and members of the Committee, thank you for the opportunity to appear before you today to discuss housing in America—a subject dear to all of us in this hearing room, and certainly to every HUD employee with whom I have the honor to serve.

Housing is simple to understand because we all need it. It is also a complex subject with many related pieces. I hope to touch upon some of those this morning and will be happy to take your questions on those most important to you.

Fair Housing

Let me begin with fair housing. In so many ways, we can't consider our housing markets healthy unless those markets are also fair. Last month was Fair Housing Month, a time we set aside to recognize the importance of the Fair Housing Act and how we're doing as a nation to live up to the aspirations of that landmark law. At HUD, this is something we recognize not just for one month, but *every* month.

The Fair Housing Act prohibits discrimination in housing based on race, color, national origin, religion, sex, disability, or family status. This year, HUD is placing a special focus on protecting the rights of individuals to

feel safe and secure in their homes, free from sexual harassment or unwanted sexual advances.

Sadly, HUD and many of our fair housing partners continue to receive complaints and investigate examples of housing providers who prey upon vulnerable women and men. No one should have to tolerate this kind of harassment just to keep a roof over their head. Working with these partners and, when necessary, the Department of Justice, HUD will continue to take appropriate action when discrimination of this type occurs.

Additionally, HUD and the Justice Department are currently engaged in a national training program to educate landlords and property managers on how to make certain their housing is free from sexual harassment.

Housing discrimination can appear obvious. Yet, in today's interconnected electronic world, discrimination can also take less obvious forms. Nearly two months ago, HUD charged Facebook with violating the Fair Housing Act by using its platform to encourage, enable and cause housing discrimination.

HUD believes Facebook is using its platform to allow housing-related advertisers to exclude people from housing options based upon who they are or where they live. Facebook has been effectively excluding people from housing opportunities because it identifies them as parents, foreign-born, non-Christian, Hispanic, or by other interests that closely align with the Fair Housing Act's protected classes.

HUD is also charging Facebook with enabling its housing-related advertisers to exclude people based upon their neighborhood by literally drawing a red line around those neighborhoods on a map. "Redlining" has long been recognized as a pernicious and illegal practice in housing.

We also claim Facebook takes its users' data, even without direction from advertisers, to target or exclude people from seeing housing-related advertising based on protected characteristics, effectively putting up a "need not apply" sign. Using a computer to limit a person's housing choices is just as discriminatory as slamming a door in someone's face.

Future Rulemaking

HUD is in the process of refining the regulations behind Affirmatively Furthering Fair Housing (AFFH). Last August, we invited the public to comment on how HUD can enhance and streamline a 2015 regulation that many state and local governments are finding difficult to implement.

Through this process, it is my intention to help our grantees to meet their AFFH obligations. I believe HUD's 2015 rule often dictated unworkable requirements on state and local governments and impeded the development and rehabilitation of affordable housing. We can craft a new, fairer rule that creates choices for quality housing across *all* communities.

In a similar way, HUD is also reexamining a 2013 regulation on the agency's use of "disparate impact" to determine whether certain practices may unintentionally discriminate against people. Since the 2013 Disparate Impact rule became final, the Supreme Court has issued a critical ruling on this issue.

In its majority opinion, the Court upheld the use of a "disparate impact" theory in cases where seemingly neutral practices have a discriminatory effect on protected classes of persons. While the Supreme Court referred to HUD's Disparate Impact Regulation in its ruling, it did not directly rule upon it. Our intention of revisiting the Disparate Impact rule is to make certain it is consistent with the Supreme Court's ruling in this decision.

My approach to regulations is that they should work in practice and not just in theory. At HUD, fairness is baked into our DNA. Whether it's making sure our regulations work in the real world, or challenging discrimination where we find it, I want to assure this committee that as long as I am HUD Secretary, fair housing will remain at the center of our mission.

Mortgage Finance

HUD plays a critical role in the nation's housing finance system, overseeing over \$1.4 trillion in Federal Housing Administration (FHA) mortgage insurance and more than \$2 trillion in Ginnie Mae-guaranteed mortgaged-backed securities (MBS). Considering this, it is essential that housing

finance reform efforts take a comprehensive view of the marketplace. We should avoid creating unintended consequences and strive to support a well-functioning system that facilitates the greater use of private capital and lessens risk to American taxpayers.

To that end, HUD is developing a plan to meet policy goals outlined in the recent Presidential Memorandum on Federal Housing Finance Reform including:

- Ensuring that FHA and Ginnie Mae assume primary responsibility for providing housing finance support to low- and moderate-income families that cannot be fulfilled through traditional underwriting.
- Reducing taxpayer exposure through improved risk management and program and product design, as well as modernizing the operations and technology of FHA and Ginnie Mae.

While it's critical we get housing finance reform right, it's also important to discuss our current efforts to promote responsible homeownership. We are mindful of the policies and events that led to the housing crisis and are constantly reassessing our mortgage finance programs to ensure we strike the right balance between promoting access to credit and managing risk.

Like Administrations before ours, we continue to examine what we can do to support homeownership while protecting consumers from taking on unsustainable mortgage debt.

Recently, Ginnie Mae formed a task force with the Department of Veterans Affairs and took aggressive steps to control loan-churning, an unscrupulous lending practice that targets our nation's veterans. Ginnie Mae is committed to eradicating rapid refinances in its security, providing investors with more certainty, while also protecting unsuspecting servicemembers and veterans against draining equity from their home.

Under the leadership of Commissioner Brian Montgomery, FHA is in good hands, guarding against excessive risks, protecting American taxpayers, and remaining true to its core mission to facilitate safe and sustainable mortgage options for qualified borrowers.

FHA's most recent annual report to Congress found its Mutual Mortgage Insurance Fund remains healthy. At the conclusion of fiscal year 2018, this insurance fund had a total economic net worth of nearly \$35 billion and enough capital reserves to exceed the statutory minimum for the fourth consecutive year.

Still, there are some risk factors that we must keep a watchful eye on. For example, we've noticed a greater number of borrowers coming into FHA with higher debt and lower credit scores. To address these risks, FHA recently announced that higher risk applications will require closer scrutiny before these mortgages are insured. Manual underwriting of these higher risk mortgages is a prudent way to protect FHA's insurance fund, taxpayers and borrowers themselves.

It is also important to update you on our efforts to expand mortgage financing options to a more diverse set of lenders. On May 9, HUD proposed revisions to the certifications that approved lenders are required to make to FHA, both annually and for each mortgage loan they originate. HUD's goal is to provide greater certainty in how lenders satisfy the program's requirements. These changes will facilitate more competition in the market and result in more financing choices for borrowers, especially first-time and minority homebuyers. In addition, FHA is revising its "defect taxonomy" to clarify the various loan defect categories and how the agency weighs the severity of each defect.

To be clear, HUD is not relaxing its authority to hold lenders accountable for flouting the rules. But what we are trying to do is to make sure banks and non-banks alike clearly understand our regulatory expectations and that any remedy is proportionate to the underlying violation.

Disaster Recovery

In the time I have been Secretary at HUD, this nation has experienced dozens of major disasters — from devastating hurricanes and floods to horrific wildfires and damaging volcanoes and earthquakes. In response, Congress has invested an unprecedented level of funding to support long-term recovery and directed HUD to allocate these resources among the hardest-hit states and local communities.

I am immensely proud of the Herculean work by our disaster recovery staff to support these states and local communities. Since the three major hurricanes of 2017 (Harvey, Irma and Maria), HUD has fully obligated approximately \$7.4 billion through the Community Development Block Grant—Disaster Recovery (CDBG-DR) program. This money can be used today to help rebuild homes, restore businesses and repair or replace damaged infrastructure.

In addition, we have reviewed and approved state and territory action plans for approximately another \$10 billion and are currently in the process of putting those recovery dollars to work. To ensure our efforts are well coordinated, HUD has worked closely with FEMA and our many other federal interagency recovery partners.

From the moment the disaster occurs, most citizens want recovery to begin right away. We want this, too. However, we have a duty to you and to every taxpayer that when we invest billions of dollars in disaster recovery, we get it right.

Recovering from a major disaster is never easy. It requires the input of everyone, most importantly the citizens impacted by disaster. Local communities must have a say in what recovery will look like. For all our urgency, the historic investments we're making in disaster recovery represent a big challenge for our grantees, many of which are unused to managing grants on this scale. We've noticed some grantees are more experienced and more effective in managing their recovery programs. Others are struggling to get their programs off the ground. Meanwhile, their citizens wait. I want to assure this committee that HUD will do everything under our authority to help every grantee accelerate the pace of recovery.

Homelessness

No discussion of housing would be complete without discussing the *absence* of housing. Homelessness continues to be a vexing problem in this country, but I'm encouraged to report to you that homelessness is not an intractable problem—we can *end* homelessness.

How can I make such a claim? Because with help from HUD and the Department of Veterans Affairs, a number of states and local communities are already effectively ending homelessness, including homelessness experienced by veterans, and those experiencing long-term chronic forms of homelessness.

Based on data collected and reported to us by thousands of local communities across this country, HUD estimates that homelessness in the United States remains largely stable. Yet if you dig deeper into the data, we continue to see significant reductions among veterans and families with children.

Working together, we've managed to cut veteran homelessness in half since 2010; homelessness among families with children is down by nearly 30 percent; and chronic homelessness is down more than 16 percent during this same period.

It is true that we continue to experience headwinds in our efforts to bring those numbers down everywhere in our nation. In high-cost areas like New York City and communities from San Diego to Seattle, the lack of affordable housing continues to challenge us. That said, the level of innovation taking place among state and local planners is absolutely amazing, which gives us the confidence to imagine a system of care that makes homelessness rare, brief and non-recurring.

Healthy Housing

One of the most important missions at HUD is to ensure HUD-assisted housing is decent, safe and healthy. Too often we see evidence where that is not the case. Part of the problem is the general aging of our nation's housing stock. But part of the problem may be HUD's own inspections.

HUD inspects public housing and privately-owned multi-family housing under Section 8 contract. HUD's Real Estate Assessment Center (REAC) inspects these properties, primarily through contract inspectors.

Shortly after I took office, I ordered a wholesale reexamination of how the Department conducts REAC inspections. As we continue this top-to-bottom review, we took an important first step by dramatically reducing

the advance notice we give public housing authorities (PHAs) and owners prior to their inspections.

Today, HUD is giving 14 calendar days' notice before our contract inspectors show up to these properties. Prior to this change, inspections were scheduled months ahead of time, allowing certain housing authorities and property owners to effectively game the system, making cosmetic repairs to their properties rather than adopting year-round maintenance practices.

In addition, we launched a series of listening sessions around the nation to gather input from the public and our stakeholders about a planned pilot program to test innovative new approaches to inspecting HUD-assisted properties.

Over the years, we've all read and heard of tragic instances in which residents living in HUD-assisted housing have died as a result of their exposure to carbon monoxide. Regrettably, there is currently no universal federal requirement that, where needed, carbon monoxide detectors be installed in HUD-assisted housing. That's wrong, there ought to be.

Currently about 30 states require carbon monoxide detectors in rental housing and about 20 states do not. HUD is exploring options for requiring carbon monoxide detectors where needed in federally subsidized housing.

Just last month, we sent a notice to all public housing authorities and private owners of HUD-subsidized housing. Our notice reminded them of their legal obligation to install working carbon monoxide detectors in those jurisdictions where these devices are required. In those states and local communities where CO detectors are not required, we are strongly encouraging them to do so. To assist PHAs with the purchase and installation of CO detectors — whether required by the state or not — HUD is providing \$5 million to fund the cost for this life-saving device.

Should Congress consider requiring the installation of CO detectors in HUD-subsidized housing programs nationwide the law of the land, we would support such legislation.

Affordable Housing

Let me conclude by recognizing something rather obvious to all of us. In many parts of our country, there is an affordable housing crisis. Families are finding it difficult to afford a decent place to rent or buy that is close to good jobs, decent schools or even their own hometowns.

The federal government cannot solve this problem alone. As I've often said, this is not a federal problem, it's everyone's problem. That is why we are exploring new ways to bring the power of the private, philanthropic, and faith-based sectors together to tackle this challenge.

HUD's Rental Assistance Demonstration (RAD) is showing incredible promise as a vehicle to generate capital investment to improve or replace our deteriorating public housing stock. Today, we continue to lose thousands of units of public housing every year, mainly because this housing is old, and in many cases, beyond repair.

To date, RAD is preserving nearly 114,000 units of public housing and generating more than \$7 billion in construction activity to revitalize these units or replace them altogether. Under this demonstration, we're putting these units of public housing onto a more reliable and sustainable funding platform. Public housing authorities or their nonprofit partners are maintaining an ownership interest in these properties. And we're making certain public housing residents have an absolute right to return once those units have been completed.

Under the 2017 Tax Cuts and Jobs Act, we have another powerful engine to drive revitalization in distressed neighborhoods through Opportunity Zones. As the Chairman of the White House Opportunity and Revitalization Council, I have been asked to direct the efforts of multiple agencies to find ways to better use public funds and leverage private capital to revitalize urban and economically distressed communities, including Opportunity Zones.

Opportunity Zones promise to be transformational for these communities struggling with high poverty and low employment. Many of these Opportunity Zones are the very same places where HUD is directly involved in helping families. The Treasury Department estimates \$100

billion in private capital will be invested in Opportunity Zones. We are very excited at the potential offered through these tax incentives.

Earlier this month, FHA announced several incentives of its own to encourage multifamily property owners to invest in Opportunity Zones. FHA is introducing reduced application fees paid by owners applying for certain multifamily mortgage insurance programs for apartment buildings located in qualified neighborhoods. Additionally, FHA is designating teams of senior underwriters to review these applications to ensure the most attentive and timely processing.

Conclusion

Again, thank you for this opportunity to talk to you about the many things HUD is doing to support fair, decent and affordable housing. It's not easy but nothing worthwhile ever is.

I look forward to your questions.



Testimony Submitted for the Record

to the

U.S. House of Representatives

House Committee on Financial Services Committee Hearing

“Housing in America:

Oversight of the U.S. Department of Housing and Urban Development”

By The

Cedar Band of Paiutes’ CBC Mortgage Agency

(the “Chenoa Fund”)

May 21, 2019

Table of Contents

Section One: Executive Summary	4
Section Two: Mortgagee Letter 2019-06.....	7
The Mortgagee Letter Violates the Administrative Procedures Act.....	7
The Mortgagee Letter Impermissibly Limits Sovereign Immunity of Indian Nations.....	7
HUD's Lack of Consultation with Tribes.....	8
HUD's Policy Initiative Contradicts the United States Government's 85-year American Indian Policy of Self-Governance and Self-Determination	8
The Mortgagee Letter violates the Fair Housing Act by requiring lenders to consider race in deciding whether to provide down payment assistance.....	8
Section Three: HUD's Attempt To Limit Government Entity DPA is Misguided, Unsupported and Illegal.....	9
Nationwide Programs Do Not Pose a Risk to the MMIF	10
Chenoa Fund Satisfies HUD's Requirements for Governmental Entity DPA	11
HUD's Own Data Gathering Limits Its Ability To Monitor	12
CBCMA Performs as Well as or Better Than the Average Governmental Entity.....	12
Political Accountability is Not a Substitute for Monitoring and Good Risk Management Practices	12
What Does the Data in the Annual Report Really Show About Government DPAs?	13
FHA Single Family Loan Performance Trends Credit Risk Report.....	14
HUD Should Reconcile the Difference in Data on DPA	14
Government Programs Tend to Assist Disadvantaged Borrowers	15
Are HUD's Reverse Mortgage Program Defaults the Real Problem for the MMIF?	15
HUD Should Choose to Promote Good Housing Policy	15
Section Four: Proper Regulation of Governmental Entity DPA & The Monitored Marketplace.....	16
Section Five: The Cedar Bands Compliance with HUD Guidelines.	18
Why Is CBCMA Allowed to Operate on A Nationwide Basis?.....	19
Why Is CBCMA Allowed to Benefit from Its Activities Off of the Reservation?.....	19
CBCMA is Not an Interested Party Under 203(b)(9)(C).....	20
Attachments:	21
➤ Letter from Michael Flynn, Partner, Goodwin, November 27, 2018	
➤ Letter from Nani Coloretti, Deputy Secretary, HUD	

- Letter from Robert E. Mulderig, Acting Deputy Secretary for Single Family Housing, HUD
- Customer Testimonials (a small sampling)

Section One: Executive Summary

In an effort to terminate governmental down payment assistance (“DPA”) programs that operate on a nationwide basis, on April 18th, the Department of Housing and Urban Development (“HUD”) issued Mortgagee Letter 19-06 (the “Mortgagee Letter”). Effective immediately, and without notice or warning, HUD drastically redefined the ability of governmental entities to offer, and borrowers to receive, down payment assistance. Among the most shocking of its changes were those expressly written to target DPA providers managed by tribal governmental entities, in conflict with established HUD guidance and federal law concerning tribal sovereignty. The Mortgagee Letter puts American Indians’ interests back on the reservation, requiring such DPA providers to only serve borrowers who are a member of their tribe or for whom the subject property is on the reservation.

CBC Mortgage Agency (“CBCMA”) is the Cedar Band of Paiutes’ (“Cedar Band”) housing finance agency. Formed in 2013, without any outside investment, the Cedar Band spent several years to organically build CBCMA’s financial capacity and operational expertise, and painstakingly developed and cultivated key industry relationships. This approach, though slow and difficult at times, allowed CBCMA to safely grow into the mature housing finance agency it is today.

CBCMA has always operated its program in compliance with HUD guidelines and with a goal of ensuring that the borrowers it assists are capable of sustaining homeownership. It has robust compliance controls in place to ensure proper underwriting, and thoughtful risk mitigation practices and borrower support designed to support the borrowers who receive DPA. Its objective data—which has been provided to HUD—supports these facts.

Ignoring all of this, as well as a Presidential Memorandum issued only a few weeks earlier calling for a thoughtful plan concerning DPA, HUD circumvented proper procedures for adopting the changes in Mortgagee Letter. Hundreds of CBCMA borrowers were adversely impacted by the sudden about face, and within a day, nearly all of CBCMA’s lenders indicated they would not be able to continue with CBCMA without further clarification from HUD. CBCMA sued HUD on April 22nd and the parties have agreed to a 90 day stay to the Mortgagee Letter while the suit proceeds.

The clock is ticking on borrowers who may be turned away from the housing market forever as a result of this action, and for CBCMA that may soon be driven out of business entirely. CBCMA is seeking support to convince HUD to withdraw the Mortgagee Letter. HUD is attempting to limit DPA from governmental entities, including tribal sovereigns, based on incorrect assumptions and without any data whatsoever that shows that such DPA poses a higher risk to the FHA Mutual Mortgage Insurance Fund (“MMIF”) than other types of borrower assistance, including allowed gifts from family members.

Even though CBCMA has provided HUD with data that shows its program performs as well as or better than the average governmental entity providing DPA, HUD continues to try to dramatically limit CBCMA’s program, tied to an erroneous belief that local governmental entities will do what is in the best interest of the MMIF because they are politically accountable. Restricting governmental entities to specific jurisdictions does

absolutely nothing to lower defaults on FHA mortgages and creates regulatory monopolies, the effect of which is stifling to innovation, allows monopoly pricing to consumers, and may even protect market share for poorly performing programs.

HUD persists in its incorrect assumption that CBCMA's program is risky based on its nationwide reach because HUD has a significant blind spot: HUD does not record which governmental program is providing assistance on any specific FHA loan, so it cannot tell which programs are performing well and which are not.

There is a better way that HUD can accomplish its objective—legally, and in compliance with established law—through a single, simple change to the way it collects data in order to provide proper oversight to governmental DPA providers.

Gathering proper data on the individual government programs would also follow the March 27, 2019 Presidential Memorandum requiring HUD to assess “the risks and benefits associated with providing assistance to first-time home buyers, including down-payment assistance.” In addition, by creating a monitored marketplace, HUD can comply with another directive from the Memo, which is that HUD reduce “taxpayer exposure through improved risk management and program and product design.” With that information, HUD could execute a thoughtful, evidence-based approach to its management of government provided DPA. Instead, it's chosen right now over right, effectively seeking to terminate CBCMA's DPA program entirely through the unlawful Mortgagee Letter.

Tellingly, HUD's own conduct demonstrates that even it understood that a rulemaking was the appropriate course of action here. Specifically, HUD published an ANPRM in both the 2018 Spring (the “Spring ANPR”) and Fall regulatory agendas announcing such rulemaking, but never actually advanced a rulemaking, suddenly and without notice changing course and instead issuing the Mortgagee Letter. Similarly, HUD has signaled that it may seek a similar legislative change, noting in the Administration's FY 2020 Budget sent to Congress on March 14, 2019, that “*Downpayment Assistance from Government Entities (Sec. 203(b)(9)(c) of the National Housing Act 12 USC 1709). . . . FHA and industry participants continue to evaluate how such financial benefit should be interpreted when applied towards government entities that are providing such assistance.*”

Furthermore, questions have arisen around the geographic and legal boundaries surrounding the ability of these entities to provide such assistance.”

