

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

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**T**he U.S. Department of Housing and Urban Development (HUD) administers a web of federal programs with mandates to support access to homeownership and affordable rental housing, relieve temporary housing instability for homeless persons, preserve a stable inventory of public housing units, and enforce mandates with powers to settle compliance matters ranging from housing quality standards to housing discrimination cases.

Politicians across party lines use HUD to promise ever-greater public benefits. In addition, HUD programs tend to perpetuate the notion of bureaucratically provided housing as a basic life need and, whether intentionally or not, fail to acknowledge that these public benefits too often have led to intergenerational poverty traps, have implicitly penalized family formation in traditional two-parent marriages, and have discouraged work and income growth, thereby limiting upward mobility. A new conservative Administration will therefore need to:

- **Reset HUD.** This effort should specifically include a broad reversal of the Biden Administration’s persistent implementation of corrosive progressive ideologies across the department’s programs.
- **Implement an action plan across both *process* and *people*.** This plan should include both the immediate redelegation of authority to a cadre of political appointees and the urgent implementation of administrative regulatory actions with respect to HUD policy and program eligibility.

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- **Reverse HUD’s mission creep over nearly a century of program implementation dating from the Department’s New Deal forebears.** HUD’s new political leadership team will need to reexamine the federal government’s role in housing markets across the nation and consider whether it is time for a “reform, reinvention, and renewal”<sup>1</sup> that transfers Department functions to separate federal agencies, states, and localities.

### OVERVIEW

HUD was created by the Housing and Urban Development Act of 1965<sup>2</sup> and since then has administered several programs that had been administered by the Housing and Home Finance Agency. With a proposed fiscal year (FY) budget authority totaling \$71.9 billion and 8,326 full-time equivalent (FTE) employees,<sup>3</sup> it remains the largest government agency charged with implementing federal housing policy.

In addition to its headquarters in Washington, D.C., HUD has 10 regional offices as well as field offices and centers to implement specialized operational and enforcement responsibilities.<sup>4</sup> HUD program offices also interface with various networks of implementing organizations such as locally chartered public housing agencies (PHAs) and federal, state, and local government and judicial bodies as well as such private industry participants as mortgage lenders.

The Secretary of Housing and Urban Development can delegate authority to various entities across an array of HUD programs.<sup>5</sup> The Secretary also oversees the Office of the Deputy Secretary,<sup>6</sup> the Office of Hearings and Appeals (OHA);<sup>7</sup> the Office of Small and Disadvantaged Business Utilization (OSDBU);<sup>8</sup> and the Center for Faith-Based and Neighborhood Partnerships (CFBNP).<sup>9</sup> The Office of the Secretary also comprises a team of politically appointed positions and career support staff. Each of the following offices should be headed by political appointees except where otherwise noted.

- **Office of Administration**, headed by the Chief Administration Officer. The Office of Administration has responsibilities for the Office of the Chief Human Capital Officer (OCHO, headed by the Chief Human Capital Officer, currently a career position) and the Office of the Chief Procurement Officer (CPO, headed by the Chief Procurement Officer, currently a career position).
- **Office of the Chief Financial Officer**, headed by the Chief Financial Officer.
- **Office of the Chief Information Officer**, headed by the Chief Information Officer.

