USDA Rural Housing Policy Recommendations for 2010

Prepared by the New England Housing Network, May 2010

The New England Housing Network

The New England Housing Network is a broad coalition of housing and community development organizations working together to provide a regional response to changes in federal housing and community development programs. The Network also provides research and sponsors regional conferences. The Citizens' Housing and Planning Association (CHAPA), a housing policy and research organization based in Boston, Massachusetts, serves as the Network coordinator. The lead Network agency in each state is:

- The Connecticut Housing Coalition
- Maine Affordable Housing Coalition
- Citizens' Housing and Planning Association (Massachusetts)
- Housing Action New Hampshire
- Housing Action Coalition of Rhode Island
- Vermont Affordable Housing Coalition

The Network has prepared the attached *Affordable Housing in Rural New England: What We Need from HUD, USDA Rural Development, and the IRS and How the FY'11 Budget Does or Does not Meet those Needs* which summarizes a broad range of recommendations across the three agencies. The report emphasizes the need for well-funded single-family and multi-family housing programs through Rural Development and for the acknowledgement of the dispersed nature of rural poverty in the program design and award of funds in all federal housing programs. One-size-fits-all programs cannot hope to meet the diverse needs and conditions of this vast country.

To supplement that report, we offer the following comments and recommendations.

Multi-Family Housing

Section 515: The current Section 515 program NOFA establishes a new framework for awarding funds in this cornerstone affordable housing program. While the emphasis on energy conservation and sustainability is appreciated, certain elements of the NOFA are problematic. In particular,

- The NOFA establishes five Climate Zones and requires that funds be evenly distributed on this basis. These zones do not recognize those areas of the country which have a demonstrated history of successfully operating 515 housing. Moreover, awarding funds based upon zones may have the effect of denying funds to better-quality applications from some zones in order to fund lesser projects in other zones. The program should fund the best applications regardless of region.
- The NOFA establishes net zero energy consumption as a goal for all applicants. This is a herculean task for New England where many areas have 8,000 or more annual heating degree days. Measuring an applicant's plan to minimize energy use is highly appropriate, but this must take into account three different—and incompatible—measures for determining energy efficiency.
- Perhaps most importantly, none of these measures is easy to apply to the acquisition and rehabilitation of properties (which are not in the RD inventory). Rural New England is

characterized by widely dispersed settlements with mixed-use village centers. Opportunities to further Smart Growth principles, promote the vitality of village centers, and improve existing structures means that New England applicants find greater opportunity and community benefit in rehabilitation rather than new construction. The process of ranking applications should not create obstacles to rehab projects.

- We urge USDA to amend its funding award process to allow evenhanded consideration of rehabilitation projects.

The Section 515 program has many excellent features; however, one element that should be changed is permitting the use of RD funds to support service coordinators. The value of service coordinators has been demonstrated in other federal multi-family rental programs. Rural tenants—both seniors and families—face the same issues and must deal with the same set of problems as their counterparts who live in the Section 8 and LIHTC housing. Now is the time to change RD policy to allow Section 515 residents to benefit from the service of tenant coordinators.

The New England Housing Network strongly supports the Administration's proposal to increase the appropriation for Section 515 direct loans to $95.2 million in FY 2011.

<u>Multi-family Housing Revitalization Demonstration Program (MPR):</u> The preservation of existing housing resources is the most effective and efficient method of delivering affordable housing. This model program was funded at $20 million in FY 2009 and $25 million for FY 2010, but is zeroed out in the Administration's FY 2011 budget. The proposed increase in Section 515 funding does not substitute for a vigorous MPR initiative (especially given the Section 515 emphasis on new construction).

We appreciate USDA's concern that this program might serve to represent the interests of owners rather than the tenants served by the housing. However, adequate safeguards can be structured so that this important preservation effort can continue.

The Network understands that the State offices have had some difficulty with the complexity and restrictions imposed in the new 3560 Servicing Handbook used for the MPR program, particularly where there is equity payout to a seller who needs some cash to pay for capital gains. The handbook procedures require that post-transfer rents be sufficient to support the pre-transfer RD debt, new operating expenses with a cushion of at least 5% of annual operating costs, the new loan to take out the owner's equity, nonprofit developers' fees, replacement reserve increases and other costs—all without consideration of the RD tools available (such as 1% loans and debt deferral). This sets up an impossible task without additional resources which may not be available. The situation is exacerbated by an unwieldy internal review process.

A revision to Rural Development's appraisal standards for 515 properties with rental assistance is essential to such preservation efforts. Appraisal standards must result in property values that provide the financial incentive necessary for an owner to sell his/her property by recognizing the value of the rental subsidy, while at the same time preventing a financial windfall to that owner.