The impact of this unlawful action cannot be overstated. Of the families assisted by CBCMA, more than half are minorities who—while otherwise creditworthy borrowers able to sustain homeownership—lack the ability to make a downpayment. These are exactly the borrowers the FHA program is intended to support. Further, terminating the Cedar Band's program by limiting it to the reservation has broader implications that are extremely detrimental to American Indian interests generally. Finally, the ability of a federal agency to take such drastic administrative action with notice or comment in violation of the APA undermines industry confidence and business ability to act reliably with that agency. If HUD will simply implement good management procedures, all of the above interests can be preserved while still protecting the MMIF.

* * *

HUD should withdraw the Mortgagee Letter because:

- It does nothing to protect the MMIF, and lacks any objective basis to support its premise that nationwide DPA programs, and in particular those managed by tribal governmental entities, are a greater risk to the MMIF.
- CBCMA has provided HUD with data that shows that its nationwide DPA program performs as well as or better than other DPA programs based on published data.
- HUD should base any such policy change on data, which it can easily do, on a government entity basis, by adding a single field of data to the information it collects at origination of the FHA mortgage.
- The Mortgagee Letter has a disproportionate negative impact on minority borrowers. CBCMA provides 54% of its DPA to minorities, including 20% to African Americans and 30% to Hispanics.
- There are effective methods for managing government provided DPA, which include providing proper oversight and standards for government DPA programs as well as DPA provided by relatives.
- HUD does not have the statutory authority to implement the changes it seeks in the Mortgagee Letter.
- The Mortgagee Letter attempts to implement substantive rule-making outside of the procedures required by the Administrative Procedures Act.
- HUD has failed to consult with the Cedar Band or any tribal organization in spite of the Administration's and HUD's specific policies requiring tribal consultation.
- The data HUD provided in its 2018 Annual Report to Congress, published on November 15, 2018 (the "Annual Report") to raise concerns about government provided DPA does not comport with HUD's monthly published data, which does not support a conclusion that loans with governmental DPA perform significantly worse than that from family members.
- HUD is subsidizing the losses caused by its reverse mortgage products by sacrificing down payment assistance to the most underserved populations in its forward market products.
- HUD's policy proposal is in direct contradiction to the U.S. Government's 85-year policy towards American Indian tribes and does not take into account tribal interests in operating Section 17 corporations on a national (or international) basis to provide for their self-sufficiency self-determination.

Section Two: Mortgage Letter 2019-06

The Mortgage Letter Violates the Administrative Procedures Act

The Mortgage Letter is the result of an improper process and violates federal law. HUD released the letter without prior notice, without soliciting comment, without consulting with affected American Indian tribes and bands, and without gaining the approval of necessary executive branch officials, including the President. HUD's Mortgage Letter purports to be an informal "guidance" document that merely "clarifies" existing law governing the provision of DPA. In fact, the Mortgage Letter represents a radical shift in longstanding HUD policy that effectively outlaws CBCMA's business, and the issuance of the Mortgage Letter violated the Administrative Procedures Act, 5 U.S.C. § 500 et seq (the "APA").

Fundamental due process also requires fair warning before changing rules and policies on which regulated entities have come to rely, and federal agencies must provide reasoned explanations for their actions, which the Mortgage Letter fails to do. Under the APA, agencies must publish a notice of proposed rulemaking in the Federal Register and allow the public an opportunity for meaningful comment. 5 U.S.C. § 553(b)–(c). HUD violated the APA by not publishing a notice of its proposal to change its policies regarding the provision of DPA by tribal entities and by not allowing a period for public comment on the change.

HUD also failed to follow its own policy when issuing the Mortgage Letter. HUD also has an express, codified policy "to provide for public participation in rulemaking with respect to all HUD programs and functions." 24C.F.R. § 10.1 (emphasis added).

The Mortgage Letter Impermissibly Limits Sovereign Immunity of Indian Nations

HUD does not have the statutory authority to establish the rules contained in the Mortgage Letter, and it infringed Cedar Band's due process right to fair notice. Most importantly, the Mortgage Letter encroaches on tribal sovereignty. Deeming tribal activities to be non-governmental is tantamount to deeming tribes to have waived sovereign immunity and tax exempt status with respect to those activities. HUD, however, has no authority to create such a limitation. "To abrogate tribal immunity, Congress must 'unequivocally' express that purpose." *C & L Enters., Inc. v. Citizen Band Potawatomi Indian Tribe of Okla.*, 532 U.S. 411, 418 (2001). Congress has not unequivocally abrogated tribal sovereign immunity in this context.

A determination by a federal agency that an American Indian tribe or its instrumentality organized under the Indian Reorganization Act of 1934 is not acting in a governmental capacity unless it is operating on the reservation or with tribal members undermines numerous powers and authorities of sovereign tribes and their instrumentalities. In 1934, the Federal Government embraced a policy of self-determination and self-governance toward American Indian tribes. Under this policy, American Indian tribal organizations have been encouraged to establish revenue generating operations, without geographic limitations, in order to provide for themselves. The new policy unveiled by HUD contradicts this long-standing federal policy and sets a damaging precedent of limiting tribes' governmental capacity to the reservation. Such a limitation would inhibit tribes' ability to leverage their sovereignty, which for many tribes is their principal asset.

Most importantly, limiting tribal operations to the reservation will do nothing to limit defaults on FHA mortgages, and CBCMA has offered to HUD meaningful ways for HUD to protect the MMIF and better serve the borrowers it was created to serve.

HUD's Lack of Consultation with Tribes

The impact of the Mortgagee Letter is not isolated to the Cedar Band, and without proper tribal consultation, the full impact to all of the 573 different tribes will not be realized. HUD has failed to provide consultation to the Cedar Band in spite of the fact that the actions they have implemented have significant detrimental effects on tribal sovereignty, economic development efforts, and on the Cedar Band's over-all well-being.

HUD failed to follow its own *Government-to-Government Tribal Consultation Policy*,¹ which requires consultation on proposed policies that have tribal implications, before such policies are drafted, in order to facilitate greater tribal participation in development of the proposed policies. HUD has also failed to follow federal policy on consultation with American Indian tribes as set forth in Executive Order 13174, "*Consultation and Coordination With Indian Tribal Governments*" (the "EO"), which provides that federal agencies shall not make regulations or policy statements or take actions that have substantial direct effects on one or more Indian tribes and that impose substantial direct compliance costs, unless the agency, prior to the promulgation of the regulation, complies with the consultation provisions of the EO.

HUD's Policy Initiative Contradicts the United States Government's 85-year American Indian Policy of Self-Governance and Self-Determination

Beginning in 1934, the U.S. Government had a policy of self-determination and self-governance towards American Indian tribes. The policy is to allow American Indian tribal organizations to establish businesses and operate them, without geographic or demographic limitation, in order to provide for themselves.

HUD's proposal to limit tribes to their reservation is a very significant change to the U.S. Government's American Indian policy, and would set a terrible precedent and potentially threaten the viability of other American Indian businesses. Other industries that might want to eliminate competition from American Indian businesses might use this precedent to get other government agencies to limit the geographic areas in which American Indian businesses could operate or populations those American Indian businesses serve. Moreover, it does not appear that HUD, in formulating its policy proposal, consulted the Bureau of Indian Affairs. As noted above, HUD has failed, thus far, to engage in tribal consultation.

The Mortgagee Letter violates the Fair Housing Act by requiring lenders to consider race in deciding whether to provide down payment assistance

The Mortgagee Letter violates fair lending law and HUD's own policy and practice under the Fair Housing Act by requiring lenders to consider race in deciding whether to extend certain credit, in this case loans with DPA. HUD has brought enforcement actions against lenders alleging violations the Fair Housing Act because the lender allegedly subjected the borrowers to discrimination on the basis of race where the lender considered the location of the property, which was within the boundaries of a American Indian reservation, in denying the loan. *See, e.g.*, U.S. Department of Housing and Urban Development, Title VIII Conciliation Agreement, FHEO Title VIII Case No. 08-13-0299-8. For more information on the Mortgagee Letter, and how it violates the law, visit www.chenoafund.org/complaint and www.chenoafund.org/memo.

¹ *Tribal Government-to-Government Consultation Policy*, 81 Fed. Reg. 40893, 40894 (June 23, 2016).

Section Three: HUD's Attempt To Limit Government Entity DPA is Misguided, Unsupported and Illegal

In its Annual Report to Congress, HUD states a key premise: certain governmental entities are now operating DPA programs on a nationwide basis in a manner that puts the MMIF at an unreasonable risk.² But HUD is attempting to make the case that governmental entities that operate on a nationwide basis pose a risk to the MMIF not with data, but by analogy. HUD seeks to compare nationwide DPA provided by CBCMA to the nationwide seller-funded DPA ("SFDPA") programs, which were banned by Congress in 2008.

History of Now-Banned Nationwide Seller-Funded Down Payment Assistance To understand HUD's bias against nationwide programs, it is essential to understand the history of the now-banned SFDPA. HUD guidelines require that a borrower provide a 3.5% down payment to qualify for an FHA insured mortgage. If a borrower does not have those funds, their down payment can come from relatives, non-profits and governmental entities. It is the Cedar Band's status as a governmental entity that qualifies it to provide DPA under HUD guidelines. Sellers have always been prohibited from providing DPA. But in the early 2000's, a practice came to prominence, of which HUD was aware and allowed to exist for a time, whereby a seller contributed funds to a non-profit, which would then provide a down payment for the borrower to purchase the seller's property. When a seller was asked to contribute to a non-profit for a borrower's down payment, the seller would increase the purchase price of the home to account for this cost. During this period, lenders communicated directly with appraisers (this was prior to the housing crisis and Dodd-Frank, which tightened rules on appraisals). Lenders would routinely contact the appraiser and let them know the value that was needed to make the transaction work, and appraisers were fully aware that if they did not find that value, the lender could call another appraiser the next time an appraisal was needed. Sellers, appraisers and lenders worked together in this manner with the result being that the price of the home was inflated. Ultimately, HUD realized that when SFDPA was used, the purchase price of the home was inflated, such that HUD would effectively end up with a 100% loan-to-value first mortgage instead of what was required at the time: a 97% loan-to-value mortgage.

In addition to the problem of home price overvaluation, and even more important to how the underlying FHA mortgages performed, non-profits did not have any vested interest in the underlying FHA mortgage. The vast majority of the non-profits did not impose any credit restrictions or provide important borrower support services, such as education or counseling. This contributed to borrowers with very questionable credit obtaining DPA and receiving an FHA mortgage.

Since HUD collected specific data for each non-profit organization by requiring that originators enter the non-profit's EIN into HUD's system when the FHA first mortgage was originated, HUD was able to determine that FHA loans assisted by non-profits funded by sellers were defaulting at an unacceptably high rate. Based on this data, HUD determined the practice of SFDPA posed an unreasonable risk to the MMIF.

It so happens that Brian Montgomery, the current FHA Commissioner and Acting Deputy Secretary of HUD—who signed the Mortgagee Letter now at issue—was also the FHA Commissioner at the time of SFDPA, and he led the effort to ban the practice. In summary, HUD promulgated a rule (not a Mortgagee Letter) banning SFDPA, justified by its non-profit specific

² Annual Report at 92.

performance data. This rule was overturned in court, however, when HUD failed to follow appropriate APA standards. When rule-making failed, HUD turned to Congress to outlaw SFDPA, which it did in 2008 when the Home Equity Recovery Act of 2008 (HERA; PL 110-289) was enacted (*see* section 203(b)(9)(C)). While HUD was able to get Congress to fix one problem with DPA, HUD failed to properly manage DPA programs thereafter. HUD failed to provide sufficient oversight and monitoring of the DPA provided by governmental entities by properly tracking which governmental entity provided the DPA on any FHA loan. HUD is making the same mistake now by issuing the Mortgagee Letter to effect changes in a way that again violates the APA and by going to Congress to ask for more clarity on Section 203(b)(9)(C), while again completely avoiding proper management and oversight of government DPA programs by properly tracking them. HUD needs to properly manage DPA, rather than taking actions that are extremely damaging to tribal interests and minority borrowers that are based on erroneous assumptions and that will not, in any way, improve the risk management of the MMIF, or even lower the risk to the MMIF.

Nationwide Programs Do Not Pose a Risk to the MMIF

The non-profits that provided SFDPA operated on a nationwide basis. So, in response to CBCMA offering DPA on a nationwide basis, some at HUD conjured up images of SFDPA and propagate the myth that nationwide DPA providers, as a rule, are a risk to the MMIF. Why is HUD claiming nationwide DPA programs like CBCMA pose an unacceptable risk to the MMIF, even though CBCMA provides its down payment assistance in a manner exactly similar to all of the other governmental entities providing secondary financing, while at the same time providing more borrower support than many other governmental entities? The answer to this question can be found in large measure by understanding how HUD tracks data on governmental entities. Unlike how it tracks non-profits' data, HUD does not require the originator to enter the EIN or taxpayer identification number of a governmental entity into HUD's system. HUD requires only that the originator indicate that the DPA was provided by a "governmental entity".

CBCMA's program is very different than the non-profits tied to SFDPA of old or many of the other entities that provide DPA. CBCMA purchases the FHA first mortgage and, therefore, has a significant interest in the FHA loan's performance. CBCMA has credit standards and borrower support services, such as mandatory pre-purchase education for borrowers with credit scores between 620 and 639, and 12 months of post purchase counseling for every borrower that CBCMA assists. In addition, borrowers with lower income qualify for a forgivable second mortgage loan that provides borrowers with an earned equity interest to encourage them to prioritize their FHA first mortgages over their other obligations. Under this program, qualifying low- to moderate-income borrowers can receive a forgivable second mortgage, with no payment and no interest due. The second mortgage is forgivable after 36 consecutive on-time payments on the *FHA first mortgage*. This feature gives the most at-risk borrowers an immediate sense of "skin in the game."

HUD's claims regarding nationwide governmental DPA programs are not based on data, but solely on HUD's bias against such programs stemming from a bad experience with nationwide SFDPA programs prior to 2008. Although HUD quotes statistics in the Annual Report to give the impression that its premise that nationwide DPA programs are an unacceptably risky is data driven, the truth is that HUD does not know how the FHA mortgages assisted by individual governmental entities perform, and therefore cannot determine if any subset of governmental entities, i.e. those operating on a nationwide basis, create additional risk to the MMIF.

Chenoa Fund Satisfies HUD's Requirements for Governmental Entity DPA

In its Annual Report, HUD claims that nationwide programs generate benefits for the provider that do not appear to comport with the intent of the “prohibited source” provision.³ The truth is that Chenoa Fund⁴ is not providing benefits that violate the letter or spirit of “prohibited source” provision found in Section 203(b)(9)(C). Section 203(b)(9)(C) reflects almost the exact language that HUD tried to implement using a rulemaking process. In its rulemaking, HUD said the following of the intent behind the prohibited source provision of Section 203(b)(9)(C).

The situations that cause FHA concern are primarily those in which the fund is replenished after loan closing by the seller who provides a ‘charitable donation’ and, in some cases, pays a ‘service fee’ to the organization from the proceeds of the sale of the house and does so only if the homebuyer is using the charitable organization’s downpayment assistance program. In these cases, there is a clear quid pro quo between the homebuyer’s purchase of the property and the seller’s ‘contribution’ or payment to the charitable organization. This is also true if the contribution to the charitable organization comes from an entity other than the seller that has an expectation of being reimbursed by the seller. Often, these contributions function as an inducement to purchase the home

FHA’s primary concern with these transactions is that the sales price is often increased to ensure that the seller’s net proceeds are not diminished, and such increase in sales price is often to the detriment of the borrower and FHA.⁵

The use of the term ‘financially benefits’ in this proposed rule is intended to capture, for example, real estate agents or real estate brokers who would benefit from the sale of the home to the mortgagor.⁶

Clearly, the intent of HUD in its rulemaking and Congress in legislating Section 203(b)(9)(C) was to eliminate SFDPA,⁷ which caused the inflation of the sales price of the FHA insured property by allowing parties that benefit directly from the purchase and sale of the FHA financed property, such as sellers, title companies, realtors and builders to fund the DPA.

³ Annual Report at 92.

⁴ Other nationwide programs include Neighborworks, which is a federally chartered entity that provides DPA, and the Federal Home Loan Banks, which provide significant funding for DPA in large geographic areas.

⁵ Standards for Mortgagor’s Investment In Mortgaged Property, Proposed Rule, 72 Fed. Reg. 27049, May 11, 2007

⁶ 72 Fed. Reg. 27050.

⁷ The title to the amendment to Section 203(b)(9) is “CASH INVESTMENT REQUIREMENT AND PROHIBITION OF SELLER-FUNDED DOWNPAYMENT ASSISTANCE. In a statement supporting the amendment to section 203(b)(9)(C), Senator Dodd explained that “this bill eliminates the seller-funded downpayment assistance program.” See, 154 Cong. Rec. S6354-S6356 (July 7, 2008). The changes to Section 203(b)(9)(C) were summarized for the records as follows

(Sec. 113) Increases from 3% to 3.5% of the appraised value of a property the mortgagor’s required cash (or equivalent) investment (downpayment). Prohibits any funds for such cash investment from (1) the seller or any other person or entity benefiting financially from the transaction (seller-funded downpayment assistance), or (2) any third party or entity reimbursed by any of such parties. (See, BILL SUMMARY H R 3221 — 110th Congress (2007-2008))

and

FHA Modernization Act of 2008 - Amends the National Housing Act (NHA) to (1) revise requirements for the maximum principal loan obligation eligible for mortgage insurance, as well as the cash investment requirement, and (2) prohibit seller-funded downpayment assistance. (See, BILL SUMMARY S 2734 — 110th Congress (2007-2008))

CBCMA is not an interested party to the purchase or sale of the FHA financed property and it does not receive any reimbursement from any party that financially benefits from this transaction.

HUD's Own Data Gathering Limits Its Ability To Monitor

Originating lenders work with borrowers to provide them with FHA mortgage loans. Their loan officers meet with the borrowers, complete loan applications, and walk the borrowers through the lending process. HUD tracks each mortgage loan that these lenders originate and has created a useful system called the Neighborhood Watch. The system is fully transparent and anyone can go onto this system and find the default rate of all of the mortgages that a lender has originated in the last two years. HUD compares a lender's default rates with those of its peers and with the national average. If an originating lender's loans have a compare ratio of 150%, it means that its loans are defaulting at 1.5 times the average, and HUD will place this lender on its 'watch' list. If an originating lender's loans have a compare ratio of 200%, or twice the average rate of default, HUD may suspend that lender's ability to originate FHA mortgages. In many ways, this is a superb monitoring system.

Unfortunately, because of the way most governmental entities operate, their ability to determine their own performance comparable to others is mixed. Governmental entities generally do not originate the FHA mortgage loans for which they provide DPA, so their performance data will not show up in the Neighborhood Watch system. This can make it difficult for a governmental entity to determine the performance of the FHA loans for which it provides DPA once those loans are sold or placed in securities.

CBCMA Performs as Well as or Better Than the Average Governmental Entity

Knowing that HUD did not have data on CBCMA's loan performance, and that HUD was simply assuming CBCMA's loans were the ones that were not performing well, CBCMA engaged a third party to determine the performance of its FHA loans that had been placed into Ginnie Mae securities. CBCMA provided this third party with sufficient loan level information to enable it to go to the Ginnie Mae securities and find CBCMA's loans and report on their performance. This data revealed that CBCMA-assisted FHA loans generally outperformed the general pool of government entity assisted FHA loans based on the monthly reports from HUD in their *FHA Single Family Trends Credit Risk Report*.⁸ That the FHA mortgages for which CBCMA provided DPA perform on par or better than other governmental entities demonstrates that limiting CBCMA's area of operation would not protect the Federal Government from substantial loss, and there is no justification for limiting CBCMA's area of operations, or for allowing lesser performing agencies to have a monopoly in their selected areas of operation.

Political Accountability is Not a Substitute for Monitoring and Good Risk Management Practices

HUD's bias may also be caused by a questionable notion that governmental entities that are aiding borrowers in their political jurisdiction will protect the MMIF. This notion is not a basis for HUD abdicating its oversight responsibility of government DPA programs to the very entities that should be the subjects of such oversight. First, housing finance agencies are not politically accountable to the borrowers they serve except very indirectly. Second, the pricing of the FHA mortgages for many programs is set by National Providers. Third, the purpose of housing finance agencies, and the mindset of those who operate them, is to help disadvantaged or underserved populations in their communities with their housing needs. For example, if they can help 10 families purchase a home, and 9 of those 10 become long-term successful homeowners, these

⁸ See for example, https://www.hud.gov/sites/dfiles/Housing/documents/FHALPT_Jan2019.pdf

successful families can enjoy all of the financial, social and emotional benefits of homeownership. The housing finance authority has helped provide stability to its community, moved families off of the rental rolls to make room for more, and eased the pressure on shelter housing. This is a good day for these programs.

But 10% of these families end up back on the rental rolls. A 10% claim rate would be a disaster for the MMIF. It is just bad policy for HUD to cede its responsibilities to governmental entities and rely on them to ensure the safety and soundness of the MMIF. It is HUD's duty and obligation to protect the MMIF, and it should provide sufficient oversight and monitoring of governmental entities to assure that the MMIF is, in fact, protected. Turning over the responsibility for the protection of the MMIF to local governmental entities with the hope that they do the right thing is an absurd management approach by HUD.

What Does the Data in the Annual Report Really Show About Government DPAs?

In its Annual Report, HUD points to data in Table B-17: *Data Table for Exhibit I-19. Serious Delinquency Rate of FHA Purchase Mortgages by Downpayment Assistance (DPA) Type as of September 30, 2018*, which is reproduced below.