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- **Office of Public Affairs**, headed by a Senate-confirmed Assistant Secretary (AS) or Principal Deputy Assistant Secretary (PDAS).
- **Office of Congressional and Intergovernmental Relations (CIR)**, headed by a Senate-confirmed AS or PDAS.
- **Office of Community Planning and Development (CPD)**, headed by a Senate-confirmed AS or Principal DAS. CPD administers various entitlement and non-entitlement programs across community development, disaster recovery, and housing for the homeless<sup>10</sup> and individuals with special needs, including Housing Opportunities for Persons with AIDS (HOPWA). The two largest CPD-administered programs are the Community Development Block Grant (CDBG) Program,<sup>11</sup> which includes disaster recovery funding, and the Home Investment Partnerships Program (HOME).<sup>12</sup> CPD's Relocation and Real Estate Division (RRED) has departmental delegated authority for the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.<sup>13</sup>
- **Office of Public and Indian Housing (PIH)**, headed by a Senate-confirmed AS or PDAS. PIH administers public housing and tenant-based rental assistance programs, as well as authorities for Native American and Native Hawaiian housing assistance and loan guarantee programs under the Native American Housing Assistance and Self-Determination Act (NAHSDA).<sup>14</sup> Tenant-Based Rental Assistance represents the major portion of HUD's nonemergency discretionary budget. HUD describes its Housing Choice Voucher Program as "an essential component of the Federal housing safety net for people in need."<sup>15</sup> PIH also implements funding for the Self-Sufficiency Coordinator Program; the Public Housing Fund (operating and capital funds for PHA administration of Section 9 public housing and Section 8 voucher programs); and Choice Neighborhoods (zeroed out during the Trump Administration budget request but included in HUD's FY 2023 budget, which requests \$250 million for the program).<sup>16</sup>
- **Office of Housing and Federal Housing Administration (FHA)**, headed by a dual-hatted, Senate-confirmed AS and Federal Housing Commissioner or Acting Federal Housing Commissioner. The Office of Housing oversees implementation of the department's project-based rental assistance (PBRA) multifamily housing portfolio, Section 202 supportive housing for the elderly program, Section 811 program for disabled persons' housing, and Housing Counseling Assistance program. The Federal Housing Administration administers the Mutual Mortgage Insurance

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Program (MMIF) and various other mortgage insurance, direct loan, and loan guarantee programs for single-family housing, multifamily housing, hospitals, and health care facilities that meet certain conditions.<sup>17</sup>

- **Government National Mortgage Association (GNMA)**, headed by a Senate-confirmed GNMA President or Executive Vice President. GNMA oversees more than \$2 billion in federal guarantees to mortgage-backed securities structured from mortgages that are pooled from various federal programs, including mortgages backed by programs outside of HUD, principally the single-family mortgage guarantee programs administered by the Department of Veterans Affairs (VA) and the Rural Housing Service at the U.S. Department of Agriculture (USDA). FHA-insured single-family housing mortgages comprise the largest share of GNMA-guaranteed mortgage-backed securities.
- **Office of Departmental Equal Employment Opportunity**, headed by a Director.
- **Office of Fair Housing and Equal Opportunity (FHEO)**, headed by a Senate-confirmed AS or PDAS. The Assistant Secretary for FHEO is the designated HUD official responsible for enforcing Title VI of the Civil Rights Act of 1964,<sup>18</sup> Section 504 of the Rehabilitation Act of 1973,<sup>19</sup> and Section 109 of the Housing and Community Development Act of 1974. After informal efforts to resolve noncompliance, the AS for FHEO may make a formal finding of noncompliance and initiate enforcement action before an administrative tribunal or a referral to the Department of Justice.
- **Office of General Counsel (OGC)**, headed by the General Counsel or Principal Deputy General Counsel. OGC handles department-wide legal and compliance oversight advice with supervision responsibilities for the Deputy General Counsel for Housing Programs, Deputy General Counsel for Operations, and Deputy General Counsel for Enforcement and Fair Housing as well as the Departmental Enforcement Center.<sup>20</sup>
- **Office of Healthy Homes and Lead Hazard Control (OHHLHC)**, headed by a Director. OHHLHC was established in the early 1990s to eliminate lead-based paint hazards in America's privately owned and low-income housing, address healthy housing initiatives, and enforce lead-based paint regulations authorized under the Residential Lead-Based Paint Hazard Reduction Act of 1992 (Title X of the Housing and Community Development Act of 1992).<sup>21</sup> These functions overlap with similar functions of the Environmental Protection Agency (also authorized to enforce lead-based

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paint regulations under Title X) and the Centers for Disease Control and Prevention’s Healthy Homes Initiative, Childhood Lead Poisoning Prevention Program, and National Asthma Control Program.