The Network actively supports the continuation of the MPR program and strongly urges Congress to provide any needed re-authorization of the program and to fund MPR at a level no less than the $25 million appropriated in FY 2010. We also recommend that USDA evaluate its current MPR review process and consider options to revise or eliminate the current template while giving state offices the authority to approve transfers.

Section 538 Guarantee Program: The RD 538 guarantee program is slated for level funding but the change made to that program a couple of years ago - elimination of the 2.5% interest credit buy-down - has seriously undermined its usefulness. We urge you to reverse that change.

Single Family Housing

Section 502 Loan Guaranteed Program: This program is one of the few mortgage insurance programs that still allows for up to 100% finance and its rates are competitive with private mortgage insurance. As buyers find themselves frozen out of private insurance markets, they are turning to the Section 502 program in increasing numbers at the same time the program is running short of funds before the end of the fiscal year. There is currently a 2% upfront fee to support the program which Congress is proposing to raise to support additional funding through the end of FY 2010:

- On April 27, the House passed H.R. 5017, the Rural Housing Preservation and Stabilization Act of 2010, authorizing up to $30 billion in Section 502 loan guarantees in FY 2010. The initial fee charged to borrowers could rise to up to 4% to cover the additional cost.
- Senator Michael Bennet (D-CO) introduced S. 3266, almost identical to H.R. 5017. Like the House-passed bill, S. 3266 authorizes up to $30 billion and provides for a guarantee fee of up to 4.05% rather than the House's 4%.
- On May 14, the Senate Appropriations Committee reported the Emergency Supplemental for FY 2010, H.R. 4899, which increases the annual commitment authority for the program by as much as necessary to meet FY 2010 loan demand. It allows for an upfront fee of up to 3.5 percent and an annual fee of up to 0.5 percent to make the program self-funding.

As closing costs are already a major barrier to homeownership for first time buyers, it's important that any fees charged be fully financeable so they can be absorbed into the borrower's monthly payment over the course of the loan. Annual fees are not financeable and may be difficult for borrowers to pay. While we are supportive of any option that ensures this program can resume making commitments to buyers as soon as possible, we prefer options that keep the fees to a minimum and allow them to be fully financeable into the loan.

Since the late 1990s, the community land trust (CLT) model (shared equity homes on leased land to provide perpetual affordability) has been combined with RD 502 loans and loan guarantees. CLT homes require public subsidies to create the initial layer of affordability. These funds, typically provided by state agencies, remain with the home to benefit future owners. State agencies are concerned that USDA policies and procedures for default and foreclosure impair the ability to retain the CLTs' interests and the state subsidies. More specifically:

- Borrowers with significant and persistent mortgage and other defaults are permitted to go too long before USDA initiates foreclosure proceedings resulting in large delinquencies, penalties and fees. This puts the home so far "under water" that the CLT subordinate interest is lost.
- When properties are foreclosed by USDA they are sold at public auction and the CLT restrictions and interests are discharged. It is not practical for non-profit CLTs to compete in an auction process and in these instances all CLT involvement in the property ceases. The auction process and rules made it impractical in almost all instance to utilize the NSP program to retain and recycle these homes.

In recognition of the public value added to each joint USDA/CLT purchase we think these concerns can be addressed with a trial program to:

(1) allow USDA loan servicers more flexibility and greater incentive to closely coordinate default and foreclosure management with CLT partners;
(2) allow USDA loan servicers ability to write-off loan balances when it will enable a CLT partner to stay in the deal; and
(3) allow CLT partners up to 90 days after a foreclosure to resell the property as a restricted affordable home prior to public auction.

Energy Initiatives

New England experiences long and cold winters. If this wasn't enough to drive up energy costs for both homeowners and renters, this region is also heavily dependent upon high-cost, unregulated fuels like home heating oil, propane and kerosene. Consequently, energy conservation is a high priority for public policy makers as well as consumers. In addition to actions outlined in the attachment, we urge that USDA consider the following.

- Working in conjunction with HUD and DOE, USDA should ask the Interior Department's Park Service to provide the maximum flexibility in allowing solar installations and other efficiency upgrades on historic buildings used as affordable housing both through the use of the reinvestment tax credit and when Section106 reviews are undertaken at the state level.
- RD's Business and Industry Guaranteed Loan Program and the RD Rural Energy for American Program Guaranteed Loans program should define multifamily housing as a business and therefore be eligible for energy loans.
- Enter into an MOU with DOE to streamline and better coordinate federal weatherization programs. These efforts would make it easier for low-income families and multi-family owners to weatherize their homes, saving money for working families and creating tens of thousands of new green jobs. In particular, the weatherization regulations should be amended to allow additional cost-effective measures in properties previously assisted by weatherization. Revisiting previous properties is justified given sharply higher fuels costs (which affect cost/benefit ratios), availability of new technologies, flat incomes for residents, and the under investment in the original weatherization procedures.