Table B-17

Endorsement Fiscal Year	Seriously Delinquent Rate of FHA Endorsed Purchase Mortgages			
	Source of Downpayment Assistance			No Downpayment Assistance
	Government	Non-Government/ Non-Relative	Eligible Family member	
2011	12.67	9.34	7.6	5.2
2012	10.11	8.79	6.39	4.48
2013	8.22	6.03	5.52	4.18
2014	7.37	5.05	5.68	4.3
2015	6.01	4.53	5.53	3.99
2016	4.29	4.06	4.62	3.16
2017	3.12	3.08	3.47	2.21
2018	0.74	0.69	0.7	0.43

NOTE: SDQ Rate is the percentage of FHA-insured mortgages where the borrower is 90 or more days delinquent, including mortgages in foreclosure and bankruptcy.

SOURCE: US Department of HUD/FHA, October 2018.

HUD points to the data in Table B-17 to demonstrate that DPA from governmental entities is a problem because over time, as the FHA mortgage loans age, the rate of default for FHA loans that received DPA from governmental entities increases more than loans with DPA assistance from relatives or loans with no DPA. HUD's logic that governmental entity assisted mortgages perform worse over time because of DPA is questionable at best.

First, according to the table, governmental DPA performed on par with DPA from relatives in 2016-2018, even outperforming DPA from relatives in 2016 and 2017. Second, it is not until 2014 that loans assisted by governmental DPA really begin to perform significantly worse. DPA is used to give borrowers an immediate vested interest in the home, sometimes referred to as "skin in the game." Loans originated in 2014 or earlier, however, are four or more years old from the

date of purchase of the home. After four or more years, the effectiveness of a down payment as a loss mitigation tool has been significantly eroded because the borrower has made four years of payments, has earned equity in the home, and integrated into the community.

After four years, the cause of the increased rate of default likely has nothing to do with the DPA, but is most likely attributable to the characteristics of the borrowers being assisted. For example, perhaps governmental entities were more lax in their credit standards for loans originated in 2011-2014. An explanation for the increasing rate of default in earlier years could also be changes in the pool composition over time. For example, FHA mortgages with government DPA typically have higher interest rates, so borrowers with better credit and finances can refinance quickly. The pools of loans from earlier years are left with less credit-worthy, riskier borrowers, which default at higher rates, significantly skewing the rate of default in earlier years. HUD provides more complete data in its 2019 first quarter report to Congress, which appears to demonstrate this effect. The report shows the “share” of government provided DPA dramatically declining in years 2011-2014.⁹ One thing that can be said with certainty, however, is that CBCMA did not contribute to the higher default rates in years 2011-2014, as CBCMA was not providing DPA during these years.

FHA Single Family Loan Performance Trends Credit Risk Report

The data in Table B-17 of the Annual Report needs to be reconciled with the performance data that HUD publishes each month in its *FHA Single Family Loan Performance Trends Credit Risk Report*. These reports have shown a fairly consistent default rate over time for FHA loans with DPA. The most recent available report at the time of this writing is for January 2019 (the “January Report”).¹⁰ The relevant table from the January Report is reproduced below. It shows the Seriously Delinquent Rates (90 days late or in bankruptcy or foreclosure) for FHA loans where the DPA was provided by government programs or relatives or loans without DPA are 5.12%, 4.91% and 3.73% respectively. Note that the default rates of FHA loans assisted by relatives are not materially lower than those assisted by governmental entities, a point which is addressed below.

HUD Should Reconcile the Difference in Data on DPA

HUD should provide clarification between the data published in the Annual Report and that published in the January Report by answering the following questions:

- How is the data in Table B-17 of the Annual Report, which shows much higher delinquency rates for government assisted FHA loans than for loans assisted by relatives in earlier years (2011-2015) squared with the data in the January Report that shows a negligible difference between the overall default rates of these same loan types over HUD’s entire portfolio?
- Based on the data in the January Report, which shows nearly identical rates of default between governmental entity and relative provided DPA, why is HUD not concerned about DPA provided by relatives, or is it that there really is just not a problem with DPA from governmental entities in the first place?

⁹ See, Exhibit A-10, FHA Single-Family Mutual Mortgage Insurance Fund Programs, Quarterly Report to Congress, FY 2019 Q1, delivered March 29, 2019, <https://www.hud.gov/sites/dfiles/Housing/documents/MMIOtrlyQ12019.pdf>

¹⁰ See https://www.hud.gov/sites/dfiles/Housing/documents/FHALPT_Jan2019.pdf (last viewed April 8, 2019).

Table from the January Report

Down Payment Assistance (DPA) Type		Rates in Percent of Active Loan Counts						
		All Past Due ^b	30 Day	60 Day	90+ Day	In Foreclosure	In Bankruptcy	Seriously Delinquency Rate ^c
All Sources of Funds	8,112,026	10.91	5.00	1.74	2.26	1.03	0.88	4.16
Government	6.91	13.21	5.88	2.22	2.98	1.02	1.11	5.12
Relative	16.16	13.50	6.29	2.28	2.91	1.08	0.92	4.91
Other	2.10	19.21	8.13	3.23	4.09	1.73	1.98	7.79
Seller Funded	0.58	29.93	10.99	4.59	6.75	3.75	3.60	14.11
No DPA	74.25	9.75	4.50	1.51	1.96	0.97	0.80	3.73

^a IIF = insurance in force.

^a For each subpanel, the loan shares add to 100%. However, in some of the subpanels, the total loans in the analysis do not add to 100% of IIF. For example, the IIF shares for refinance loans add to 100% of refinance loans. Streamline refinance loans are not included in the Credit Score Range analysis; the IIF shares in that panel, add to 100% of fully-underwritten loans.

^b Includes all loans 30 or more days past due, including those in bankruptcy or foreclosure.

^c Includes all loans 90 days past due plus all in-bankruptcy and in-foreclosure cases.

Government Programs Tend to Assist Disadvantaged Borrowers

Those who are helped by relatives are the beneficiaries of intergenerational wealth, while those that are helped by governmental entities are typically underserved borrowers who come from disadvantaged backgrounds. It is not a simple coincidence that approximately 54% of families that CBCMA assists are minorities, including about 20% that are African American and about 30% that are Hispanic. Families that CBCMA assists do not typically come from generations of homeowners. Some are the first homeowners in their families, and many are lower income.

Are HUD's Reverse Mortgage Program Defaults the Real Problem for the MMIF?

A careful reading of the Annual Report shows the Home Equity Conversion Mortgage ("HECM") program is a much more significant risk to the MMIF than is DPA from any source. Page nine of the Annual Report shows that the HECM program has a negative capital ratio of over 18%, while the single-family insurance capital ratio is a positive 3.93%, up from 3.33% a year earlier.

HUD Should Choose to Promote Good Housing Policy

Based on the performance data received from Moody's Analytics, CBCMA's nationwide program is neither posing an unreasonable risk to the MMIF nor is it increasing costs but not benefits to the borrowers it serves, as HUD claims in its Annual Report. So, HUD has a choice:

Option One: HUD can continue to insist, contrary to CBCMA's data and without any data of its own, that nationwide DPA programs are the cause of the problems with FHA loans assisted by governmental entities, and continue to advocate to put "Indians back on the reservation," disproportionately harming minorities and increasing the racial wealth gap, while at the same time creating a regulatory monopoly of each governmental entity DPA program, with all of the associated lack of innovation and competitive pricing safeguards.

Option Two: HUD can simply start making good, evidence-based housing policy by tracking the data on individual governmental entities and creating a monitored

marketplace. By doing this, HUD would address the nationwide component of local governmental DPA programs. HUD would also very shortly find out if there are really any governmental entities that actually are posing an unacceptable risk to the MMIF or pricing the interest rates too high on their first mortgages. HUD could then either work with these governmental entities to improve their programs or simply impose credit underwriting standards on them.

CBCMA urges HUD to shine a light on the performance of individual governmental entities because it is confident that this will show that its programs are not a threat to the MMIF and are a great value to the borrowers it serves.

Section Four: Proper Regulation of Governmental Entity DPA & The Monitored Marketplace

HUD can take steps to monitor and improve how DPA programs operated by governmental entities perform to ensure that they operate in a manner that will not put the MMIF at unreasonable risk. HUD's interest in protecting the MMIF and the interests of the borrowers HUD is tasked with assisting are best served by the creation of a monitored marketplace for governmental entities. Several elements are needed for a monitored marketplace: (1) data on individual governmental entities, (2) reporting and monitoring of FHA first mortgage performance, (3) minimum performance standards for the FHA first mortgages, and (4) sufficient market participants.

Data on Individual Governmental Entities

HUD should require that for every FHA loan that receives DPA from a governmental entity, originators must enter an EIN or similar unique identifier in the FHA system. Presumably, originators could use the same field that they use when they enter the EIN for non-profits that provide DPA or simply use the field in which they now enter "governmental entity", so ideally there should be no modification necessary to HUD's systems. Not only could HUD then track performance data, it could also determine if any programs are charging interest rates on the FHA first mortgage that are above the average rates charged by similar government programs.

Reporting and Monitoring of Performance

Once HUD begins to match individual governmental entities with the FHA first mortgage for which they provide the down payment, HUD can create a reporting system for governmental entities similar to Neighborhood Watch.¹¹ Governmental entities will then be able to have

¹¹ Originating lenders work with borrowers to provide them with FHA mortgage loans. Their loan officers meet with the borrowers, complete an application, and walk the borrowers through the lending process. HUD tracks each mortgage loan that these lenders originate and has created a useful system called the Neighborhood Watch. The system is fully transparent and anyone can go onto this system and find the default rate of all of the mortgages that a lender has originated in the last two years. HUD compares a lender's default rates with those of its peers and with the national average. If an originating lender's loans have a compare ratio of 150%, it means that its loans are defaulting at 1.5 times the average, and HUD will place this lender on its 'watch' list. If an originating lender's loans have a compare ratio of 200%, or twice the average rate of default, HUD may suspend that lender's ability to originate FHA mortgages. In many ways, this is a superb monitoring system.

Unfortunately, because of the way most governmental entities operate, their ability to determine their own performance is mixed. Governmental entities generally do not originate the FHA mortgage loans for which they provide DPA, so their performance data will not show up in the Neighborhood Watch system. This can make it

accurate performance information for their programs as well as their performance relative to their peers. This will allow governmental entities to more easily identify deficiencies in their programs and better track the effects of remedial measures they may elect to take. HUD then will be able to provide lenders with minimum performance standards and, more importantly, identify which governmental entities are meeting those standards and which are not.

Uniform Minimum Performance Standards

HUD currently has the data to determine the range of credit score or debt-to-income (“DTI”) ratio at which borrowers receiving DPA begin to default at levels that HUD believes will pose a threat to the MMIF. From this data, HUD could determine the credit characteristics of a successful DPA loan and establish uniform credit standards for borrowers receiving DPA, possibly including minimum credit score and maximum DTI. It could do this for DPA from both relatives and governments.

While this may work for DPA from relatives, however, setting uniform credit standards does not allow governmental programs the flexibility to experiment within their programs to find ways to responsibly assist more underserved borrowers.

As an alternative to setting uniform credit standards, HUD could establish a program loan performance standard. Once HUD begins to identify which governmental entity is providing DPA for an FHA first mortgage, HUD can set uniform performance standards using compare ratios similar to Neighborhood Watch. HUD could apply the same standards to governmental entities in comparison to other governmental entities that it applies when it compares performance of originators. If a governmental entity has a compare ratio to its peer governmental entities of 150 or higher, it is placed on a ‘watch’ list, while a compare ratio of 200 or higher could subject the entity to a determination by HUD that mandatory credit underwriting standards will be required on all FHA mortgages receiving DPA from that governmental entity.

By creating a Neighborhood Watch-type monitoring of government DPA programs, HUD would not need to mandate credit standards for borrowers receiving DPA from governmental entities. Allowing governmental entities to simply meet loan performance standards would permit them to determine how to meet those standards, whether that is by credit requirements like credit score minimums and DTI maximums for borrowers receiving DPA, or increasing borrower support services such as pre-purchase education, post-purchase counseling, or some other form of down payment substitute.¹² Most importantly, it would give governmental entities the opportunity to try alternative innovative practices to better assist underserved borrowers.

This type of monitoring and reporting will almost certainly lead to improvement in the overall delinquency and default rates of FHA mortgages where the borrower receives DPA from a governmental entity. Governmental entities will have accurate performance information for their programs as well as their performance relative to their peers. Performance measured improves, and performance measured and reported improves more rapidly. Once this data is available, HUD could then better assess what if any credit standards it may need to impose in order to assure that the performance of down payment assisted mortgages does not present a substantial risk of loss to the Federal Government.

difficult for a governmental entity to determine the performance of the FHA loans for which it provides DPA once those loans are sold or placed in securities

¹² See the 2017 HUD report entitled “*Literature Review The Credit-Enhancing Functions of Downpayment and Downpayment Substitutes*”.

Sufficient Market Participants

As noted, HUD asserts, without supporting data, that there are programs that “appear to increase costs, but not benefits, to the borrower.”¹³ If this is true, then presumably these programs are in areas where there are not enough alternatives for borrowers who need a down payment. Overpriced products occur where providers can increase costs but not benefits of its products, and is the inevitable result of a monopoly such as the regulatory monopolies created by the Mortgage Letter. What is needed is more alternatives for borrowers to obtain DPA, which will insure that governmental entities are pricing their programs at the nominal market rate, are efficient, and innovate in ways to improve their services to borrowers and provide greater benefits.

HUD Should Not Be Picking Winners and Losers in the Marketplace

Unfortunately, it appears HUD is wanting to eliminate nationwide programs, which does nothing to protect the MMIF and will decrease borrowers’ alternatives for DPA. Not all governmental entity programs are created equally. While some have robust programs that generally meet the needs of borrowers, others have underdeveloped programs that do not. HUD’s fostering preselected geographic monopolies will not produce effective and fairly priced DPA programs for borrowers, but allowing borrowers increased options for DPA that are measured and monitored by HUD can do so. Allowing nationwide DPA providers is a way to ensure that there is price competition, which helps to address the concern that the interest rates that governmental entities are charging on the FHA first mortgages are too high, and DPA programs are increasing costs by not benefits to borrowers.

Other Forms Of Down Payment Assistance.

The Annual Report notes that DPA is a significant portion of HUD’s portfolio. HUD should look at how DPA is being provided by governmental entities, but HUD should look at all forms of DPA. For example, the delinquency rate for FHA mortgages that receive DPA from governmental entities is on par with that of FHA mortgages that receive DPA from relatives, and is substantially lower than loans that received DPA from “other” sources.¹⁴ But DPA from governmental entities makes up only 26.7% of all DPA provided, while DPA from relatives accounts for 62.7% of all DPA. If HUD is genuinely concerned about DPA performance, it should create minimum credit standards for borrowers to qualify for DPA from relatives.

If DPA is responsibly provided within a certain credit box, or to credit challenged borrowers with the proper down payment substitutes, the amount of DPA that is provided will naturally be limited to a certain portion of HUD’s portfolio, but more importantly, whatever amount is provided will not be a detriment to the MMIF.

Section Five: The Cedar Bands Compliance with HUD Guidelines.

HUD has raised doubts in public forums and with other policymakers about the CBCMA Chenoa Fund program in regards to the following questions.

1. Why is CBCMA allowed to operate on a nationwide basis?
2. Why is CBCMA allowed to benefit from its activities off of the reservation?

¹³ Annual Report.

¹⁴ FHA Single Family Loan Performance Trends, Credit Risk Report, December 2018.
https://www.hud.gov/sites/dfiles/Housing/documents/FHALPT_Dec2018.pdf

CBCMA, through the Chenoa Fund program, has provided down payment assistance in the form of a second mortgage to over 14,000 borrowers who were using FHA first mortgages to purchase a home. Of these mortgages, a great many have undergone a review by HUD at every level, and have been subsequently insured by HUD. This is conclusive evidence that its program meets HUD's current guidelines in every respect.

Why Is CBCMA Allowed to Operate on A Nationwide Basis?

CBCMA's nationwide operation of its program complies with HUD guidelines and in accordance with the terms of CBCMA's charter. HUD guidelines do not place any restrictions on where a governmental entity provides secondary financing. HUD Handbook 4000.1 (the "Handbook") provides HUD's guidance on secondary financing, and the conditions upon which HUD will insure an FHA mortgage given to a borrower whose down payment comes in the form of secondary financing from a governmental entity. There is absolutely no mention of jurisdiction or geography in these conditions or anywhere in the Handbook. There is, therefore, no restriction on CBCMA's (nor any other governmental entity's) ability to operate a secondary financing DPA program on a nationwide basis.

Why Is CBCMA Allowed to Benefit from Its Activities Off of the Reservation?

Why is CBCMA allowed to benefit from its activities off of the reservation? This question is a bit esoteric, but HUD seems to be questioning whether Chenoa complies with the terms of the Handbook relating to governmental entities that both originate the FHA first mortgage and also provide the DPA. The Handbook does reference HUD's 2012 Interpretive Rule, Docket No. FR-5679-N-01, to make clear that governmental entities, such as CBCMA, are **NOT** prohibited by Section 203(b)(9)(C) from originating loans and providing the down payment on those loans. The 2012 Interpretive Rule states that:

HUD interprets NHA section 203(b)(9)'s "prohibited sources" provision in subsection (C) as not including funds provided directly by Federal, State, or local governments, or their agencies and instrumentalities in connection with their respective homeownership programs.

There is a single sentence in the 2012 Interpretive Rule that some at HUD have latched onto to assert that there is a limitation on where a governmental entity can provide down payment assistance if it is originating the FHA mortgage, which is as follows: "*HFAs provide various services to assist citizens within their jurisdictions in attaining affordable housing options*".¹⁵ This phrase, however, was clearly not intended by HUD to create a limitation on where a governmental entity could provide secondary financing, nor is such a limitation permitted by 12 U.S.C 1735f-6, the statute that authorizes governmental entities to provide secondary financing. Again, this is evidenced by the fact that HUD has insured over 14,000 FHA mortgages for which the DPA came from CBCMA and the property was not on the reservation.

DPA for FHA borrowers in the form of second mortgages has been provided by governmental entities since at least the 1970's, and was statutorily protected by Congress under 12 U.S.C. 1735f-6, which mandates that HUD insure first mortgages with associated seconds from governmental entities, provided the loan otherwise meets the terms and conditions approved by the Secretary. In passing this legislation, the intent of Congress was explicitly clear.¹⁶—(1) Congress wanted to foster innovation in the area of DPA by government programs, (2) HUD is to work with various forms of government and (3) HUD is only to place standard credit restrictions

¹⁵ Interpretive Rule at 6 (emphasis added).

¹⁶ House Report No. 95-1161.

on secondary financing and *only to the extent necessary to prevent government DPA from substantially increasing the risk of loss to the Federal Government*, which HUD clearly has not demonstrated with data with regards to nationwide governmental entities.

The legislative history of 1735f-6 makes it very clear that HUD is not to limit governmental entities providing second mortgages for borrowers' down payment except to limit the credit terms under which such assistance could be provided—and jurisdiction or geography most definitely fall outside of any such permissible credit terms. Section 1735f-6 was part of the Housing and Community Development Amendments of 1978, which was first passed in the Senate without Section 1735f-6. This section was added in conference reconciling the corresponding House bill by the House Committee on Banking, Finance and Urban Affairs. In adding this section, the committee indicated that Section 1735f-6 was included to “permit experimentation and innovation”¹⁷. The committee made it clear that the language “terms and conditions approved by the Secretary” was meant to apply to the credit terms of the second mortgage and accompanying first mortgage and that it further expected HUD to apply only those conditions that would avoid situations where the secondary financing would *substantially* increase the risk of loss to the MMIF:

*The Secretary remains free to withhold insurance for any other reason associated with normal underwriting standards, but could not withhold such insurance solely because the applicant was receiving or contemplated receiving assistance secured by such a secondary lien. It is the view of the committee that such insurance should not be withheld unless the secondary financing substantially increases the risk of loss to the Federal Government.*¹⁸ (Emphasis added.)

Of course, HUD is aware of Congress' intent, which is why HUD attempts to make the case that nationwide governmental entities are acting in a manner that puts the MMIF at unreasonable risk. It also underscores how important it is that HUD establish with data that practices and programs by government DPA providers that HUD seeks to eliminate actually do pose a threat to the MMIF, rather than simply assuming that because a program is offered on a nationwide basis, it must be harmful to the MMIF, on no other basis than that nationwide SFDPA programs were harmful.

It is worth noting that although Congress explicitly gave HUD authority to impose normal underwriting standards on borrowers receiving DPA from governmental entities, HUD has never elected to do so. HUD does not impose any credit score minimums, any DTI maximums or other credit requirements on governmental entity DPA programs, or any DPA programs. HUD has instead allowed governmental entities to self-police.

It is also worth noting that limiting governmental entities to a specific geography, as HUD is seeking to do, will create monopolies for the local government programs, which will encourage neither experimentation nor innovation, further frustrating Congressional intent.

CBCMA is Not an Interested Party Under 203(b)(9)(C)

It is critical to note that CBCMA does not rely on the clarification provided in the 2012 Interpretive Rule because it does not originate any of the mortgages for which it provides down payment assistance. FHA first mortgages that receive the benefit of a down payment from CBCMA are all originated by licensed loan originators, which origination transactions occur in what is termed the “primary” mortgage market. These loans are purchased by CBCMA.