- **Office of Policy Development and Research (PDR)**, headed by a Senate-confirmed AS or PDAS. PDR was established in the early 1970s and today administers research activities, including external contract research grants, and provides analytical and policy advice to senior HUD staff. PDR also provides publicly available statistics through the American Housing Survey (AHS), which is sponsored by HUD and conducted by the Census Bureau; the State of the Cities Data Systems; data on the Low-Income Housing Tax Credit (LIHTC); and annual Fair Market Rents and Income Limits data, among other statistical publications and datasets on the characteristics of families assisted under HUD programs.
- **Office of Inspector General (OIG), headed by an Inspector General.** The OIG is independent of HUD and one of 12 Inspectors General across the federal government authorized under the Inspector General Act of 1978.<sup>22</sup> Operating under its own budget authority and strategic plan, the HUD OIG conducts internal and external audits and investigations of HUD programs and operations. While independent of HUD and holding no enforcement powers over HUD programs, HUD OIG works closely with the Office of General Counsel, the Departmental Enforcement Center, and HUD program offices. The Inspector General serves as an adviser to and non-voting member of the FHA Mortgage Review Board.
- **Office of Field Policy and Management (FPM)**, headed by an Assistant Deputy Secretary for FPM. FPM supports the Secretary through regional and field office communication and external engagement with various community stakeholders to ensure the successful implementation of Secretarial initiatives and special projects.

### HUD REFORM PILLARS

Ideally, Congress would redelegate authorities that have been diverted to HUD’s administrative bureaucracy and safeguard taxpayers against the mission creep that inevitably occurs when Congress delegates power to an empowered and unelected bureaucracy that is insulated by civil service protections. If implemented, the reforms proposed in this chapter can help a new conservative Administration to use its Article II powers to rectify bureaucratic overreach, reverse the expansion of programs beyond their statutory authority, and end progressive policies that have been put in place at the department.

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It is hoped that a future Congress under conservative leadership will enact legislative reforms of HUD programs. With or without congressional action, however, it is vital that a conservative Administration immediately institute guardrails across HUD programs to remove the administrative state's bureaucratic overreach of Article I authorities, thereby ensuring formal execution of Article II process and personnel reforms of the sort outlined below.

### **FIRST-DAY AND FIRST-YEAR ADMINISTRATIVE REFORMS<sup>23</sup>**

A new conservative Administration can and should implement the following reforms that focus on both people<sup>24</sup> and process.<sup>25</sup> Implementation of these reforms simply requires courageous political leadership across all of HUD's key appointed positions.

- HUD political leadership should immediately assign all delegated powers to politically appointed PDAS, DAS, and other office leadership positions; change any current career leadership positions into political and non-career appointment positions; and use Senior Executive Service (SES) transfers to install motivated and aligned leadership.
- The President should issue an executive order making the HUD Secretary a member of the Committee on Foreign Investment in the U.S., which will gain broader oversight authorities to address foreign threats, particularly from China with oversight of foreign ownership of real estate in both rental and ownership markets of single-family and multifamily housing,<sup>26</sup> with trillions worth of real estate secured across HUD's portfolio.
- The Secretary should initiate a HUD task force consisting of politically appointed personnel to identify and reverse all actions taken by the Biden Administration to advance progressive ideology.<sup>27</sup>
- The Office of the Secretary or the leadership in the Office of General Counsel should conduct a thorough review of all subregulatory guidance that has been instituted outside of the Administrative Procedure Act (APA). Additionally, departmental leadership should:
  1. Immediately end the Biden Administration's Property Appraisal and Valuation Equity (PAVE) policies and reverse any Biden Administration actions that threaten to undermine the integrity of real estate appraisals.<sup>28</sup>
  2. Repeal climate change initiatives and spending in the department's budget request.<sup>29</sup>