¹⁷ House Report No. 95-1161.

¹⁸ House Report No. 95-1161

CBCMA then sells these loans, servicing released, to investors. Both the purchase of the FHA mortgage by CBCMA and its sale to investors occurs in what is termed the “secondary” mortgage market. The fact that CBCMA operates in the secondary mortgage market and not in the primary mortgage market is an important distinction.

As HUD is aware, the HUD Office of Inspector General (“OIG”) took issue with the practice of governmental entities raising the interest rate on the FHA first mortgage so that when they sold the mortgage in the secondary mortgage market, the governmental entities would make enough to fund their DPA activities. When the OIG suggested that this practice was in violation of the interested party prohibition in Section 203(b)(9)(C), HUD vigorously defended the practice by making it clear that the Section 203(b)(9)(C) did not apply to secondary market transactions, stating in numerous documents substantially the following:

Additionally, as the General Counsel has noted, the “prohibited Sources” provisions of the National Housing Act, captured at section 203(b)(9)(C) of the Act, are directed towards parties that financially benefit from the property sales transaction and the primary mortgage transactions, not transactions that occur in the secondary mortgage market..¹⁹

As noted above, CBCMA acts in the secondary mortgage market, so the prohibitions in section 203(b)(9)(C), do not apply to its activities, even according to HUD.

Even if CBCMA were to originate mortgages for which it provided down payment assistance (it does not), and even if the 2012 Interpretive Rule only applied to governmental entities acting in their governmental capacity (it does not so state), the Cedar Band *does* act in its governmental capacity through CBCMA when it provides down payment assistance off of reservation land and to non-Band members.

Attachments:

- Letter from Michael Flynn, Partner, Goodwin, November 27, 2018
- Letter from Nani Coloretti, Deputy Secretary, HUD
- Letter from Robert E. Mulderig, Acting Deputy Secretary for Single Family Housing, HUD
- Customer Testimonials (a small sampling)

¹⁹ See attached letter from Nani Coloretti, Deputy Secretary, HUD at page 3, and attached letter from Robert E. Mulderig, Acting Deputy Assistance Secretary for Single Family Housing, HUD at page 3.

The New York Times

What Will It Cost to Fix New York's Public Housing?

By Luis Ferré-Sadurní

July 2, 2018

The New York City Housing Authority is responsible for maintaining tens of thousands of apartments, which house one in 14 New Yorkers. But its 2,413 buildings are on average more than 60 years old, and they are plagued with leaky roofs, mold, broken elevators and faulty heating systems.

On Monday, housing officials unveiled the staggering price tag to remedy the conditions and restore Nycha's infrastructure to good working order: **\$31.8 billion over the next five years**, almost double the last estimate seven years ago, according to a report released by Nycna, as the housing authority is known.

Housing officials said they had lined up funding for only about one-third of the unmet capital needs. That includes billions of dollars from federal, state and city initiatives, along with \$1.2 billion from the city as part of a settlement struck in June with federal prosecutors after they accused Nycha of mismanagement, wrongdoing and years of deceiving the federal government.

That leaves Nycha, which relies primarily on federal subsidies and the rent it collects from residents, with a hole of more than \$22 billion and deepens concerns over the city's ability to preserve the vast and vital stock of affordable housing, home to at least 400,000 people.

"You can't escape the enormity of the number," Stanley Brezenoff, the agency's interim chairman, said on Monday.

The increase in cost, housing officials said, is partly a result of the deterioration of its aging buildings since Nycha last assessed its capital needs in 2011. Inflation also played a role, as did higher building costs driven by the "building boom in New York City" after the recession, the report said.

You have 2 free articles remaining.
Subscribe to The Times

5/21/2019

What Will It Cost to Fix New York's Public Housing? - The New York Times

The cost of unmet capital needs, first reported by Politico, dwarfs the \$3.7 billion Mayor Bill de Blasio invested since taking office and the \$550 million Gov. Andrew M. Cuomo pledged. The report also painted a grim picture of the challenges that await the soon-to-be-appointed federal monitor who will oversee repairs to the city's 325 housing developments.

"Without dramatic change, by 2027 90 percent of Nycha's housing units will have declined to the point at which they are at risk of no longer being cost-effective to repair," Carol Kellermann, the president of the Citizens Budget Commission, a city budget watchdog, said in a statement.

The bulk of the unmet capital needs, about 40 percent, are concentrated in apartment improvements, including repair and replacement of bathtubs, toilets and sinks. Addressing those needs is a crucial part of curbing mold and lead paint, which have been chronic problems in Nycha developments, said Deborah Goddard, the executive vice president for capital projects.

The agency has come under fire for failing to inspect thousands of apartments for lead and for revelations that more than 800 children under 6 in public housing tested positive for elevated levels of lead in their blood from 2012 to 2016.

The report also said that more than 700 boilers, many of which failed last winter, had a functional life of five years or less. Ms. Goddard said the agency expects to have all of its boilers up-to-date by 2024, which means some Nycha developments will still have to rely on dated boilers for several more winters.

Roofs were the only category for which unmet capital needs actually improved since 2011. Housing officials credited that to the mayor's investment of \$1.3 billion to replace leaking roofs, which can cause mold buildup inside apartments.

Elevators saw an increase in capital needs from \$28 million in 2011 to \$1.5 billion in 2017 because the new engineers had a higher "degree of expertise" and spotted significantly more problems, Ms. Goddard said.

Unmet capital needs are projected to grow to \$45.2 billion over 20 years, the report said.

Mr. Brezenoff, who replaced the previous chairwoman, Shola Olatoye, when she resigned in April, acknowledged Nycha faces a battle for its survival. Amid a two-decade decline in federal funding, Mr. Brezenoff pointed at public-private partnerships as the way of the future to ensure capital dollars and to improve building maintenance. Nycha is currently experimenting with a federal program to renovate 15,000 public housing apartments with investment from private developers while ensuring rents remain affordable for residents.

"This is not a flag of surrender," said Mr. Brezenoff, adding that the new numbers are, "a call to prioritizing and a call to identifying new approaches, new models that can attract more funding."

5/20/2019

Project Green Light coming next to Detroit public housing

For the Record

Controversial surveillance program coming to Detroit public housing

Althea Greer, Detroit Free Press

Published 7:00 a.m. ET Nov. 6, 2018 | Updated 6:59 p.m. ET Nov. 9, 2018



(Photo: Eric Seals, Detroit Free Press)

Project Green Light, a controversial 3-year-old surveillance program that has been touted as a major crime stopper by the Detroit Police Department, will make its entry into the city's public housing program by year's end.

The program, which installs cameras at participating locations that feed into the city's Real Time Crime Center, has raised questions about privacy and lacks a comparative study showing that it actually stops crime.

The Detroit Housing Commission and police are ironing out an agreement that will bring 26 "real time" cameras to Sheridan Place I and II (<http://www.dhcmi.org/PublicSiteDetails.aspx?publicated=3>), two high-rise towers on Jefferson Avenue just south of Belle Isle that cater to an "elderly and near-elderly community" (<http://www.dhcmi.org/PublicSiteDetails.aspx?publicated=3>).

"The area has a high volume of both foot and car traffic daily, so any negative activity could impact more individuals," Helen Kippen, interim executive director of DHC wrote in an email explaining the decision to pilot Project Green Light at this specific location.

"As an elderly community, there should be a concern associated with the surrounding area, which is susceptible to unwanted activities," she wrote, later adding, "You may imagine the level and type of street activity in this neighborhood and DHC's concern for the well-being of the community. When unauthorized guests or visitors enter the premises with poor intentions, our residents and property may be at risk."

DHC anticipates that it will cost the agency \$68,000 to transition from its current security protocol to Project Green Light. This will be paid for with federal money as an "allowed expense" from the capital fund.

More: [Does Detroit's Project Green Light really make the city safer? \(/story/news/local/michigan/detroit/2018/04/20/project-green-light-detroit/508139002/\)](http://www.detroitnews.com/story/news/local/michigan/detroit/2018/04/20/project-green-light-detroit/508139002/)

More: [Detroit school becomes first to join Project Green Light crime reduction effort \(/story/news/education/2018/04/03/andolph-career-school-detroit-project-greenlight/481390002/\)](http://www.detroitnews.com/story/news/education/2018/04/03/andolph-career-school-detroit-project-greenlight/481390002/)

Buy Photo

<https://www.freep.com/story/news/local/michigan/detroit/2018/11/06/project-green-light-detroit-public-housing/112494002/>

1/5

5/20/2019

Project Green Light coming next to Detroit public housing



A time exposure shows green lights glowing on top of three gas stations at Grand River Avenue and Southfield Freeway in Detroit as part of the Detroit Police Green Light program on Thursday, April 19, 2018. (Photo: Eric Seals, Detroit Free Press)

Of the 26 cameras, four will be inside the building pointing out at all the front and rear doors used by guests. The remaining 22 cameras will be on the exterior of the two nearby buildings, which have a total of 403 one-bedroom units. The two buildings now have 19 exterior cameras.

Kippen acknowledges that she does not expect that Detroit Police will be watching the feed 24/7.

"We know (DPD) will have the footage, so if they need to go back and review it, they're capable of doing that without us having to pull the footage. So we know that will be some staff time saving for us, but no, we never really expected a 24-hour monitoring, and we can't provide 24-hour monitoring either," Kippen said.

Lack of monitoring

Kippen's recognition that the cameras will not be monitored 24/7 is something that critics of the Project Green Light often hook onto. They question why traditional security cameras (CCTV) cannot be used in its place if this is the case.

They also point to studies that show that once individuals know a feed isn't being monitored the crime deterrence factor wanes.

In September 2011, the Urban Institute, an economic and social policy think tank based in the nation's capital, published a paper analyzing surveillance trends in Washington, D.C., Baltimore and Chicago. In the latter city, the report found that once residents knew the cameras weren't being monitored consistently the effectiveness of the cameras dissipates.

"If they don't monitor it, then you're going to run into the problem that you read about in our report, which is once people know that the cameras are not being monitored, they're going to lose their effectiveness," Bryce Peterson, of the Urban Institute explained to the Free Press last spring. "You can get to the point where it's so saturated the market that it becomes ineffective for everybody."

This same finding was noted last spring by Eric Piza, an associate professor at John Jay College of Criminal Justice, who spent time studying camera use in Newark, New Jersey.

Piza, who noted that surveillance in public housing is quite usual, said that research suggests that cameras work best in small, contained environments.

A problem, however, is when the program gets too big.

"My own research suggests that there is, for lack of a better term, a tipping point at which the police can get to a situation where they've installed so many cameras that they can no longer effectively police them," he said. His advice to police departments was to install only the number of cameras they can "realistically and proactively" monitor.

With more than 400 feeds now active in Detroit, not all are being monitored at once.

"Even if we had 200 people sitting in the room, we couldn't view 200 (cameras) — it would be impossible," Police Chief James Crag said in January, noting that when businesses join Green Light they are reminded they are "not the only Green Light."

<https://www.freep.com/story/news/local/michigan/detroit/2018/11/16/project-green-light-detroit-public-housing/1712494002/>

2/5

5/20/2019

Project Green Light common next to Detroit public housing

The Memorandum of Understanding between Green Light businesses and the police, in fact, notes that DPD will monitor cameras at its "discretion" and will not guarantee but rather make "its best effort to monitor" a business' cameras should it make a 911 call

"This MOU does not oblige DPD to monitor the Entity's cameras at any time," it states

The MOU between DHC and DPD is still being fine-tuned and so was not available to the Free Press when we requested it

Bay Photo



A green strobe flashes on top of a sign as the sun starts to set behind Southern Smokehouse on West Nichols Road in Detroit, Michigan on Thursday, April 19, 2018. This carry out BBQ restaurant participates in the Detroit Police Green Light program. (Photo: Eric Seals, Detroit Free Press)

What the green lights do

DPD has experimented with various crime-fighting initiatives over the years but none has been so prominent — in part because of the hard-to-miss strobe — as Project Green Light. While the program is best recognized for the green lights partners place in front of their buildings, at its core, Project Green Light is about cameras

In the traditional Green Light setups, participating businesses pay \$4,000-\$6,000 a year to put high-definition surveillance cameras in their stores that stream directly to DPD's Real Time Crime Center

When the program started in 2016 with eight gas stations, Chief Craig pitched the initiative as an opportunity to catch crimes in the act

This has yet to happen

At a news conference in January announcing the first Green Light Corridor — a section of Greektown where 11 businesses agreed to install 15 cameras facing the street — Craig explained the No. 1 goal was for Project Green Light to act as a deterrent

The aim has also been described as being about nabbing suspects after a crime

Even with shifting goals, the program has been expanding at breakneck speed under the general objective of "public safety"

Today, there are nearly 450 Green Light partners — including a school — and last January there were talks about making it mandatory for all businesses open between 10 p.m. and 4 a.m., a move that would have placed Project Green Light in about 4,000 businesses (City Council has yet to move forward with such an ordinance)

But, despite the eager push from politicians and the police department to expand, an important question remains: Does Project Green Light actually boost public safety and curtail crime? And if it does work, will this efficacy be altered by expansion?

In an interview with the Free Press in January, Craig spoke of the benefits of the program and cited various data points.

Waiting on data

<https://www.freep.com/story/news/local/michigan/detroit/2018/11/01/project-green-light-detroit-public-housing/111414000/>

3/10

4/20/2019

Researchers, however, say the data that is being used — declining crime at Project Green Light sites, declining car theft across the city — does not actually tell us much

There is no comprehensive study that compares Green Light locations with non-Green Light locations over time. And while Michigan State University was recently granted funding to create a comparison study, nothing has been published as of yet.

"Our analysis to date indicates an initial increase in calls for police service followed by a downward trend in crime. When compared to other non-Green Light locations the results are a bit more difficult to interpret," Edmund McGarrell, the director of the Michigan Justice Statistics Center who is spearheading the study, wrote in an email last week, explaining that the comparison is hard to analyze because new businesses are constantly being added to Green Light and they need more time and locations to understand the impact on violent crime.

"My best summary is that the preliminary results of Green Light are promising but that more time and more Green Light locations are needed to properly evaluate the impact on crime," he wrote.

In the absence of a conclusive study, experts say it is nearly impossible to tie Detroit's crime reduction — something many cities across the country are also seeing — specifically to Green Light.

"Violent crimes have been declining in many cities across the country. Without rigorous evaluations that use comparison groups, it is difficult to attribute the decline in any city to a specific program or policy," Peterson of the Urban Institute said last spring.

Peterson said he had looked into Detroit's Project Green Light program last year as a possible option for Milwaukee's police department, whom he was advising on surveillance options. While he heard many positive reviews of the program, his team "ran into a wall" when it came time to look at the data.

"I am trying to be neutral in that I've heard mostly good things about it, but at the same time, I have not seen any direct evidence of its effectiveness, only anecdotal information that we've heard from sources with a vested interest in it," Peterson said.

Milwaukee ultimately decided to go in another direction.

Buy Photo



Project Green Light is coming soon to the Sheridan Place apartments in Detroit seen here on Thursday, November 1, 2018. (Photo: Eric Seals, Detroit Free Press)

'I think people will be uncomfortable'

For those living at Sheridan Place III, the response to Project Green Light coming to the complex is mixed.

According to Linda Sharp, who is on the fence about the program, in June Mayor Mike Duggan and Chief Craig came to the complex's council meeting to share that Project Green Light would be coming.

Sharp, 61, estimates that about 50 to 60 residents were in attendance and almost all of them were eager for Project Green Light.

"They asked if we were agreeable to having the Green Light. The ones in attendance were for it," said Sharp, who has lived in the building for three years, adding that for the most part, those in attendance were "maybe 10 years older" than her.

<https://www.tribune.com/story/news/local/michigan/detroit/2018/11/01/project-green-light-detroit-public-housing/11249400/>

4/20

5/20/2019

Project Green Light comes next to Detroit public housing

"You got to look at the age of the seniors that voted for that," she said, explaining that the City had residents vote with their hands to express acceptance of the program.

"We voted, but it was a hand raise, not a paper vote. That caught my attention," she said. "I didn't vote. I just sat there because I was shocked. To find out public housing is paying for this? I thought this was free. They're spending the money the wrong way."

Kevin Sheppard, 61, waffles less when discussing the incoming plan.

"Why would they want to target a senior citizen community instead of targeting a drug community? Why are they not running on 7 Mile, 8 Mile, where the drugs are at?" asked Sheppard, who has been living in the community for five years. "We're senior citizens, we're just trying to live a peaceful life. So I don't believe a Green Light should be here invading on my privacy."

Sheppard is concerned family members will be less inclined to come and visit him should they know the building stream is being sent directly to DPD.

"I think people would be uncomfortable. My family would be uncomfortable being spied on," he said.

Cheryl McNeece, 60, however, was OK with it. In her opinion, she wasn't doing anything illegal so did not mind having cameras watch her.

For McNeece, there was a hope that the cameras would address one of her main concerns with the building: strangers getting in. This was something Kippen brought up as well.

Currently, there are 19 security cameras on the exterior of the two buildings, with a few pointing into the entrances. There is also, according to Kippen, security guards who sit in the lobby from 5 p.m. to 6 a.m. and do hourly walks around the perimeter.

"They're not out there all the time. And that's where the cameras can be helpful," said Kippen, who was unaware of how many 911 calls have been made from the building. DPD did not get back to the Free Press with this data point either.

For Kippen, however, this pilot seems like a good jumping off point as it forces DHC to upgrade its cameras to high-definition systems and improve lighting — something it has needed to do anyway.

"There have been incidents where we pull the footage and it's so grainy you really can't tell what was going on. You might see shapes and shadows, so for the most part not as helpful as we believe these newer, better cameras will be. It's definitely going to be an improvement," she said.

"This is a pilot for us," she added. "If it works out and if we really see some great benefit — less crime, or quicker reporting, you know anything that benefits the residents in that way — we have the ability to add other sites in the future," she said.

"We don't have unlimited capital funds, so we might add another site next year when we get our capital fund grant. We're not at the point of identifying what the next step would be. We really just want to see how this works."

Allie Gross is a business reporter with a focus on development, housing affordability and income inequality. Contact Allie Gross at AEGross@freepress.com. Connect with her on Twitter @Allie_Elsabeth.

Read or Share this story: <https://www.freep.com/story/news/local/michigan/detroit/2018/11/06/project-green-light-detroit-public-housing/1712494002/>

Full-Committee Hearing – May 21, 2019
“Housing in America: Oversight of the U.S. Department of Housing and Urban Development”
Chairwoman Maxine Waters
Follow-Up Questions for the Record

HUD Management and Operational Deficiencies

1. According to the Government Accountability Office, for nearly a decade, HUD’s efforts to modernize its information technology (IT) have been hindered by planning and strategic missteps.¹ What actions have you taken to address HUD’s IT management weaknesses? How will the Department avoid repeating previous problems with IT modernization?

RESPONSE: To support HUD’s focus on IT modernization, several organizational and oversight improvement actions have been implemented. Direction from the Secretary has established that the HUD Chief Information Officer (CIO) has oversight and authority over all IT, and IT resources and staffing are being consolidated within the Office of the CIO (OCIO). The OCIO has also taken significant steps to improve procurement speed and efficiency through GSA assisted acquisition and contract consolidation. In the past, inefficient acquisition has been a key impediment to several IT modernization efforts and these new processes are designed to address that issue. Previous IT modernization efforts have also suffered from variable or uncertain funding streams that impacted multi-year projects. HUD OCIO has implemented tighter budget management including implementation of Technology Business Management (TBM) for greater cost insight and control, identification of baseline annual operational costs, and initiating use of the HUD Working Capital Fund for some IT equipment and services. These efforts enable greater cost control and certainty allowing HUD to commit necessary resources to ongoing modernization efforts.

In addition, HUD has leveraged several interagency resources to accelerate IT modernization efforts. The OCIO is working with the Department of Homeland Security Cyber program to implement Continuous Diagnostics and Mitigation (CDM) tools and processes as a key improvement for our cybersecurity program. HUD is also partnering with GSA on the use of Centers of Excellence and is currently implementing projects in Cloud Computing, Data Analytics, Customer Experience, and Contact Center. Also, HUD was one of the first federal agencies selected to receive funding from the Technology Modernization Fund (TMF) established under the Modernizing Government Technology Act. HUD’s TMF project will migrate several legacy mission systems off a mainframe platform as an essential first step to modernizing these key systems. Collectively, these efforts are both accelerating our IT modernization efforts and reducing the risk that IT modernization projects will be unsuccessful by leveraging proven methods and technology

HUD has also taken several steps to improve our planning and governance of modernization efforts. The OCIO has developed a Modernization Roadmap and a Strategic Roadmap for Cybersecurity. As part of that, HUD has prioritized the hiring of two critical executive

¹ GAO, *Department of Housing and Urban Development Actions Needed to Incorporate Key Practices into Management Functions and Program Oversight*, GAO-16-497, Jul 20, 2016.

leadership positions in the Office of CIO: the Chief Information Security Officer and the Deputy CIO for Operations. These are based on robust assessments including an application rationalization review and multiple internal and external cyber reviews. To support progress toward the future state defined by these Roadmaps, the OCIO is working closely with program areas, the Office of the Chief Financial Officer, and agency leadership to ensure broad understanding and support for modernization projects. The OCIO has established IT steering committees with program offices to ensure system modernization is fully integrated with business process improvements. The OCIO is also an integral part of the HUD financial transformation through the Agency-wide Integrity Taskforce ensuring IT improvements align with and support OCFO goals. The OCIO has also improved the agency investment review process with a greater focus on business needs and investment prioritization by both the program areas as well as the OCIO. In addition to lowering the risks associated with IT modernization, these governance and process improvements have positioned HUD to better communicate our modernization efforts to Congress via IT Expenditure Plans and briefings on specific Roadmaps and projects.

- HUD's Office of Inspector General has also identified deficiencies in HUD's processes for responding to requests for electronically-stored information, such as emails and internal HUD records. According to the Inspector General, HUD took over 60% longer to produce documents to the Inspector General in 2018 than in 2017.² HUD's deficient document production systems also affect the timing of HUD's responses to congressional investigations and requests from the public under the Freedom of Information Act. This is unacceptable. What steps are you taking to improve HUD's inadequate systems and processes for producing electronically-stored information to the Inspector General, Congress and the public?

RESPONSE: The 2018 OIG Management Alert is inconsistent with OIG's more in-depth 2017 Evaluation Report. The 2017 evaluation acknowledges that the Department's response time improved dramatically from FY16 to FY17, which is especially notable in light of the fact that OIG ESI requests jumped from 73 in FY16 to 129 in FY17. It was 5 in FY12, about the time the system capacity needs were scoped. We also note that the 2017 OIG evaluation, after fully reviewing processes, did not make any recommendations with respect to them and the recommendations to review capacity issues and provide a detailed capacity study were closed out in 2018. Further, delivery time in 2018 was impacted by critical, time-sensitive large litigation cases taking precedence during this time. These included one lending, two procurement, one personnel, one defensive litigation, and one FOIA litigation case with court-ordered discovery production deadlines, and a large congressional oversight data request. Before April and after May 2018, the average wait times for OIG requests decreased from the wait times at the end of 2017. However, the Department has always sought to accommodate OIG when it has indicated that a request is especially urgent. For example, OIG's recent requests related to CDBG-DR were made available in just 18 days.

² HUD OIG, *Management Alert OIG Access to Electronically-Stored Information*, Memorandum 2019-IG-001, Apr 29, 2019.

Nevertheless, HUD has already taken proactive steps to reduce the processing time to respond to requests for ESI, specifically including those from OIG, by reducing the number of steps required to receive access to the requested data.

The first change is the ability to look up the exact email of a departed employee to ensure that the correct server locations and mailboxes are targeted for retrieval after the request has been submitted. OIG identified this as a bottleneck in its 2017 evaluation.

The second change is a change in the work process that has eliminated the necessity for OIG supervisors to approve both the initiation of the data requests as well as its collection and delivery to the Department's e-discovery contractors. The approval steps for OIG requests have now been consolidated into a single step.

These changes were communicated to OIG on April 24 and became effective on April 29, 2019.

The next steps to improve the process, while HUD awaits completion of the procurement process for more robust technology, will maximize the efficiencies provided by Office 365. On May 1, 2019, OCIO agreed to prioritize building the environment that will allow data collected for OIG requests to be exported to a secure cloud file storage location accessible to the requester. Leidos, the HUD eDiscovery contractor, submitted a service desk ticket on May 7, 2019 to OCIO, with the specifications needed for this new cloud file storage. After the environment is built, the e-discovery team at Leidos and HUD must configure and test the new environment. Once the new environment is successfully implemented for production, the collection of ESI (including email) will be transferred from Federated IT (HUD's email contractor) to Leidos, further streamlining the process. The specific timeframes for completion have not been finalized and are dependent on resolving potential technical issues encountered during the build, configuration and testing stages.

2. On April 29, 2019, the HUD Office of Inspector General (OIG) released a Management Alert to notify you and the public about "unreasonable delays" in OIG's access to HUD information.³ As the Inspector General pointed out in the Alert, these delays can have disruptive effects on OIG investigations and other oversight work. Why have these delays worsened to the point that the Inspector General felt the need to issue a management alert?

RESPONSE: The OIG released the above-referenced Management Alert on April 30, 2019, after the Department had made available on April 26 and delivered on April 29, 2.4 million items to the OIG, fully responding to the OIG's April 8 request. Additionally, as stated in response to Question 1, above, all of OIG's recent requests related to CDBG-DR were made available in 18 days.

- In March 2019, the Inspector General's Counsel testified before the Oversight and Investigations Subcommittee that the OIG was "in the process of looking into

³ See, *Supra* fn 2

whether or not there has been any interference” from the White House with Puerto Rico’s access to HUD-administered disaster recovery funds.⁴ The Washington Post has reported that, at the request of the White House, HUD’s Office of General Counsel has impeded the Inspector General’s investigation by adding additional layers of review for Office of Inspector General document requests related to HUD’s delivery of disaster recovery funds to Puerto Rico.⁵ Have there been any communications from the White House to you or any other HUD officials related to the Inspector General’s review of HUD’s administration of disaster recovery funds to Puerto Rico?

RESPONSE: This question seeks the substance of communications with the White House and OMB, the disclosure of which would reveal confidential, deliberative and internal Executive Branch information.

- In the April 2019 Management Alert, the OIG reported that the HUD Office of General Counsel has requested to review certain documents before providing them to the OIG for executive privilege and attorney-client privilege.⁶ The Inspector General Act requires agencies to provide their Inspector Generals with timely access to all documents necessary to perform their job.⁷ Secretary Carson, why is your Department delaying production of documents to your Inspector General on the basis of privilege?

RESPONSE: The Department did not conduct any privilege reviews before providing documents to the OIG.

3. HUD’s Inspector General recently reported that the agency is facing serious management challenges. In the past 10 years, HUD lost 18.5% of its full-time staff, which is more than any cabinet-level agency. This includes notable losses at top positions within HUD, including Pam Patenaude, former Deputy Secretary, who abruptly stepped down in December.

- How many positions are currently vacant at HUD and in which Offices?

RESPONSE: The Department’s number of vacancies is fluid and changes from week to week. The current topline staffing number as of June 2019 is approximately 7,400 employees.

The following information is more detailed and based on the Hiring/Separation reports sent to Congress each quarter.

- At the end of the last quarter (March 30, 2019), HUD had 7,390 employees on board. This is a net decrease of 239 employees from the same time in FY18.

⁴House Committee on Financial Services Subcommittee on Oversight and Investigations, Hearings, *The Administration of Disaster Recovery Funds in the Wake of Hurricanes Harvey, Irma, and Maria*, Mar 26, 2019 (statement of Jeremy Kirkland, Counsel to the Inspector General, HUD OIG).

⁵ Washington Post, *HUD’s top watchdog Agency impeded probe into Puerto Rico hurricane aid*, Apr, 30, 2019

⁶ See, *supra* fn 2

⁷ Congressional Research Service, *Statutory Inspectors General in the Federal Government A Primer*, Jan. 3, 2019.

- From FY17 to FY18, HUD had a net decrease of 369 employees. The Department went from 7,866 employees to 7,497 employees.
- From FY18 to the 3rd quarter of FY19, HUD had a net decrease of 107 employees. The Department went from 7,497 employees to 7,390 employees.

HUD HIRING AND SEPARATION REPORT						
	FY17 (9/30/2017)	FY18 (9/29/2018)	Comparison	3rd QTR FY18 (3/31/2018)	3rd QTR FY19 (3/30/2019)	Comparison
Program Area	On-board*					
EO	72	74	2	68	71	3
OFPM	331	310	-21	316	314	-2
ADMIN	237	232	-5	231	228	-3
OCHCO	147	137	-10	146	140	-6
CFO	176	179	3	171	185	14
CIO	211	187	-24	197	186	-11
CPD	713	687	-26	696	663	-33
CPO	115	102	-13	109	100	-9
FHEO	494	463	-31	484	439	-45
GEN						
CNSL	559	538	-21	546	526	-20
HOUSING	2,509	2,370	-139	2,432	2,380	-52
ODEEO	18	20	2	18	18	0
OHHLHC	48	47	-1	47	43	-4
OSPM	32	28	-4	32	19	-13
PDR	145	135	-10	139	136	-3
PIH	1,335	1,284	-51	1,288	1,251	-37
Total - S&E	7,142	6,793	-349	6,920	6,699	-221
GNMA	148	148	0	148	143	-5
OIG	576	556	-20	561	548	-13
Grand Total	7,866	7,497	-369	7,629	7,390	-239

* Includes FTP, Temps, Part-Timers, Students, and Consultants

- Why is HUD having such a difficult time retaining senior staff?

RESPONSE: Most of HUD's career senior leaders have been at HUD for many years, particularly key program areas such as Community Planning and Development, Policy Development and Research, and the office of Public and Indian Housing.

With respect to the senior political leadership, delays in the Senate confirmation process for Executive branch nominees reached historic levels during this Administration. In the most recent example, HUD's nominee for Assistant Secretary of Public and Indian Housing waited over 600 days to be confirmed and HUD's nominee for Assistant Secretary of Policy Development and Research waited 500 days. Both nominees were recently confirmed by voice vote.

Most of HUD's key senior appointee positions remain filled, including the Office of Housing/Federal Housing Administration, Fair Housing and Equal Opportunity, Chief Financial Officer, General Counsel, Chief Information Officer, and the Office of Congressional and Intergovernmental Relations.

- In the midst of an affordable housing crisis, what are you doing to hire and retain qualified staff to fulfill your agency's mission?

RESPONSE: The Department is in the foundational stages of fixing the systemic human capital management challenges that have existed at HUD for the past decade. This involves many different streams of work that will converge in the coming months and result in a revamped human capital operation.

Some steps the Department has taken to aid in this process include:

- Utilizing an independent third party to conduct an organizational assessment of the Office of the Chief Human Capital Officer;
 - Hiring a new Chief Human Capital Officer;
 - Increasing the number of hiring pipelines;
 - Conducting *Hiring 101* training sessions for key program office staff to better identify roles and responsibilities in the hiring process;
 - Modifying performance metrics for Shared Services Providers to receive better support on hiring actions;
 - Conducting an audit of HUD's policies alongside of OPM policies to remove redundancies that delay the hiring process;
 - Enhancing executive support; and
 - Improving retention efforts.
4. Even though FY2018 has been over for more than 7 months, there are still large unobligated balances in the Section 811 account. After taking into account renewal of existing tenant-based and project-based subsidies the FY2018 T-HUD bill made \$385 million available for new 811 "Mainstream" vouchers and \$82.6 million for 811 Project-Based Rental Assistance (PRA). While HUD has made awards for \$98.5 million in "Mainstream" funding, there is still a large amount waiting to housing agencies to compete for – despite the enormous demand for affordable rental housing among non-elderly people with disabilities.
- Can HUD please update the Committee on progress in publishing the separate Notice of Funding Availability (NOFAs) for the 811 "Mainstream" tenant-based voucher program and the 811 Project-Based Rental Assistance (PRA) program?

RESPONSE: HUD's Office of Multifamily Housing is currently processing two Section 811 NOFAs from FY18 and FY19 – one is for the Section 811 Capital Advance program and the other is for Section 811 Project Rental Assistance awards. These two NOFAs have been drafted and are going through the HUD Clearance process. HUD's intent is to publish both NOFAs by the end of August 2019. In addition, the Office of Public and Indian Housing published the FY19 NOFA for the Mainstream Voucher Program on July 2.

Fair Housing

5. HUD recently charged Facebook with violating the Fair Housing Act by provided housing providers sophisticated tools that enabled discriminatory advertisement of housing opportunities. Specifically, Facebook's tools allowed advertisers to completely hide ads from people based on their race, gender, disability status, and other protected characteristics, thereby reducing housing choices for protected classes of people.⁸ Civil rights advocates point to these practices as a form of modern-day redlining. Facebook is just one of many companies that maintain online platforms that make housing available.

- Is HUD investigating other tech companies for violations of the Fair Housing Act?

RESPONSE: As more tech companies move towards business models that involve algorithmically targeting advertisements, the Department will continue looking into which other platforms may be preventing users from seeing housing advertisements because of their protected characteristics. Although HUD is currently looking at other companies, those matters are at a very preliminary stage, and it would be inappropriate for HUD to reveal the names of those companies here. Because HUD's jurisdiction to conduct investigations is under the Fair Housing Act, its interest would be limited to platforms that advertise housing and housing-related services. Of course, HUD will also open investigations whenever it receives administrative complaints that fall within its investigative authority under the Fair Housing Act.

- What data and information has HUD requested from Facebook and other tech companies it is investigating?

RESPONSE: The data and information that formed the basis of HUD's Charge of Discrimination against Facebook are detailed and cited in that document and in the Determination of Reasonable Cause. In general, information supporting an allegation that an advertising platform enables unlawful discrimination can be found on the platform itself and in other materials made publicly available by the company.

- Do you think HUD's enforcement of the Fair Housing Act has kept up with new forms of discrimination that are made possible by the rise of online advertising platforms?

⁸ See, e.g., Housing Wire, *HUD charges Facebook with housing discrimination over targeted ads*, Mar 28, 2019, *HUD Investigates Facebook (again) over housing discrimination ads*, Apr 23, 2018

RESPONSE: Yes. As HUD's Charge of Discrimination against Facebook demonstrates, the Department takes seriously the ways in which new technologies can perpetuate old forms of discrimination. That is why HUD's investigation of Facebook looked not only at the facial violations on its platform, but also at the potential fair housing problems caused by the algorithms Facebook uses on the back end of its advertising process to determine who sees ads

- What exactly is HUD doing to address these new challenges for online advertising platforms?

RESPONSE: HUD's issuance of its Charge of Discrimination against Facebook has likely caused operators of social media platforms to place greater focus on their obligation to comply with the Fair Housing Act. The case against Facebook is now pending with the Department of Justice, with whom HUD continues to work closely. As noted above, HUD continues to look at other online advertising platforms.

6. The Affirmatively Furthering Fair Housing obligation has existed since the passage of the Fair Housing Act in 1968. This important duty requires recipients of federal funds to take proactive steps to dismantle the vestiges of segregation, redlining, and other policies and practices that have resulted in disparities in access to housing and other opportunities for people of color, persons with disabilities, and others protected from housing discrimination by the Fair Housing Act. Given HUD's withdrawal of the Assessment Tool for local governments in May 2018, what specific actions is HUD currently taking to ensure its grantees are fulfilling their obligations to tackle segregation and housing discrimination?

RESPONSE: HUD currently has more than 500 open investigations in HUD-assisted programs under Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973. Approximately 10 percent of these investigations are conducted at the Department's initiative under its regulatory authority to conduct periodic civil rights compliance reviews. These investigations are underway in a variety of HUD-assisted programs, including subsidized multi-family developments, housing authorities, and city and state community development agencies receiving HUD block grants or disaster recovery funds.

HUD has initiated its regulatory process to take enforcement action against the City of Los Angeles for discriminating against people with disabilities based on its longstanding failure to develop affordable housing in accordance with federal accessibility requirements. The city has been aware of its noncompliance with federal accessibility standards since HUD's initial findings in 2012. HUD recently issued supplementary findings resulting from a follow-up investigation over the past two years, affirming continued noncompliance with these accessibility requirements. Based on onsite surveys of a large sample of city-funded properties, HUD believes that much of the city's portfolio of approximately 800 affordable housing developments is out of compliance with federal accessibility standards. On May 31, 2019, HUD advised the city that it plans to effect compliance as authorized by HUD's regulations, which may include the termination of HUD funding, if the city does not expeditiously enter into a voluntary compliance agreement to address these violations.

HUD is also in the process of refining the regulations behind Affirmatively Furthering Fair Housing (AFFH). Last August, HUD invited the public to comment on how HUD can enhance and streamline a 2015 regulation that many state and local governments are finding difficult to implement. HUD requested public comments that discussed how to better help program participants meet their AFFH obligations; create an AFFH process that focuses primarily on accomplishing positive results, rather than on performing analysis of community characteristics; provide for greater local control and innovation; seek to encourage actions that increase housing choice, including through greater housing supply; and more efficiently utilize HUD resources.

Through this process, it is HUD's intention to help, not hinder, its grantees to meet their AFFH obligations. HUD's 2015 AFFH rule often dictated unworkable requirements on state and local governments and impeded the development and rehabilitation of affordable housing. This rule, which was designed to expand choice, may have done the opposite. HUD can craft a new, fairer rule that creates choices for quality housing across *all* communities.

7. The U.S. Supreme Court affirmed the existence of disparate impact liability under the Fair Housing Act in the 2015 *Inclusive Communities* Project decision. In that decision, the Court upheld the HUD 2013 Disparate Impact Rule. However, HUD is currently proposing changes to the existing 2013 regulation, issuing an Advance Notice of Proposed Rulemaking in 2018.

- Can you explain what prompted your decision to revisit the Disparate Impact Rule?

RESPONSE: HUD is currently revisiting this 2013 rule. To facilitate this review, HUD's Advance Notice of Proposed Rulemaking (ANPR) asked whether the HUD's Disparate Impact (or discriminatory effects) rule under the Fair Housing Act is consistent with the Supreme Court's *Inclusive Communities* decision. *Inclusive Communities* upheld the legality of disparate impact under the Fair Housing Act but outlined prudential and constitutional limitations to such liability.

HUD has reviewed the more than 1900 comments received in this ANPR. In light of these comments, HUD submitted its proposed rule, "HUD's Implementation of the Fair Housing Act's Disparate Impact Standard," to the OMB's Office of Information and Regulatory Affairs (OIRA) for review on January 29, 2019. HUD is revisiting the Disparate Impact rule to, among other things, ensure consistency with the Supreme Court's ruling and the limitations on disparate impact liability that the Supreme Court reiterated.

- Did pressure or urging from industry groups (such as the insurance industry, for example) influence your decision to revisit the Rule?

RESPONSE: No.

8. For the last few years, HUD's administrative delays have made it increasingly difficult for private, non-profit, qualified fair housing organizations to continue their work under existing

Fair Housing Initiatives Program (FHIP) multi-year enforcement grants. The result has been a loss of staff, agencies taking out costly loans to continue operations until HUD announces awards, and the suspension of fair housing intake services in many states. For example, in the most recent awards cycle, HUD announced awards for FY2018 FHIP grants in April of 2019, nearly 6 months into the next fiscal year after the grants were supposed to be awarded.

- Can you explain these major delays?

RESPONSE: Because of the many Continuing Resolutions, a large number of Notice of Funding Availability (NOFAs), including FHIP, were published in the fourth quarter of FY18. Because the FHIP NOFA was published so late in the fiscal year, this left little time for HUD staff to receive, evaluate, award, negotiate and execute grants to its fair housing organizations before the end of the fiscal year. Therefore, the FY18 grant activities spilled over to the next fiscal year (FY19) and along with the government shutdown further delayed the FY18 grant process.

- What is your plan for getting the Fair Housing Initiatives Program back on track?

RESPONSE: Presently, the Department is drafting the FY19 NOFA and expects to publish it in the *Federal Register* in the last quarter of FY19. The 60 calendar days application deadline and the subsequent FY19 competition and award announcement will be completed in the second quarter of FY20. The timing of the FY19 awards will assure that funding will occur right after the end or expiration date of the FY18 FHIP grants (third quarter of FY20) and that fair housing organizations who rely on FHIP funds to meet their needs will continue their important service.

9. The National Network to End Domestic Violence found that in just one 24-hour period in 2016, nearly 8,000 victims of domestic violence were forced to make the decision between homelessness and staying with their abuser. Under your budget requests, severe funding cuts would exacerbate this issue and make it even harder for victims of domestic violence to get access to safe housing. This is particularly true in rural communities where there are limited housing inventories and often long distances between housing providers.

- When you proposed your drastic budget cuts, were you aware about the effect these cuts would have on families and children that are victims of domestic violence, and how it would impact their access to safe and affordable housing?

RESPONSE: The Department's FY20 budget request includes a record \$2.6 billion for Homeless Assistance Grants, which is \$85.6 million more than the 2019 annualized CR level. Through the \$50 million domestic violence bonus in the FY18 CoC competition, communities will be serving nearly 5,000 more survivors in residential projects. This contributed to an overall increase of nearly 6,600 beds dedicated to survivors of domestic violence as compared to the results of the FY17 competition.

- Can you point to where in your budget request HUD would alleviate the affects of these cuts?

RESPONSE: As mentioned above, the Department's FY20 budget request includes \$2.6 billion for Homeless Assistance Grants, which is \$85.6 million more than the 2019 Annualized CR Level. Additionally, each of the 125 domestic violence bonus projects funded in the FY18 CoC competition will be eligible to renew in the FY19 CoC competition, creating critical domestic violence housing and homeless serving infrastructure in communities across the country. The number will increase even further with the additional \$50 million that will be dedicated for projects that serve survivors of domestic violence in the FY19 CoC NOFA that will be released this summer. Both the FY18 and FY19 awarded domestic violence projects will be eligible to renew in FY20, thus maintaining a dedicated focus to this vulnerable population.

HUD is also housing survivors more effectively than before. This is in part because the competition has incentivized evidence-based strategies that permanently house survivors quickly and without barriers. HUD has also invested in training and technical assistance to work in the intersection of domestic violence and homelessness through the DOJ, HHS and HUD co-funded Domestic Violence Housing Technical Assistance Consortium (DVHTAC) to build capacity for organizations (both victim service providers and housing and homeless service providers) to house survivors of domestic violence.