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3. Repeal the Affirmatively Furthering Fair Housing (AFFH) regulation reinstated under the Biden Administration<sup>30</sup> and any other uses of special-purpose credit authorities to further equity.<sup>31</sup>
  4. Eliminate the new Housing Supply Fund.<sup>32</sup>
- The Office of the Secretary should recommence proposed regulation put forward under the Trump Administration that would prohibit noncitizens, including all mixed-status families, from living in all federally assisted housing.<sup>33</sup> HUD's statutory obligations include providing housing for American citizens who are in need. HUD reforms must also ensure alignment with reforms implemented by other federal agencies where immigration status impacts public programs, certainly to include any reforms in the Public Charge regulatory framework administered by the U.S. Department of Homeland Security (DHS). Local welfare organizations, not the federal government, should step up to provide welfare for the housing of noncitizens.
  - The Office of the Secretary should execute regulatory and subregulatory guidance actions, across HUD programs and applicable to all relevant stakeholders, that would restrict program eligibility when admission would threaten the protection of the life and health of individuals and fail to encourage upward mobility and economic advancement through household self-sufficiency. Where admissible in regulatory action, HUD should implement reforms reducing the implicit anti-marriage bias in housing assistance programs,<sup>34</sup> strengthen work and work-readiness requirements,<sup>35</sup> implement maximum term limits for residents in PBRA and TBRA programs,<sup>36</sup> and end Housing First<sup>37</sup> policies so that the department prioritizes mental health and substance abuse issues before jumping to permanent interventions in homelessness.<sup>38</sup> Notwithstanding administrative reforms, Congress should enact legislation that protects life and eliminates provisions in federal housing and welfare benefits policies that discourage work, marriage, and meaningful paths to upward economic mobility.
  - The AS or PDAS for the Office of Policy Development and Research should suspend all external research and evaluation grants in the Office of Policy Development and Research and end or realign to another office any functions that are not involved in the collection and use of data and survey administration functions and do not facilitate the execution of regulatory impact analysis studies.

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- FHA leadership should increase the mortgage insurance premium (MIP) for all products above 20-year terms and maintain MIP for all products below 20-year terms and all refinances. FHA should encourage wealth-building homeownership opportunities, which can be accomplished best through shorter-duration mortgages.<sup>39</sup> Ideally, Congress would contemplate a fundamental revision of FHA's statutory restriction of single-family housing mortgage insurance to first-time homebuyers.<sup>40</sup> This would include (with support from HUD leadership):
  1. Moving the Home Equity Conversion Mortgages (HECM) program once again to its own special risk insurance fund.
  2. Revising loan limit determinations.
  3. Providing statutory flexibility for shorter-term products that amortize principal earlier and faster.
- Statutorily restricting eligibility for first-time homebuyers and abandoning the affirmative obligation authorities erected for the single-family housing programs across federal agencies and government-sponsored enterprises.<sup>41</sup>
- The HUD Secretary should move the HUD Real Estate Assessment Center (REAC) from PIH to the Office of Housing, which already implements property standards in its multifamily housing lending programs through the multifamily accelerated processing (MAP) lending guidelines. Giving HUD the authority to streamline the enforcement of compliance with housing standards across the federal government and flexibility for physical inspections through private accreditation should also be considered.
- HUD should maintain its requested budget authority for modernization initiatives that are applicable to the Office of the Chief Information Officer and program offices across the department.

## **LONGER-TERM POLICY REFORM CONSIDERATIONS<sup>42</sup>**

Congress has charged HUD principally with mandates for construction of the nation's affordable housing stock in addition to setting and enforcing standards for decent housing and fair housing enforcement. Regardless of intent, HUD's efforts have yielded mixed results at best. Even today, more than a half-century after Congress put enforcement of so-called fair housing in the hands of the HUD bureaucracy, implementation of this policy is muddled by the repeated application of affirmative race-based policies. Also, the production mandate for HUD's



housing portfolio has waned for decades with the department effectively working to maintain the public housing portfolio from the late 1990s when the Faircloth Amendment capped HUD's public housing portfolio.<sup>43</sup>

Longer-term reforms of HUD rental assistance programs should encourage choice and competition for renters, encourage participation by landlords where appropriate,<sup>44</sup> and encourage all non-elderly, able-bodied adults to move toward self-sufficiency. This can be pursued through regulations and legislative reforms that seek to strengthen work requirements, limit the period during which households are eligible for housing benefits, and add flexibility to rent payment terms to facilitate the movement of households toward self-sufficiency.

Obviously, using government vouchers or other such programs to expand housing choice options is not without its downsides. The turn toward mobility vouchers constitutes an abandonment of America's public housing stock, and efforts to increase competition in the public housing market must not come at the expense of local autonomy and the ability of cities, towns, neighborhoods, and communities to choose for themselves the sort of housing they want to allow. Freedom of association and self-government at the most local level possible must remain primary considerations in any conservative effort to increase competition in the public housing market.