10. The US incarcerates more people, per capita, than any other nation. Even after people have served their time and try to return to their families and communities, they confront the collateral consequences of incarceration that lawfully permit others to openly discriminate against them. This includes housing authorities and other federally assisted housing providers who deny people with criminal records the opportunity to reunify with family post-incarceration, putting them at risk of housing instability, homelessness, and recidivism. Individuals involved in the criminal justice system are disproportionately people of color, people with disabilities, and LGBTQ individuals.

- What is HUD doing now to ensure people with criminal records have access to affordable housing?

RESPONSE: While Public Housing Authorities (PHAs) and other landlords are required to do background checks on applicants, HUD has on a number of occasions clarified that just because someone has been arrested does not mean the person has engaged in criminal activity. As a result, an arrest is not an acceptable reason for denying that person admission, terminating their assistance, or evicting tenants in public or federally-assisted housing. HUD, through its notices, and FAQs has provided guidance for PHAs and owners interested in including in their admissions and occupancy policies ways to improve housing opportunities for persons who, despite there being some evidence of past criminal activity, do not pose a threat to the health or safety of residents or staff

There are housing authorities who have participated in local programs, such as Drug Court programs, and make housing available to formerly incarcerated persons.

Proposed Rule on Immigration Status of HUD Residents

11. HUD's proposed rule regarding the immigration status of HUD-assisted residents would require public housing authorities and Section 8 housing providers to collect immigration documentation and submit it to the Department of Homeland Security for verification from household members who were not required to provide this documentation previously, including from U.S. citizens. Under the rule, housing authorities must also create new policies to determine which families will receive continued assistance or temporary deferment of termination. All of these new requirements will increase administrative costs and burdens for housing providers, which HUD does not consider in the rule. These costs could also deter private landlords from participating or continuing to participate in these programs, which would decrease the affordable housing supply further in the midst of the current rental housing crisis.

- How will you ensure that housing providers are not overburdened by the rule?

RESPONSE: HUD regulations under 24 CFR § 5.508 and § 5.512 already require HUD housing providers to use the Systematic Alien Verification for Entitlements (SAVE) program, which is administered by U.S. Citizenship and Immigration Services (USCIS). SAVE is a fast, secure and efficient verification service provided for federal, state and local benefit-granting agencies to verify a benefit applicant's eligibility (for citizens) and immigration status. Under current HUD policy, PHAs are required to provide eligibility status to HUD using Form 50058 in the PIH Information Center (PIC) system. That form requires the social security number of each applicant in the family and is used to verify income eligibility. Additionally, the current regulations permit PHAs to accept the declaration of citizens without further confirmation of immigration status.

Additionally, owners of multifamily properties determining eligibility under Section 8 project-based rental assistance (PBRA), Section 202, and Section 811 programs are already required to verify the applicant's immigration status with the Department of Homeland Security (DHS) by using information from the applicant's immigration document. HUD's Multifamily SAVE Administrator provides owners with access to SAVE to obtain primary and, in many instances, secondary verification through HUD's SAVE account.

- How do you propose housing providers pay for these costs of complying with the new requirements?

RESPONSE: Compliance costs should be minimal because housing providers are already required to use SAVE to verify an applicant's immigration status. Usage of SAVE costs \$0.50 for each initial electronic verification and an additional \$0.50 for secondary verification. Further, Public Housing Operating Funds and Section 8 administrative fees are eligible funds available to be used for SAVE.

Disaster Recovery

12. In February 2018, Congress appropriated \$28 billion in Community Development Block Grant – Disaster Recovery (CDBG-DR) funds for recovery in areas affected by disasters in 2017. Of the \$28 billion CDBG-DR funds appropriated for the 2017 disasters, approximately \$16 billion have been designated for mitigation.⁹ However, HUD has not yet allocated these funds to affected areas. This funding is a critical resource for communities to address long-term housing and infrastructure recovery needs. HUD issued guidance for the unmet needs grants in August 2018 but has yet to publish similar guidance for the mitigation funding. At a hearing in April, you testified that you expected guidance for the mitigation specific funding to be released by May 1, but we have not yet seen it and it has been more than a year after Congress appropriated the money.¹⁰ There is a new hurricane season right around the corner.

- When will guidance for these grants be published in the Federal Register?

RESPONSE: HUD has worked diligently to craft guidance for the \$16 billion portion of the 2018 appropriation for mitigation, which is a new focus for HUD. This funding represents a shift from traditional long-term recovery efforts, to actively investing in mitigation projects to help communities withstand future disasters. Because of the size and scope of this program, HUD has spent significant time and energy working with FEMA and other agencies to develop the guidance. The Department completed its internal clearance of the *Federal Register* notice by May 1, 2019. The notice is currently at OMB for review.

- Why has the funding for the mitigation CDBG-DR been significantly delayed?

RESPONSE: This is the largest disaster appropriation HUD has ever received. It also represents a fundamental change in the approach to disasters, by focusing on the mitigation of damage, rather than solely repair and rebuilding. As noted above, the Department has drafted the guidance and it is now being reviewed by OMB.

13. As of February 2019, Congress has provided HUD over \$35 billion for Community Development Block Grant Disaster Recovery (CDBG-DR) grants for the 2017 hurricane season.¹¹ Recently, GAO found that the growth in the number and dollar amount of CDBG-DR grants has created workforce challenges for HUD.

- What steps has HUD taken to ensure that it has the required staff to effectively oversee the growing portfolio of CDBG-DR grants?

RESPONSE: The Department has recently approved additional staff to oversee the growing portfolio of CDBG-DR grants. In addition to streamlining the HUD workload, staff is also increasing significantly. HUD is currently in the process of

⁹ HUD, *HUD Awards \$28 Billion in CDBG-DR Funds*, Apr. 11, 2018.

¹⁰ U. S. Congress, Senate Committee on Appropriations' Subcommittee on Transportation, and Housing and Urban Development, and Related Agencies, *Review of the FY2020 Budget Request for the Dept. of Housing and Urban Development*, Apr. 3, 2019 (statement of Ben Carson, Secretary of Housing and Urban Development, HUD).

¹¹ GAO, *Disaster Recovery Better Monitoring of Block Grant Funds Is Needed*, GAO-19-232, Mar. 25, 2019.

hiring up to 25 new FTEs in FY19, and has approved an additional 10 permanent FTEs through HUD administrative funding. This will complement the division's current staff of 32, which includes 12 term positions.

- Has HUD requested funding for new staff in its budget requests?

RESPONSE: Yes, HUD is currently in the process of hiring up to 25 new FTEs in FY19, and has approved an additional 10 permanent FTEs through HUD administrative funding. This will complement the division's current staff of 32, which includes 12 term positions. These FTEs will be permanent staff and address the growing workload relating to disaster recovery and special issues. In fiscal year 2018, CPD responded to Hurricane Harvey, Hurricane Irma, Hurricane Maria, western wildfires, and flooding and tornadoes in Georgia and Missouri, coupled with an extensive workload from previous disasters. In 2018, CDBG-DR received the largest disaster appropriation to date, which requires adequate FTE resources to ensure the appropriated funds are serving the intended recipients, while minimizing the potential for waste, fraud and abuse.

14. This September, it will have been two years since Hurricane Maria devastated Puerto Rico, damaging the island's economy, causing billions of dollars of damage, and causing the deaths of thousands of residents. In response, Congress appropriated approximately \$20 billion in disaster recovery grants to help Puerto Rico rebuild and protect against future disasters.¹² To date, HUD has only made a fraction of this money available to Puerto Rico.¹³ We have learned that you have provided instructions to partition this money and provide it to the island in tranches as the island completes tasks assigned by HUD. A January 2019 Washington Post article reported that the Trump White House may have improperly sought to impede Puerto Rico's access to congressionally appropriated disaster recovery assistance.¹⁴

- What instructions have you received from the White House regarding Puerto Rico?

RESPONSE: This question seeks the substance of communications with the White House and OMB, the disclosure of which would reveal confidential, deliberative and internal Executive Branch information.

- When HUD approved the most recent action plans from the U.S. Virgin Islands and Puerto Rico, it noted that approval came "with tight fiscal controls." What will this additional HUD oversight look like?

RESPONSE: HUD certifies that grantees have financial controls, procurement processes, and grant management procedures, including policies to prevent duplication of benefits, fraud, waste and abuse. To manage risk, HUD may impose conditions limiting grantees' access to funds until a grantee can address any gaps in

¹² *Id*

¹³ *Id*

¹⁴ See, *Supra* fn 4.

staffing capacity and limit drawdowns and/or release in tranches or with checkpoints. Due to the size and level of risk, for the 2017 grants, increased on-site monitoring was implemented. Also, real time manual monitoring of financial draws is coupled with additional quarterly sampling by the HUD Departmental Enforcement Center. All grantees must demonstrate that costs are reasonable and consistent with the local market.

- How have HUD's delays in making disaster recovery funds available to grantees impacted recovery efforts on the island?

RESPONSE: Puerto Rico currently has \$1.5 billion available for recovery efforts, of which they have spent only \$387,623 as of June 15, 2019. As a comparison point, past experienced grantees required almost two years to spend \$1.5 billion.

Public Housing

15. According to the National Low Income Housing Coalition, the US has a shortage of 3.6 million affordable rental homes, and 7.8 million extremely low-income renter households spend more than half of their incomes on rent and utilities. In the midst of this rental crisis, HUD, under your leadership, has begun an unprecedented initiative to "reposition" public housing with a goal of eliminating 125,000 units by 2020.

- What plans does HUD have in place to replace those units, especially in communities where public housing is the only source of affordable housing?

RESPONSE: The initiative to reposition public housing is based on the premise that the level of congressional appropriations for public housing for many years has been insufficient to maintain the aging stock of public housing as safe, decent, and healthy residences; and that alternatives are needed to move existing public housing units to a more stable financial platform. The repositioning initiative entails either: (1) recapitalizing existing public housing units or developing replacement units under the Rental Assistance Demonstration (RAD) Program; or (2) using existing statutory authority, primarily under Section 18 or Section 22 of the Housing Act of 1937 as amended, to convert assistance under the Section 9 public housing program to tenant-based assistance under Section 8. A core tenet of the initiative is that all existing public housing tenants who might be affected by the repositioning initiative will have their federal housing assistance preserved under one of these initiatives.

- Are your plans feasible if Congress were to zero out the public housing capital fund as you have requested in your budget?

RESPONSE: Because the repositioning effort depends on a combination of project-based housing assistance under the RAD Program and housing assistance through Tenant Protection Vouchers for Section 18 and Section 22 conversions, the success of the repositioning initiative is not dependent on the Public Housing Capital Fund. There may be some impacts from a lack of capital funding relative to activities ancillary to repositioning, such as actual demolition or disposition actions: Housing

authorities would need to rely on other sources of funding for such activities, which could include previously awarded and unobligated capital funds.

- HUD issued a recent notice laying out how HUD will require “mandatory conversion” of certain projects even if the local agency wants to preserve them. How many public housing units could potentially be removed under HUD’s new notice on mandatory conversion of public housing?

RESPONSE: The recently issued Required Conversion Notice (PIH 2019-10) provides guidance to PHAs on the statutory requirements under Section 33 of the Housing Act of 1937 as amended by the Quality Housing and Work Responsibility Act of 1998. Section 33 and the Required Conversion Notice require local Public Housing Field Offices to assess the situation of public housing developments in their areas that likely represent distressed communities. The first threshold for determination of such distress is that they are communities of at least 250 contiguous public housing units having demonstrated a vacancy rate of 12 percent or greater consistently for each of the last three years, and the vacancy rate has not significantly decreased in those three years. The PHA is required to present its plan for revitalizing the community, in particular, to establish that there is a financially feasible plan to modernize the property and restore the community to long-term viability. Only if the PHA chooses not to or is unable to offer such a plan for long-term viability does the community become subject to the subsequent provisions of Required Conversion, and the process necessitates thorough resident involvement and planning for providing new housing assistance to all residents, typically through housing voucher assistance.

The Office of Public and Indian Housing’s best current information suggests that there is a universe of 5,000 units of the roughly 1 million units in the nationwide public housing inventory that meet the initial Required Conversion threshold of communities of 250 or more units and current or recent vacancy rates of at least 12 percent. HUD has yet to determine how many of these meet the test of that level of vacancy consistent for the past three years; moreover, the administering PHAs likely already have made plans to reposition some of these units under Section 18 or Section 22 authority. Therefore, 5,000 is a broad outside figure on the number of units likely to be subject to Required Conversion in the foreseeable future.

Moving To Work (MTW) Demonstration Program

16. In January 2018, the GAO released a report¹⁵ that not only raised serious questions about MTW’s effectiveness, but also concluded that HUD is providing inadequate oversight of the program. Specifically, the GAO found that MTW agencies serve fewer low-income Americans and diverted critical housing resources away from families in need.

- How does HUD plan to address this report and these concerns to oversee the current 39 MTW agencies, plus the 100 agencies that MTW has been expanded to include, to

¹⁵U.S. Government Accountability Office (GAO) “Improvements Needed to Better Monitor the Moving to Work Jan. 2018 Demonstration, Including Effects on Tenants” Available at <https://www.gao.gov/products/GAO-18-150>

ensure that the program is meeting its statutory objectives of expanding housing choice, reducing costs, and increasing program efficiency?

RESPONSE: In its review of the MTW demonstration, the GAO seemed to review MTW agencies through the lens of the traditional public housing and voucher programs. There are fundamental differences between how an MTW agency operates compared to how a non-MTW agency operates with respect to adherence to the public housing and voucher program rules. The MTW agencies can use their public housing and voucher funding interchangeably and waive certain statutory and regulatory requirements to address local conditions. MTW agencies have pursued affordable housing development, created sponsor-based housing partnerships, developed local, non-traditional housing programs, and other innovative housing strategies that are not available to non-MTW agencies, which enable MTW agencies to house low-income families outside of the traditional public housing and voucher programs. These unique flexibilities must be considered when determining the appropriate oversight and reporting requirements for MTW agencies.

PIH believes the method GAO used to compare MTW agencies to non-MTW agencies ignores the unique elements of the MTW demonstration. At its core, the MTW demonstration enables public housing agencies to develop creative solutions to local challenges and implementing activities that would not otherwise be available to public housing agencies. The flexibility afforded to MTW agencies results in a wide spectrum of activities being implemented by the MTW agencies; therefore, not all the traditional public housing and voucher data requirements and systems apply. MTW agencies continue to report into the Financial Data Schedule (FDS) system, Voucher Management System (VMS), and other HUD systems, though these systems are not able to capture the full flexibility and varied activities of the agencies.⁷ Furthermore, the existing MTW agencies have the additional requirement of completing an Annual MTW Plan and Annual MTW Report each year, in which they describe not only their budget and general housing authority information, but also significant detail about the activities for which they are seeking PIH approval to implement using their MTW flexibilities.

- The reported also found that HUD did not have a process to monitor MTW reserves or agencies' plans for such reserves, which led to agencies accruing large amounts of unused funds, and that HUD had not ensured that it had sufficient staff with appropriate skills and competencies to manage an expanded MTW demonstration. What steps has HUD taken to ensure that it has the required staff to effectively oversee the expanded MTW demonstration?

RESPONSE: PIH will be developing and implementing a process to monitor the existing MTW agencies' plans for their Housing Choice Voucher Housing Assistance Payments (HAP) reserves. In order for PIH to monitor existing MTW agencies' plans for their voucher reserves and whether the plans are reasonable given the amount of reserves, PIH will request that the existing MTW agencies report on planned use(s) of agency reserves in their Annual MTW Plans and report on actual usage in their MTW

Report going forward for monitoring purposes. This will require a revision to the Form 50900.

For agencies that will be added to the MTW demonstration through the program expansion per the 2016 Appropriations Act, the MTW Operations Notice will define the funding calculations for agencies. We anticipate that the Operations Notice will be finalized in the Fall of 2019, and the final Notice language is expected to address this issue, given how public housing and voucher funding will be calculated.

- What steps has HUD taken to ensure that MTW agencies report their plans for the use of reserves?

RESPONSE: As noted above, this will require a revision to Form 50900.

- What steps does HUD plan to take to evaluate the effectiveness of the activities these new agencies undertake?

RESPONSE: Currently, the existing MTW agencies are required to include information in their Annual MTW Plans and Reports as required in the Form 50900, which is the Attachment B to each existing MTW agency's Standard MTW Agreement. In the Annual MTW Plans and Reports, MTW agencies provide detailed data and information, including standard performance metrics by activity type, for each of their MTW activities. The Form 50900 describes the additional level of detail that is required for rent reform and public housing time limit activities.

For the agencies that are designated through the MTW expansion, HUD is considering requiring each agency to conduct an impact analysis, hardship policy, and annual reevaluation of high-impact activities (e.g., stepped rent, work requirements, and time limits). These and other requirements for the expansion agencies are pre-decisional and will be considered in the Operations Notice, which has not yet been finalized. In addition, as directed by Congress, the expansion agencies will each participate in a cohort-specific policy evaluation. In addition to participating in these policy studies, expansion MTW agencies will be able to implement all other MTW activities, as long as they do not conflict with the evaluation.

At the direction of Congress, HUD convened a federal research advisory committee to provide advice to HUD on what policy changes HUD should study through rigorous evaluation, and the Committee provided the following recommendations: MTW as a flexibility; rent reform; work requirements; and landlord incentives. HUD has considered the Committee's advice when determining which policy changes to rigorously evaluate through the expansion and will evaluate the four policies that the Committee recommended. Therefore, HUD will have quantifiable data on these four policy changes that are evaluated through the expansion.

Rental Assistance Demonstration

17. Nationwide, public housing faces up to a \$70 billion backlog in capital needs. The RAD program was explicitly created to give housing authorities access to financial resources to help repair public housing properties. Yet, nearly one-third of RAD conversions completed to-date involved no physical repairs whatsoever. Further, the GAO found in its February 2018 report that HUD should improve the demonstration's metrics.

- Moving forward, how will HUD ensure that properties in need of immediate repair will be prioritized in the RAD conversion process?

RESPONSE: HUD prioritizes staff and technical assistance resources for conversions of properties that require rehabilitation or redevelopment. To date, 100 percent of properties that have met the requirements for conversion under RAD and that needed repairs have been able to convert, generating more than \$7.2 billion for construction improvements across 115,000 converted public housing units. No properties in need of immediate repair have been unaddressed due to HUD's RAD program participation review of other properties. Properties in need of immediate repair which are not converting are failing to participate in RAD due to the RAD rent levels, PHA capacity, or other local considerations.

The option to convert without immediate repairs is also an important element of positioning properties for long-term sustainability. Some PHAs propose to convert all properties in their portfolio, including properties with lower needs, in order to streamline operations by working within a single regulatory framework. This allows PHAs to take advantage of cost-neutral flexibilities that allow PHAs to shift resources from properties with lower needs to properties with higher needs in order to finance repairs. Other PHAs convert properties to position them well to address future capital needs as they arise, even if the currently backlogged capital needs are modest. As part of the conversion review, HUD requires an assessment not only of the current capital needs, but future capital needs. HUD requires the PHA to show that funding will be available to address future repairs as they arise. For example, a project with no current repairs might arrange for a significant investment into the replacement reserve account so that major repairs projected a few years out may be completed at that time.

HUD strives to ensure that properties requiring immediate repairs are able to convert if they satisfy all program requirements. HUD has requested in the FY20 budget that Congress eliminate the cap on public housing units that can convert so that any public housing property may be improved and stabilized through RAD. Furthermore, HUD has requested \$100 million to provide additional rental subsidy for properties that are unable to convert under RAD at the current cost-neutral rents. The chief reason that some properties with rehabilitation needs have been unable to convert is because they are unable to demonstrate to HUD that the rents provided, based on public housing funding levels, support the financing needed to address the property's capital needs. The funds requested in the FY20 budget would allow HUD to provide the necessary incremental subsidy for these properties to convert and further address the capital needs backlog.

- What steps has HUD taken to collect more complete data on the performance of its RAD conversion projects? Specifically, has HUD added provisions to post-closing monitoring procedures to collect comprehensive high-quality data on financial outcomes upon completion of RAD construction?

RESPONSE: HUD has implemented post-closing monitoring procedures that require submission of post-construction data on a variety of outcomes related to RAD transactions. HUD has updated these procedures to collect post-completion data regarding the Sources and Uses, in addition to the information HUD currently collects on the Sources and Uses at the time of conversion. At both the conversion tracking closing date and the date of completion of work, the listed sources must be contractually obligated to the transaction and the property. The post-completion monitoring includes reporting on resident housing and right of return and on Section 3 outcomes, and submission of both PHA and third-party certifications of completion of the work. These procedures better position HUD to ensure RAD program requirements were met and verify the accuracy of data reported.

- In late 2017, the National Housing Law Project sent your agency a letter detailing implementation challenges in RAD, including tenant rescreening and evictions, lack of transparency, and deals that compromise the long-term affordability of RAD properties. Residents continue to file formal complaints across the country for these troublesome practices. What affirmative steps has HUD taken to ensure tenants' rights and long-term preservation are a key component of any RAD conversion?

RESPONSE: Long-term preservation and resident rights remain the foundational principles of every public housing conversion. To support long-term preservation, HUD has implemented the following steps:

- Every conversion must identify all immediate and long-term needs of a property, securing a third-party Capital Needs Assessment to make appropriate projections of the needs.
- Every conversion must conduct an appropriate environmental review and identify environmental conditions that need to be addressed (most commonly, the presence of lead-based paint or asbestos, but in some cases other environmental conditions or flood risks).
- Every conversion must demonstrate that the PHA has secured sufficient financing to address all identified capital needs and environmental remediation, including both immediate and long-term needs.
- RAD requires a one-for-one replacement requirement for demolished units, with "de minimis" exceptions.
- RAD requires the owner to enter into a long-term Housing Assistance Payment (HAP) contract that must be renewed perpetually.
- RAD requires a Use Agreement that provides additional security to HUD that the property remain affordable perpetually.
- RAD requires public or non-profit stewardship, even when Low Income Housing Tax Credits are used.

- HUD has developed standard operating procedures to address the potential situations where a property might be subject to foreclosure proceedings or in bankruptcy, pursuant to which the long-term affordability restrictions and public/non-profit stewardship requirements are preserved.

To further the protection of resident rights, RAD has adopted a robust set of resident rights including:

- Education of and consultation with residents, including written notifications, resident meetings, and submission of resident comments. HUD has also made available a suite of fact sheets specifically oriented to residents, available at: https://www.hud.gov/sites/documents/resident_fact_sheets_all.pdf.
- Relocation rules that supplement the Uniform Relocation Act, including restrictions on early relocation and requirements that residents have the right of return so that they will benefit from the conversion.
- A prohibition against re-screening into the Section 8 program (Project Based Voucher or Project Based Rental Assistance) as a result of the conversion.
- Grievance procedures and resident participation funding, consistent with public housing requirements.
- Choice-mobility right that allows residents the ability to request a tenant-based voucher after a period of residency.
- HUD review of each conversion transaction includes review of the resident comments and PHA responses to those comments to promote PHA transparency and program compliance.
- HUD conversion protocols include review of anticipated relocation activities and efforts to identify situations where the PHA is at risk of non-compliance.
- HUD staff make inquiries and, as appropriate, require corrective action, in response to any complaints received from the public or potential non-compliance situations identified by HUD staff.

The letter from the National Housing Law Project referenced multiple non-compliance fact patterns, primarily drawn from a small number of transactions which have been subject to compliance reviews and corrective action. HUD occasionally hears generalized complaints wherein detail on the location or parties involved in alleged infractions is not shared with HUD. In every case where HUD has become aware of a potential violation of program requirements or breach of resident rights, HUD has analyzed the materials provided, probed for the facts, educated parties to program requirements and resident rights, and compelled corrective action, when warranted. HUD continues to encourage all stakeholders to notify HUD when violations are suspected so that the Department can intervene effectively.

Family Self Sufficiency Program

18. Section 306 of the Economic Growth, Regulatory Relief and Consumer Protection Act, P.L. 115-174, enacted major reforms to the Family Self-Sufficiency program, HUD's primary program to help families increase earnings. The May 2018 law directed HUD to issue

regulations implementing the statutory changes within a year – essentially by this month. However, it is unclear if HUD even sent proposed rule changes to OMB. Why has HUD ignored the bipartisan directive to implement these important changes within a year? Will you promise this Committee that the changes will be in effect by the end of this calendar year, so that 2020 funding for FSS coordinators can be distributed pursuant to the new policies?

RESPONSE: HUD has been working diligently on the new regulation to implement the statutory changes. The new regulation spans across two programs, Housing and Public and Indian Housing, and must be reviewed by all relevant stakeholders. The standard timeline for implementation of new rules is between 18 and 24 months. HUD plans to have the proposed rule ready to be reviewed by OMB this summer. HUD's Spring 2019 Regulatory Agenda provides that the proposed rule will be issued in November 2019. HUD intends to have the Final Rule on the new FSS statute in place before awards of the FY20 appropriated funds are made so that the new rules will apply to these funds.

HUD Inspection Processes

19. HUD's inspection process relies on having HUD employees and contractors who have the requisite, background, and knowledge on inspecting properties. However, the GAO found shortcomings in how REAC trains and monitors contractors and its own employees who are responsible for HUD's inspections.

- What is HUD doing to ensure that it has contractors and employees with the qualifications to conduct high-quality and consistent inspections?

RESPONSE: HUD is overhauling its business processes for training and monitoring inspectors to place this responsibility on the inspection contractors. Currently, HUD recruits, trains, and certifies the inspectors that the contractors must use to complete its inspections. HUD's quality assurance inspectors then coach and mentor these certified inspectors in the field to ensure that they are performing quality work. Under its new procurement strategy, HUD will focus on the quality of the inspection delivered, allowing the contractors to determine how best to recruit, train, and monitor its own inspectors.

HUD also will be increasing the minimum qualifications to become a certified inspector. As the responsibility for ensuring the quality of the inspectors and inspections shifts to the contractor, HUD will then audit the contractors to ensure they have controls in place that are adequately producing both quality inspectors and quality inspection results.

For its own employees, HUD now has a contract in place to develop a formal training approach that will increase the consistency of the process. While that is being developed and deployed, HUD is also rethinking its approach to identifying skill gaps and continuing education for federal inspectors.

As part of the transition from the current inspection model to the proposed National Standards for the Physical Inspection of Real Estate (NSPIRE) model, HUD is using an end-to-end approach to evaluate how the migration to NSPIRE may impact supporting activities such as the recruitment, training, and certification requirements for both contract and federal inspectors. These evaluations will inform potential changes in each of these areas to ensure that the new requirements result in high-quality and consistent inspections.

Further, HUD is deliberately integrating accuracy and consistency into the design of NSPIRE standards and protocols. By building NSPIRE with this approach in mind, HUD seeks to limit the subjectivity and complexity surrounding current UPCS standards and protocols. The intent is to reduce administrative and cognitive burdens placed on inspectors. HUD believes this will enable inspectors to focus more on the inspection itself and make more accurate, objective, and consistent observations.

- GAO also found that some property owners can delay an inspection by claiming to be “in the process” of making repairs to the property. Other property owners focus on making repairs just before an inspection, which can mask the condition the property was in for the entire year. This is unfair and circumvents the purpose of inspections. What is your administration doing to ensure that inspections are conducted on schedule and reflect the true physical condition of these properties?

RESPONSE: HUD is working to limit the ability of property owners to delay an inspection in an attempt to mask the condition of the property. On February 22, 2019, HUD issued a notice to standardize inspection notification timeliness. Under this policy, an inspection will generally take place 14 calendar days after the date of notification.

In conjunction with the notice, the Office of Multifamily Housing Programs issued a memorandum on March 21, 2019 to tighten its field guidance on approving an owner’s request to delay an inspection. These efforts, along with the NSPIRE demonstration’s plan to collect property self-inspections, are tightening HUD’s controls and mechanisms to ensure that inspections are conducted on schedule and reflect a property’s true condition.

- GAO reported that REAC has not conducted a comprehensive review of its inspection process since 2001. What are HUD’s plans to conduct a comprehensive review of REAC and its inspection process?

RESPONSE: HUD has undertaken analysis of several components of the physical inspection line of business that has led to the decision to move forward with a business process reengineering called the National Standards for the Physical Inspection of Real Estate (NSPIRE). The NSPIRE model contains more than just changes to the criteria used to inspect a property – it also includes changes to protocols, business processes, sampling, scoring, information technology, and risk-based data analytics. To ensure newly developed processes are aligned to industry

best practices, HUD is in the process of securing a contract for business consulting services and will be using the NSPIRE demonstration to further refine and streamline those processes.

20. In April of this year, HUD began collecting information on the presence of carbon monoxide detectors in the units it inspects. To date, what has this data collection revealed, and as this process continues, will you commit to providing public reports on the presence of carbon monoxide detectors in assisted housing units?

RESPONSE: HUD began collecting limited information on the presence of carbon monoxide (CO) detectors during REAC inspections on April 1, 2019. Although approximately 3,100 inspections have been conducted since this data collection began, HUD feels it is still too early to draw conclusions with confidence regarding what the data indicates. As of June 14, 2019, 43.4 percent of the inspections conducted have reports of CO detectors present at a property and only 2 percent of the CO detectors tested by inspectors were reported as not working. However, even a rough analysis of the data indicates there are thousands of units where a CO source is present, but the inspector reported that no CO detector was present.

HUD will continue to provide data to the Congress when requested; however, because HUD is still in the process of collecting data, HUD believes it is premature to provide public reports.

21. Under your leadership, how is HUD working with the Department of Housing and Health Services to ensure that health and housing initiatives are tied to common outcomes that recognize both increased housing stability and better health outcomes?

RESPONSE: HUD has an active role on the Interdepartmental Health Equity Collaborative (IHEC), formerly the Federal Interagency Health Equity Team (FIHET). The Collaborative brings together Health and Human Services (HHS) agencies as well as other federal partners – including the Departments of Agriculture, Education, Justice, and the Environmental Protection Agency (EPA) – to improve health outcomes for minority populations through addressing the Social Determinants of Health (SDoH).

HUD is an official co-chair of the Collaborative and has co-chaired its Community Health Worker (CHW) workgroup since 2018. Through this collaboration, HHS has dedicated \$200,000 in new funding for a one-year pilot CHW program at two Jobs Plus sites: Los Angeles and Baltimore. This program is designed to build upon HUD's experience with NHLBI-NIH's (National Heart, Lung, and Blood Institute-National Institute of Health) *With Every Heartbeat is Life* manual using the Jobs Plus framework and local partnerships by adding funds for CHW needs assessments, hiring, training, certification, and evaluation.

Through engagement on this pilot program, community health partners are leveraging local resources to ensure the CHWs are connected to a full range of health resources in their communities.

This work builds upon proven CHW models from HUD's Office of Lead Control Healthy Homes (OLHCHH), which pioneered CHW interventions in Baltimore, Philadelphia, and other sites to reduce the incidence of childhood asthma through early detection of mold, pests, and other environmental factors.

HUD also collaborates with the Health Resources and Services Administration (HRSA) program called Public Housing Primary Care (PHPC) that funds health centers located in PHAs. There are 106 of these HRSA grantees and 250 additional HRSA-supported health centers that are not funded by the grant, but serve PHPC patients.

FHA

22. The Federal Housing Administration's (FHA) - Housing Finance Agency (HFA) Multifamily Risk-Sharing program has been successful, with 37 HFAs financing more than 1,546 loans, totaling nearly \$10.3 billion in principal and supporting more than 172,300 affordable rental homes. Despite its successes, HUD abruptly terminated the FHA-FFB partnership, which provides financing for these loans without any explanation to the public or to Congress. Without the FFB initiative, HUD is putting at risk affordable housing deals across the country.

- How can we make sure the Risk-Sharing program, through Ginnie Mae or another way, supports small multifamily loans, which are commonly used for rural areas and preservation?

RESPONSE: HUD believes there is a competitive market for financing small multifamily loans in the market today. HUD relies on its Risk Sharing partner HFAs to identify and meet the housing finance needs particular to their jurisdictions, including small, rural, and affordable housing preservation and production. In addition, Fannie Mae and Freddie Mac have each significantly increased their production of small, multifamily loans over the past few years

- In the midst of the current rental housing crisis, please explain why you have put an end to the FHA-FFB partnership, which helps finance affordable housing development and preservation and ultimately provides revenues that offset HUD's overall budget.

RESPONSE: The FFB Risk Share Initiative served an important purpose in providing capital to the affordable housing market at a time when traditional capital sources were extremely constrained by the financial crisis. As market conditions improved, the need for the initiative decreased, leading to HUD's decision not to extend the initiative beyond its December 31, 2018 sunset date, or its \$3 billion lending limit. The initiative has now sunset, and HUD is no longer accepting new applications. The broader HFA Risk Share Program, however, remains an active and important component of FHA's affordable housing finance mission.

- Ginnie Mae, FHA, and HUD and many Members of Congress have all supported allowing Ginnie Mae to securitize FHA-HFA Risk-Sharing loans. In fact, the

President's budget proposals from FY 2012 to 2016 all proposed authorizing this program, and this Committee reported a bill several years ago that would have similarly authorized this program. Under your leadership, will HUD again support Ginnie Mae securitization of these loans?

RESPONSE: The majority of mortgages insured under FHA's standard programs find liquidity and competitive pricing through securities guaranteed by Ginnie Mae. However, Ginnie Mae is prohibited by statute from securitizing Risk Share loans originated by HFAs. The Department is reexamining this statutory prohibition as part of the ongoing housing finance reform efforts. HUD would like to work with Congress to ensure the Risk Share program has continued access to low-cost capital sources.

23. There are reports that HUD will be initiating another sale under the Distressed Asset Stabilization Program (DASP) soon. This program has caused concerns among civil and consumer rights advocates about HUD's ability to ensure that borrowers receive all possible loss mitigation options before sales, and about what responsibilities are passed onto entities that purchase these properties at substantially discounted prices. There is a history of a lack of documentation of the outcomes for borrowers of color in particular, and recently the HUD Office of Inspector General (OIG) released a concerning report in which the HUD OIG reviewed only ten Bank of America loans, yet gave the entire DASP program flying marks.

- In your opinion, do you believe it is sufficient to base a review of the entire DASP portfolio on just ten loans from only one financial institution?

RESPONSE: HUD OIG's audit of Bank of America did not result in any adverse finding or recommendation for FHA. HUD accepts the result and methodology of this audit.

- What data is HUD collecting about the kinds of outcomes each homeowner receives as part of a DASP sale?

RESPONSE: HUD's most recent DASP sale occurred in 2016. FHA has collected data from every purchaser who has participated in the program. From August 2014 through January 2017, FHA published a semi-annual "Report to the Commissioner on Single Family Loan Sales", available on the HUD webpage at: https://www.hud.gov/program_offices/housing/comp/asset/hsgloan. This report contains information on all the loans sold through DASP. Data in this report includes:

- Historical Offering Data: Sale level data capturing the date and size of each transaction to date;
- Geographical Distribution Data: Program level data capturing state distributions of the collateral backing the assets sold in the program;
- Outcome Data: Data capturing the number and proportion of loans in various servicing statuses including re-performing, short sale, deed-in-lieu of foreclosure, delinquent servicing, held-for-rental, and foreclosure. This data is provided at the sale level.

There were also large data libraries with additional detail that were provided with the later reports. An updated semi-annual report and associated data libraries are currently under review and will be posted to HUD's website in line with our internal practices and procedures.

- Is HUD conducting a fair housing analysis on the DASP program to ensure that it is not disproportionately harming people of color? If not, are there any plans for this type of review? If there are no plans, please explain why not?

RESPONSE: HUD has reviewed the demographic characteristics of the DASP portfolio population and has not identified evidence suggesting a disproportional impact on people of color. In March 2017, FHA published a table in its "Report to the Commissioner on Post Sales Reporting" (Exhibit 6) showing that the demographic make-up of borrowers in the DASP sale portfolio mirrored the population of FHA's Total Defaulted Loans portfolio, which is the appropriate portfolio for comparing similarly situated borrowers. That table can be found here: <https://www.hud.gov/sites/documents/sflscreport.docx>.

FY20 Budget Request

24. In HUD's FY20 budget request, the Trump administration proposed several policy changes, including increasing rents and imposing work requirements and time limits for HUD-assisted low-income families. The hardships imposed by the proposed rent increases would disproportionately impact families with young children, the elderly, and the lowest income households. The proposal could result in an average increase of 53% (\$101 per month) for HUD-assisted households with children, 28% (\$83 per month) for seniors, and 26% (\$72 per month) for households headed by a person with a disability.

- How would these policy changes help families on fixed incomes become self-sufficient?

RESPONSE: HUD's proposed FY20 Budget and HUD's rent reform bill, the Making Affordable Housing Work Act (MAHWA), seeks to ameliorate disincentives to increasing earnings for working families. For fixed-income families, particularly those that are elderly and/or disabled, MAHWA would hold these families harmless from rent increases as reflected in the proposed legislation.

To improve self-sufficiency outcomes for working families, the FY20 Budget and MAHWA have several provisions that build upon programmatic experience regarding incentivizing self-sufficiency. These include the following provisions:

- Triennial recertifications – triennial recertifications would provide an incentive to families to increase earnings without having an impact on total tenant payment until the next reexamination.

- Minimum rent based at the minimum wage and part-time work hours – this provision encourages individuals who may not have been working to take steps to obtain employment in order to meet the higher minimum rental amount.
- Alternative rents – building upon the experiences of MTW agencies and the FSS program, these rent structures are developed to incentivize increased earnings over time while also simplifying rent calculations.
- Work Requirements – again building upon the experience of MTW agencies and the FSS program, PHAs and owners of project-based assistance properties would be required to adopt work requirements as a condition of admission and continued occupancy for work-able families. Families that would be held harmless from work requirements include the elderly, persons with disabilities, those caring for a family member with a disability or small child, and pregnant women.
- While there is provision for hardship exemptions, most PHAs do not adequately inform residents about them, and they are subject to the whim of the PHA. If these policies are put in place, how would you ensure that residents are adequately informed of hardship policies and are able to request and appeal denials?

RESPONSE: In MAHWA, HUD proposes to continue existing hardship policies to the minimum rent. HUD recognizes that some residents, PHAs, and owners may need additional information on the applicable policies and procedures related to the minimum rent and the applicable hardships. Therefore, for the Public Housing, HCV and PBRA programs, HUD has committed to providing better technical assistance to PHAs, owners, and residents on minimum rents and applicable hardships.

Specifically, earlier this year, HUD fulfilled its requirements under Section 102(b) of HOTMA to provide a certification regarding the hardship exception to the minimum rent. In that certification, HUD committed to highlight these requirements in forthcoming updates to the public housing and housing choice voucher guidebooks. Furthermore, for PBRA, HUD has committed to provide technical assistance outreach to highlight minimum rent and hardship exception requirements for owners and to enhance tenants' understanding of current policies.

- How would you ensure that hardship policies are fair?

RESPONSE: See above response.

25. In the President's FY2020 budget request, HUD proposed a budget of \$45 million for the housing counseling program, a \$10 million reduction from the previous year. Housing counseling can prepare would-be homebuyers and educate homeowners, while also creating opportunities for underserved borrowers. Despite these positive benefits to the housing economy, you continue to propose underfunding the program. Should such erosion of the housing counseling program continue, Housing Counseling Agencies will be unable to serve their clients.

- How do you claim to support the housing counseling program, yet deprioritize funding for it?

RESPONSE: Included as part of answer below.

- Can you explain how you expect Housing Counseling Agencies to meet their clients' needs going forward without an increase in federal resources?

RESPONSE: This Administration supports the HUD Housing Counseling Program despite the scarcity of federal resources. HUD expects Housing Counseling Agencies participating in the HUD Housing Counseling Program to continue to leverage non-federal dollars, which agencies have done with much success in past years. Based on applications submitted to HUD for 2018 funding, HUD estimates that Housing Counseling Agencies participating in the Housing Counseling Program have leveraged \$6 for every \$1 in federal funding.

HUD has also implemented a number of initiatives to expand the capacity of agencies to meet their counseling client's needs without increased appropriations. For example, HUD has offered training in grantwriting, and at the request of the Housing Counseling Federal Advisory Committee, HUD is undertaking research on successful public/private partnership funding models. We expect to publish this research early in 2020. Using administrative contract funds, HUD has developed materials for stakeholders and consumers to understand the value of housing counseling. HUD is working with CFPB to clarify how housing counseling is treated under the Real Estate Settlement Procedures Act (RESPA), in response to concerns that some lenders have about agreements to pay for the cost of prepurchase counseling.

The Office of Housing Counseling offers training both directly and through its training grantees, through its Housing Counseling Program Training NOFA. Training topics include grant writing and alternative business models. The Office of Housing Counseling intends to continue to offer these valuable training options to increase the capacity of counseling agencies to reach clients efficiently and effectively.

Government Shutdown

26. Your agency's mishandling of the government shutdown left millions of families worried about eviction. HUD failed to follow its own Contingency plan, and as a result, HUD unnecessarily accelerated some of the most painful impacts of the shutdown on HUD-assisted families and private landlords that participate in HUD programs. For example, HUD did not renew more than 1,100 HUD project-based rental assistance (PBRA) contracts even though HUD staff had reassured industry stakeholders that they had enough resources to renew PBRA contracts through the month of January. The lack of communication and inadequate planning for the shutdown has damaged the reputation of federally assisted rental programs. You responded by suggesting that the public's reaction and fear of wider impacts from the shutdown was "overblown." For many residents and housing providers, the fear was not overblown and the damage to rental assistance programs is real.

- What steps will HUD take to ensure better communications during a shutdown?

RESPONSE: Among the lessons learned from the most recent government shutdown is the importance of early and regular communication with stakeholders, including owners and residents of Section 8 properties as well as Congress.

- We understand that HUD has since updated its Contingency Plan after the shutdown. Will you share HUD's revised contingency plan with the House Financial Services Committee?

RESPONSE: HUD is working with OMB to finalize updates to its contingency plan based on lessons learned from the shutdown. Once the updated contingency plan is finalized, HUD will share it with Congress.

- Questions remain about why HUD did not make funds available to renew PBRA contracts. It appears that HUD spent its \$400 million advance appropriation for PBRA before the end of Fiscal Year (FY) 2018, which led to inadequate funding to renew contracts during the period of the government shutdown. Are there systems in place to help HUD prioritize which resources it spends down first?