Congress should also consider those areas in which federal policy negatively interacts with private markets, including when federal policy crowds out private-sector development and exacerbates affordability challenges that persist across the nation. It is essential that legislation provides states and localities maximal flexibility to pursue locally designed policies and minimize the likelihood of federal preemption of local land use and zoning decisions.

In the same manner, Congress should prioritize any and all legislative support for the single-family home. Homeownership forms the backbone of the American Dream. The purchase of a home is the largest investment most Americans will make in their lifetimes, and homeownership remains the most accessible way to build generational wealth for millions of Americans. For these reasons, American homeowners and citizens know best what is in the interest of their neighborhoods and communities. Localities rather than the federal government must have the final say in zoning laws and regulations, and a conservative Administration should oppose any efforts to weaken single-family zoning. Along the same lines, Congress can propose tax credits for the renovation or repair of housing stock in rural areas so that more Americans are able to access the American Dream of homeownership.

Additionally, enhanced statutory authorities for local autonomy should extend to the prioritizing of federal rental assistance subsidies that emphasize choice and mobility in housing voucher subsidies over static, site-based subsidies and provide authority for maximal flexibility to direct PHA land sales that involve the existing stock of public housing units. Congress must consider the future of the public

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housing model. At best, any new public investments will provide maintenance funds to bring substandard housing units and properties up to livability standards but will still fail to address larger aims of upward mobility and dynamism for local housing markets where land can be sold by PHAs and put to greater economic use, thereby benefiting entire local economies through greater private investment, productivity and employment opportunities, and increased tax revenue.

Any long-term view of HUD's future must include maintaining the strong financial operations and reliable reporting that are needed to run a \$50 billion-per-year agency. Before the Trump Administration, HUD effectively did not have a Chief Financial Officer (CFO) for eight years, and HUD's financial infrastructure inevitably deteriorated. The department's auditors were unable to conclude that HUD's internal operations were producing accurate financial reporting. The auditors had identified multiple material weaknesses and significant deficiencies in the department's internal financial controls. Overall, the deterioration of HUD's financial infrastructure led to a lack of accountability with respect to the use of taxpayer funds as well as to pervasive difficulties with operations and program implementation.

However, by hiring a new CFO from the private sector with a proven track record of visionary leadership, HUD was able to implement an agencywide governance structure that improved its financial processes and internal controls and harnessed the power of innovative new technologies to bring a modernized business mindset to the agency's financial infrastructure. By the end of the Trump Administration, for the first time in nearly a decade, HUD was able to address all of its previously identified material weaknesses, and the auditors were able to issue their first clean audit report on HUD's financial statements and internal controls.

Finally, and more fundamentally, Congress could consider a wholesale overhaul of HUD that contemplates devolving many HUD functions to states and localities with any remaining federal functions consolidated to other federal agencies (for example, by transferring loan guarantee programs to SBA; moving Indian housing programs to the Department of the Interior; moving rental assistance, mortgage insurance programs, and GNMA to a redesignated Housing and Home Finance Agency). Generally, this reform path could consolidate some programs, eliminate others that have failed to produce meaningful long-run results, and narrow the scope of many programs so that they are closer to what they were when they were created.