RESPONSE: The FY19 PBRA advance appropriation only became available for obligation and disbursement in the first quarter of FY19. None of the advance was spent in fiscal year 2018. The 2019 advance appropriations were allocated to renew contracts expiring in December 2018 and address other urgent funding needs arising in the first quarter, which is consistent with the intended use for these advance appropriations.

- Does HUD have an assessment of the types of information technology improvements needed to increase transparency and the sharing of information about the status of contract renewals across the country?

RESPONSE: In 2018, HUD completed a review for the potential modernization of the Tenant Rental Assistance Certification System (TRACS), which is central to contract renewals, tenant income certifications, and payments for Multifamily's Section 8 PBRA, Section 202, and Section 811 programs. While the TRACS review did not specifically address contemporary technology platforms, it did highlight some of the functional systems enhancements needed to improve management of contract renewals. In addition to re-platforming the aging system, TRACS modernization would enhance Multifamily contract management by eliminating certain manual entries and improving interfaces with the iREMS property data system and LOCCS payment system.

Completion of a contract renewal is a multi-step process involving a series of back-and-forth exchanges between an owner, HUD staff, and in many cases a Performance Based Contract Administrator. Currently, this process occurs over email and through standard mail. HUD is exploring options for a secure cloud-based document

exchange for renewal contracts and rents adjustment documents, and tools to standardize workflow tracking. By improving the process to share documents and increasing visibility into transaction status, HUD expects to enhance both efficiency and customer experience.

Housing Opportunity Through Modernization Act of 2016 (HOTMA) Implementation

27. The Housing Opportunity Through Modernization Act of 2016 (HOTMA) directed HUD to streamline HUD's rental assistance programs, reduce administrative burdens and costs for housing agencies and private owners of assisted housing, and expand housing opportunities for families. HUD has implemented some of these improvements, but others require rulemaking that HUD has still not completed, nearly 3 years after enactment. For instance, the law changes the certification of tenants' income in ways that promote increased earnings and reduce the frequency of recertifications for tenants on fixed incomes. When PHAs still receive substantially less administrative funding, and are financially struggling to run their programs, the cost savings from the policies are needed now more than ever.

- Why hasn't HUD moved faster to implement the remaining HOTMA policy changes? What is HUD's timeline for finishing this important work?

RESPONSE: HOTMA made changes to several HUD rental assistance programs. Since 2016, HUD has taken steps to make several provisions of HOTMA effective, including *Federal Register* Notices issued as follows:

- October 24, 2016: Identifies HOTMA provisions that are self-implementing.
- November 29, 2016: Seeks comment on new income limit requirement to address over-income families in public housing.
- January 18, 2017: Implements various HCV program provisions (effective April 18, 2017).
- February 28, 2018: PIH notice permitting the use of up to 20 percent of Operating Funds for capital activities.
- July 26, 2018: Implements over-income limit for the public housing program.

Additionally, HUD is currently working on proposed rules to enact Sections 101, 102, 103, 104, 105, 106, and 109 of HOTMA.

Congresswoman Joyce Beatty (OH-03)
Committee on Financial Services
“Housing in America: Oversight of the U.S. Department of Housing and Urban Development”
May 21, 2019
Questions for the Record

Question #1

I want to bring up something that I have brought up with you several times going back to July 2017 -- and that is the Federal Housing Administration's decision to overturn the Obama Administration's decision to cut the annual Mortgage Insurance Premium rates by 25 basis points. When that decision was made by this Administration, at the time the National Association of Realtors stated it would cost 750,000 to 850,000 homebuyers hundreds of dollars and exclude 30,000 to 40,000 prospective homebuyers from realizing their dream of homeownership in 2017 alone. In HUD's Annual Report to Congress Regarding the Financial Status of the FHA Mutual Mortgage Insurance Fund for Fiscal Year 2018 you stated, “the general economic condition of the MMIF is sound.” That report also stated the Fund's Capital Ratio for FY2018 was 2.76%, well above the Congressionally-mandated 2%.

With that said, is HUD considering a cut to the mortgage insurance premiums? Why or why not?

RESPONSE: HUD is not considering a cut to FHA mortgage insurance premiums. As its first act in 2017, the Administration suspended previously-announced premium reductions to prevent the MMIF from falling below the required statutory two percent minimum capital ratio. Had the premium reductions taken effect, the MMIF Capital Ratio would have fallen below the minimum capital ratio to 1.85 percent, resulting in a reduction in Cash Flow Net Present Value (NPV) of \$3.2 billion.

Question #2

In the Annual Report to Congress Regarding the Financial Status of the FHA Mutual Mortgage Insurance Fund for Fiscal Year 2018, the Assistant Secretary for Housing and Federal Housing Commissioner, Brian Montgomery, stated in his message, “the lack of modern technology is the greatest risk and greatest challenge FHA faces.” Additionally, according to your own Department, the FHA's origination systems saw 73 outages during 2017 alone due to these outdated technology systems.

In 2008, Congress passed, and the President signed the Housing and Economic Recovery Act. Section 2126 of this bill authorized \$25 million a year between 2009 and 2015 from a negative credit subsidy of the insurance fund to fund much-needed technology improvements and implement changes to its False Claims Act regulations. However, due to the poor performance of the fund over this time period, FHA was never allowed to tap into these funds.

Would you support Congress passing a similar provision to provide this critical funding? Yes or No?

RESPONSE: Funding for technology modernization continues to be a critical need. The 2020 Budget requested an additional \$20 million, fully offset by a modest fee on lenders, to continue the modernization of FHA's single-family IT; the Budget did not propose the use of negative credit subsidy receipts for that purpose. The Department welcomes the opportunity to work with Congress on funding options consistent with the Budget.

Questions for the Record (Rep. Bill Foster)

FSC Hearing: “Housing in America: Oversight of the U.S. Department of Housing and Urban Development”

May 21, 2019

1. Secretary Carson, HUD recently charged Facebook with violating the Fair Housing Act by providing housing providers with sophisticated tools that allowed advertisers to completely hide ads from people based on race, gender, disability status, and other protected characteristics.

The kind of big data analytics used by Facebook to engage in this modern-day redlining is available to any number of companies in the tech industry. Facebook is just one of many companies that maintain online platforms that make housing ads available.

- a. My first question is, is HUD currently investigating other tech companies for violations of the Fair Housing Act?

RESPONSE: As more tech companies move towards business models that involve algorithmically targeting advertisements, the Department will continue looking into which other platforms may be preventing users from seeing housing advertisements because of their protected characteristics. Although HUD is currently looking at other companies, those matters are at a very preliminary stage, and it would be inappropriate for HUD to reveal the names of those companies. Because HUD’s jurisdiction to conduct investigations is under the Fair Housing Act, its interest would be limited to platforms that advertise housing and housing-related services. Of course, HUD will also open investigations whenever it receives administrative complaints that fall within its investigative authority under the Fair Housing Act.

- b. What exactly has HUD done to address these new challenges for online advertising platforms that are able to target their customers along thousands of different data points?

RESPONSE: HUD’s Charge of Discrimination against Facebook is an important first step in addressing these issues, and the Department anticipates it will bring about change in the industry. HUD’s Office of Fair Housing and Equal Opportunity will continue to investigate the ways in which new technologies can perpetuate old forms of discrimination.

2. The Facebook lawsuit is a “Secretary-initiated complaint”. It was originally filed against Facebook in 2016 under the Obama administration, and was only reopened in 2018 after civil rights groups had independently filed their own fair housing lawsuit against Facebook. “Secretary-initiated complaints” have been used in past administrations to go after high-impact, systemic cases of discrimination. These types of actions are important for large numbers of victims who may not even know that their rights have been violated. I also note that responding to individual complaints does not conflict with, or prevent, the ability for HUD to investigate a Secretary-initiated complaint.

- a. Secretary Carson, the Facebook complaint is your only secretary-initiated enforcement action to date. Why is that?

RESPONSE: FHEO is currently investigating several Secretary-initiated matters. If they do not result in conciliation agreements, some may result in Charges of Discrimination being filed.

- b. Under the Obama administration, HUD Secretaries initiated an average of 10 complaints per year. Aren't these types of investigations important to root out bad practices that could be happening on a large scale?

RESPONSE: Secretary-initiated investigations and complaints are important tools in rooting out illegal housing discrimination, and the Department continues to open such investigations and complaints in appropriate instances.

Questions for Secretary Carson from Representative Chuy Garcia

1. Last year, HUD allocated \$18.14 billion to Puerto Rico in response to the devastation from Hurricanes Maria and Irma. The second tranche of this funding was supposed to be disbursed on May 1, 2019. The funding has not been disbursed yet, however, because on May 2, it was referred to the Office of Information and Regulatory Affairs. According to Public Laws 115-123 and 115-56, “the Secretary of Housing and Urban Development may waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these [disaster] funds.” On January 9, 2019, HUD issued a notice to waive various statutory requirements applicable to CDBG, and applied this authority to extend the period available for HUD review of pending Action Plan Amendments and Action Plans involving CDBG-DR funding.

Why did HUD extend the period of review and why is a regulatory review agency blocking the people of Puerto Rico from receiving relief? Did HUD refer this matter to OIRA voluntarily, or did OIRA request to review this matter? On what authority is this allocation of funding being reviewed?

RESPONSE: Since February 2, 2019, \$1.5 billion of the CDBG-DR funds allocated to Puerto Rico have been available for disbursement, of which they have spent only \$803,023 as of July 15, 2019. As a comparison point, past experienced grantees have required almost two years to spend \$1.5 billion.

The extension to HUD’s period of review for the second tranche of CDBG-DR funding was necessary because HUD did not have authority to review state Action Plans during the shutdown, but was obligated to approve or disapprove plans within 45 days of receipt. Absent a response from HUD, a plan would be automatically approved after 45 days. Thus, HUD issued a notice on January 2, 2019 extending the review deadline. This was a first step and the remaining funds will be made available for disbursement as soon as a grant agreement is finalized.

With respect to the mitigation funding, because of the size and scope of this program, HUD has spent significant time and energy working with FEMA and other agencies to develop the guidance. The Department completed its internal clearance of the guidance by May 1, 2019. The notice is currently at OMB for review.

2. HUD’s Section 3 program “requires that recipients of certain HUD financial assistance, to the greatest extent possible, provide training, employment, contracting and other economic opportunities to low- and very low-income persons, especially recipients of government assistance for housing, and to businesses that provide economic opportunities to low- and very low-income persons.” On April 3, HUD issued a proposed rule aimed at making Section 3 implementation more efficient. What specific measures is HUD taking to ensure that Section 3 serves its intended purpose of empowering low-income communities? What specific provisions in the rule are aimed at enhancing this purpose? Once this rule is finalized, what consequences is HUD prepared to administer to recipients of HUD funding that fail to comply with the Section 3 federal statute?

RESPONSE: The proposed rule revisions are designed to support prospective engagement in each of the program areas. By more thoroughly integrating the rule into program activities, its purposes will be included in the planning for the use of funds. HUD believes that with more attention to Section 3 in program administration, and enhanced impact on long-term, sustainable employment and career growth opportunities, residents of low-income communities will have greater economic stability and empowerment.

The proposed rule provides a number of changes aimed to enhance the ability to achieve the purposes of Section 3: (1) Shifting reporting from new hires to hours worked (§75.15 & §75.25); (2) Adjustment of applicability thresholds by notice (§75.3(a)(2)(ii)); (3) Expansion to apply to entire project instead of contracts only (§75.3(a)(2)(iii)); (4) Clarification of requirements in multiple funding source situations (§75.29); and, (5) the integration of Section 3 compliance into regular programmatic enforcement. All of these provisions are designed to enhance the impact of the rule – focusing attention on the activities that are most likely to achieve outcomes related to long-term economic advancement for low-income households and consequently for the communities in which they live.

As noted in the proposed rule, the applicable HUD program office will determine appropriate methods by which to oversee Section 3 compliance, and HUD may impose appropriate remedies and sanctions in accordance with the laws and regulations for the program under which the violation was found. Subject to program regulations, potential remedies for ongoing noncompliance may include measures such as delaying or withholding future funding awards until noncompliance is corrected.

Rep. French Hill

Question for the Record for Secretary Carson

Housing in America: Oversight of the U.S. Department of Housing and Urban Development

May 21, 2019

I appreciate your ongoing support of the Federal Housing Administration's Home Equity Conversion Mortgage (HECM) Program. We both agree that this is an important program that supports our seniors in their ability to age in place. However, I have heard concerns about the Agency's property disposition process. Please provide the actions you are taking to move toward a more efficient resolution of defaulted and foreclosed HECM loans which have been assigned to HUD, in order to improve program performance and loss mitigation results for borrowers.

RESPONSE: HUD has undertaken several initiatives to improve the financial stability of the HECM program to ensure it remains a resource for America's seniors to age in place.

With respect to HUD's assigned loan portfolio, HUD is pursuing a procurement for a new HECM servicing contractor with enhanced operational capacity and demonstrated expertise to perform the unique and specialized tasks associated with reverse mortgages. This procurement will help ensure that there is transparency and improvement in the resolution of defaulted loans in the Secretary's portfolio of HECM assignments and enhance program performance.

With the publication of Mortgagee Letters 2018-08 and 2017-05, HUD strengthened its assignment claim submission requirements with respect to servicing and foreclosure. Regarding assigned loans in due and payable status, HUD is reviewing the guidance for non-judicial foreclosure commissioners to see where improvements can be made to strengthen requirements and help expedite non-judicial foreclosure sales.

In addition, HUD is disposing of certain types of assigned HECM loans through note sales to reduce the volume of assigned loans in HUD's inventory and resulting non-judicial foreclosures and Real Estate Owned (REO) property dispositions. To date, HUD has conducted four HUD-held vacant loan sales of assigned HECM loans where the borrower is deceased, there is no living non-borrowing spouse, and the HECM property is vacant. HUD is preparing for a fifth sale and exploring new HECM eligibility criteria for the sale to responsibly dispose of HECM assigned loans in a way that reduces the financial burdens to HUD without negatively impacting HECM seniors.

With respect to HECMs not assigned to HUD, HUD is exploring how to better adjust disposition strategies to maximize returns to FHA's Mutual Mortgage Insurance (MMI) Fund. For example, HUD is examining the feasibility of incorporating aspects of the forward mortgage Claim Without Conveyance of Title (CWCOT) program into the reverse mortgage program. FHA is working with its legal counsel to determine how these aspects of the CWCOT disposition strategy can be applied in the HECM space to help improve the program's performance.

Hearing: Housing in America: Oversight of the U.S. Department of Housing and Urban Development

May 21, 2019

Requesting Member: Congresswoman Carolyn Maloney (NY-12)

To: The Honorable Benjamin S. Carson, Sr., M.D.

Question: As you know, Home Equity Conversion Mortgages, or HECMs, are federally insured reverse mortgages, which are home loans that allows borrowers to convert a portion of their home equity into cash. Approximately 90% of reverse mortgages in the U.S. are HECMs.

Reverse mortgages provide seniors and retirees with financial security, and the stability needed to stay in their own homes as they age.

Congress amended the National Housing Act in 2008 to enable HUD to offer HECMs to co-ops. We hoped this would allow more people to participate in the program.

However, years after this amendment, HUD has still not expanded the reverse mortgage program to co-ops. This disproportionately affects my district and New York, as it is home to about half of all co-ops in the country.

New York co-op owners are frustrated that they can't acquire reverse mortgages. My question is, will you commit to allowing HUD to provide HECMs for co-ops?

If not, can you please explain to my constituents exactly why they are being shut out of the HECM process?

RESPONSE: The Housing and Economic Recovery Act of 2008 included changes to expand the eligibility for HECM cooperative share financing. However, due to the unique nature of reverse mortgages, additional regulatory and operational solutions are required to make this property type viable. Below are some of the challenges HUD has encountered:

- There is insufficient data to model the expected risk and impact to the MMIF.
- The majority of FHA-approved lenders do not have cooperative lending expertise.
- HUD does not currently have the experience or systems capacity to service defaulted loans that are secured by cooperative shares or handle sales of shares in the event of foreclosure.
- Specialized appraisal expertise may be needed due to the unique nature of cooperative housing, especially in various jurisdictions.
- The cooperative corporation must waive all authority it may have to approve or reject the buyer of a Corporate Certificate owned by HUD/FHA so that HUD may sell the property quickly to mitigate risk and cost.

The fiscal soundness of the HECM program continues to be a priority for HUD. Given the current volatility of the program, the insuring of cooperatives could negatively affect the MMIF capital ratio.

Questions for the Record

Hearing: "Housing in America: Oversight of the U.S. Department of Housing and Urban Development"

Date of Hearing: May 21, 2019

Member: Rep. Ben McAdams

Secretary Carson, in your response to questions at the hearing on May 21, 2019, you verbally agreed that "policymakers make better policy decisions when they consider all data and facts before making a decision" and that "it's important for policymakers to be transparent and hear from interested persons that may be affected by a particular policy." You also stated that you were not aware of a public process with comment period before FHA issued its Mortgagee Letter related to Downpayment Assistance (ML 2019-06).

- Given your agreement that "policymakers make better policy decisions when they consider all data and facts before making a decision" and that "it's important for policymakers to be transparent and hear from interested persons that may be affected by a particular policy," does HUD and FHA intend to withdraw its Mortgagee Letter and instead undertake a rulemaking with proper notice and comment?

RESPONSE: As stated during the hearing on May 21, 2019, analyzing data can be an important part of the rulemaking process; however, Mortgagee Letter 2019-06 does not make any substantive changes to existing FHA policy. While FHA does not intend to withdraw Mortgagee Letter 2019-06, FHA is pursuing rulemaking on the broader subject of downpayment assistance, as listed in HUD's published 2019 Spring Semiannual Agenda. The substantive policy changes undertaken through that rulemaking will go through the processes required by the Administrative Procedure Act.

Secretary Carson, during the hearing on May 21, 2019, I stated that "we should collect that data before moving forward with this policy" – referring to the inability for HUD and FHA to distinguish between various Housing Finance Agencies and the level of success of any specific downpayment assistance program. In response to this statement, you responded, "I agree with you, actually."

- Given your agreement that "we should collect that data before moving forward with this policy," does HUD and FHA intend to withdraw its Mortgagee Letter and collect data before changing policy requirements?

RESPONSE: Mortgagee Letter 2019-06 is designed to help mortgagees identify the governmental entity downpayment assistance programs that comply with existing FHA requirements and the National Housing Act. Review of any particular data set would not have assisted FHA in drafting this Mortgagee Letter as it is merely a clarification of existing policy and FHA requirements.

While FHA does not intend to withdraw Mortgagee Letter 2019-06, FHA is pursuing rulemaking on the broader subject of downpayment assistance, as listed in HUD's published 2019 Spring Semiannual Agenda. Any substantive policy changes undertaken

through that rulemaking will go through the processes required by the Administrative Procedure Act. The effective date of the Mortgagee Letter has been postponed until July 23, 2019.

Secretary Carson, pages 5 and 6 of Mortgagee Letter 2019-06 includes language requiring lenders to obtain documentation from the government entity committing to fund the down payment assistance, and stipulating that such a commitment, “is not contingent upon any future transfer of the insured Mortgage to a specific entity.” Some believe that the language used in these provisions is broad and could be interpreted as prohibiting HFAs from requiring lenders to sell the first mortgage to the borrower as a condition of the HFA financing the down payment assistance. Such a policy could make it difficult for government entities to operate programs that would generate sufficient funds to administer sustainable down payment assistance programs.

- Can you please tell me if HUD has any plans of amending the language in the Mortgagee Letter to clarify that these provisions do not apply to transfers from the originating lenders to the government entity or the government entities’ dedicated mortgage servicer?

RESPONSE: FHA has no plans to amend the language in the Mortgagee Letter to provide that the provisions do not apply to transfers from the originating lenders to the government entity or to the government entity’s dedicated mortgage servicer. The Mortgagee Letter contains only clarifications of existing FHA policy and should not be read as creating any new substantive policy.

Under FHA requirements, Housing Finance Agencies and other governmental entities providing downpayment assistance can require, as a condition of participation in their DPA program, that the insured mortgage be transferred to a specific entity. However, in no case can the transfer of that mortgage to a specific entity be a condition of payment in a specific transaction, as doing so would result in the downpayment assistance being provided by a prohibited source – in such a case, the mortgagee. FHA is taking steps to communicate that distinction to Housing Finance Agencies that have expressed concerns with the Mortgagee Letter.

Secretary Carson, Mortgagee Letter 2019-06 requires evidence from a Governmental Entity that the downpayment assistance is “provided in the Governmental Entity’s governmental capacity in the jurisdiction in which the Property is located or for the federally recognized Indian Tribe’s enrolled member.” Some contend that HUD and FHA do not have the authority to limit a Tribe’s ability to operate a downpayment assistance program only on that particular Tribe’s jurisdiction or only to the benefit of that Tribe’s enrolled members.

- Can you please provide the legal rationale, including any specific citations of statutory authority, that HUD relied upon to limit downpayment assistance programs in this manner?

RESPONSE: In connection with recently filed litigation, FHA has postponed the effective date of Mortgagee Letter 2019-06 until July 23, 2019. To provide further clarity around FHA’s issuance of the Mortgagee Letter, the Department would direct you to the

Memorandum in Opposition to Motion for Preliminary Injunction that the Department of Justice filed on HUD's behalf on or about June 3, 2019. A copy of that brief is attached to this response.