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### ENDNOTES

1. At a 1998 Senate hearing, then-HUD Secretary Andrew Cuomo acknowledged that the department “faced a competence gap” and had “the dubious distinction of being the only federal agency designated as ‘high risk’ by the General Accounting [now Government Accountability] Office (GAO),” even referencing the Section 8 rental subsidy as “on the brink of becoming the next savings and loan scandal,” and explained how the department was stepping up enforcement efforts “focused on closing the competence gap by eliminating waste, fraud, and abuse.” See “Testimony of Secretary Andrew Cuomo before the House Appropriations Subcommittee on VA, HUD, and Independent Agencies,” March 25, 1998, <https://archives.hud.gov/testimony/1998/tst32598.cfm> (accessed March 4, 2023).
2. H.R. 7984, Housing and Urban Development Act of 1965, Public Law No. 89-117, 89th Congress, August 10, 1965, <https://www.congress.gov/89/statute/STATUTE-79/STATUTE-79-Pg451.pdf> (accessed March 4, 2023).
3. U.S. Department of Housing and Urban Development, *2023 Budget in Brief*, pp. 2 and 7, [https://www.hud.gov/sites/dfiles/CFO/documents/2023\\_BudgetInBriefFINAL.pdf](https://www.hud.gov/sites/dfiles/CFO/documents/2023_BudgetInBriefFINAL.pdf) (accessed March 4, 2023).
4. For example, the Special Applications Center (SAC) located in Chicago, Illinois, was established in 1998 as a division of the Office of Public and Indian Housing to accept, review, and approve all nonfunded, noncompetitive applications and plans for demolition, disposition, and conversion of land subject to an annual contributions contract (ACC) in public housing.
5. The Secretary has delegated full authority for the Administration and enforcement of the Fair Housing Act to the Assistant Secretary of the Office of Fair Housing and Equal Opportunity but also has delegated limited assignment and decision-making authority to the General Counsel.
6. Effectively the HUD Chief Operating Officer and appointed by the President with Senate advice and consent.
7. The Office of Hearings and Appeals (OHA) is an independent adjudicatory office within the Office of the Secretary. Led by a Director who is appointed by the Secretary, it supervises the Administrative Judges of the Office of Appeals, the administrative law judges of the Office of Administrative Law Judges, and the OHA support staff. The HUD Secretary appoints administrative judges and administrative law judges in accordance with the Administrative Procedure Act, 5 U.S.C. Chapter 5, <https://www.law.cornell.edu/uscode/text/5/part-l/chapter-5> (accessed March 4, 2023).
8. HUD currently has a Departmental Equity Assessment Working Group, supported with five FTEs funded by the OSDDBU, “as part of the President’s Executive Order 13985, Executive Order On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government.” See U.S. Department of Housing and Urban Development, *2023 Congressional Justifications*, p. 35-15, <https://www.hud.gov/sites/dfiles/CFO/documents/2023HUDCongressionalJustificationsFINALElectronicversion.pdf> (accessed March 4, 2023), and President Joseph R. Biden Jr., Executive Order 13985, “Advancing Racial Equity and Support for Underserved Communities Through the Federal Government,” January 20, 2021, in *Federal Register*, Vol. 86, No. 14 (January 25, 2021), pp. 7009–7013, <https://www.govinfo.gov/content/pkg/FR-2021-01-25/pdf/2021-01753.pdf> (accessed March 4, 2023).
9. Interestingly, “[t]he 2023 President’s Budget requests \$748 thousand for CFBNP, which is \$436 thousand less than the 2022 Annualized CR level. The Budget reflects total funding (carryover and new authority) of \$1.2 million, \$448 thousand less than 2022 total funding.” U.S. Department of Housing and Urban Development, *2023 Congressional Justifications*, p. 35-16.
10. See H.R. 558, Stewart B. McKinney Homeless Assistance Act, Public Law No. 100-77, 100th Congress, July 22, 1987, <https://www.govinfo.gov/content/pkg/STATUTE-101/pdf/STATUTE-101-Pg482.pdf> (accessed March 5, 2023). Later renamed the McKinney–Vento Homeless Assistance Act.
11. Established under the Housing and Community Development Act of 1974, 42 U.S.C. §§ 5301 et seq., <https://www.law.cornell.edu/uscode/text/42> (accessed March 4, 2023).
12. S. 566, Cranston–Gonzalez National Affordable Housing Act, Public Law No. 101-625, 101st Congress, November 28, 1990, Title II, <https://www.congress.gov/101/statute/STATUTE-104/STATUTE-104-Pg4079.pdf> (accessed March 5, 2023).
13. S. 1, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law No. 91-646, 91st Congress, January 2, 1971, <https://www.congress.gov/91/statute/STATUTE-84/STATUTE-84-Pg1894.pdf> (accessed March 4, 2023). “The URA establishes the minimum Federal requirements for the acquisition of real property for Federally-funded programs and projects, and for the relocation of persons who must move from

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- their homes, businesses, or farms as a direct result of acquisition, rehabilitation, or demolition for a Federally-funded program or project.” U.S. Department of Housing and Urban Development, HUD Exchange, “49 CFR Part 24–URA Regulations,” published February 2005, <https://www.hudexchange.info/resource/804/ura-and-real-property-acquisition-policies-act-49-cfr-part-24/> (accessed March 4, 2023). HUD is one of the 18 federal departments and agencies that “are subject to the Uniform Act.” U.S. Department of Transportation, Federal Highway Administration, “Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs,” *Federal Register*, Vol. 84, No. 243 (December 18, 2019), pp. 69466–69521, esp. p. 69484, <https://www.govinfo.gov/content/pkg/FR-2019-12-18/pdf/2019-25558.pdf> (accessed March 4, 2023).
14. H.R. 3219, Native American Housing Assistance and Self-Determination Act of 1996, Public Law No. 104-330, 104th Congress, October 26, 1996, <https://www.congress.gov/104/plaws/publ330/PLAW-104publ330.pdf> (accessed March 4, 2023).
  15. U.S. Department of Housing and Urban Development, *2023 Congressional Justifications*, p. 6-1. The U.S. Housing Act of 1937 (Wagner–Steagall Act) established the origins of locally chartered housing agencies that administer federal funding for various rental assistance programs—a quintessentially progressive New Deal-era policy that expanded the administrative state’s powers to the housing market—with the primary legislative intent of eradicating slum housing in urban areas, boosting jobs, and providing housing for the working poor. 42 U.S.C. §§ 1437 et seq., <https://www.law.cornell.edu/uscode/text/42> (accessed March 4, 2023). A decade later, the Housing Act of 1949 codified federal standards for housing livability—a rationale that HUD and federal legislators have continued to use to justify federal intervention in housing—establishing as a national policy objective the provision of a minimum standard of housing quality for all Americans. This legislation also statutorily established many of the rural housing programs that are administered at USDA and expanded programs facilitating the removal of slum housing in urban areas. 42 U.S.C. §§ 1441 et seq., <https://www.law.cornell.edu/uscode/text/42> (accessed March 4, 2023).
  16. U.S. Department of Housing and Urban Development, *2023 Congressional Justifications*, pp. 1-2 and 2-2.
  17. The National Housing Act of 1934 established the FHA and the statutory authority for the secondary market. The main stated premise was to stimulate jobs and facilitate the housing and construction sector during the Great Depression. 42 U.S.C. §§ 1701 et seq., <https://www.law.cornell.edu/uscode/text/42> (accessed March 4, 2023).
  18. 42 U.S.C. §§ 2000d et seq., <https://www.law.cornell.edu/uscode/text/42> (accessed March 4, 2023).
  19. 29 U.S.C. §§ 701 et seq., <https://www.law.cornell.edu/uscode/text/29> (accessed March 4, 2023).
  20. HUD’s Departmental Enforcement Center (DEC) is led by a Director. It was established in 1998 as part of a broader effort to streamline and consolidate functions at HUD and was later merged with the Office of General Counsel. The DEC “is comprised of the Office of the Director, the Compliance Division, the Operations Division and five Satellite Offices” and describes its mission as “assuring the highest standards of ethics, management and accountability in the resolution of HUD’s troubled properties.” U.S. Department of Housing and Urban Development, Departmental Enforcement Center, “Program Offices: Departmental Enforcement Center,” [https://www.hud.gov/program\\_offices/enforcement](https://www.hud.gov/program_offices/enforcement) (accessed March 4, 2023).
  21. H.R. 5334, Housing and Community Development Act of 1992, Public Law No. 102-1017, 102nd Congress, October 28, 1992, Title X, <https://www.congress.gov/102/statute/STATUTE-106/STATUTE-106-Pg3672.pdf> (accessed March 4, 2023).
  22. H.R. 8588, Inspector General Act of 1978, Public Law No. 95-452, 95th Congress, October 12, 1978, <https://www.congress.gov/95/statute/STATUTE-92/STATUTE-92-Pg1101.pdf> (accessed March 4, 2023).
  23. Guiding questions: What immediate administrative reforms of HUD and its programs can be made with high probability of success? What short-term legislative reforms can be proposed that, in tandem with administrative reforms, would achieve the HUD vision/mission objective? What HUD offices should be eliminated and/or realigned to reduce any redundancy that may persist in programmatic functions?
  24. Wholly aside from reforms that would require legislation, the next Administration must ensure that key political appointees are able to acquit themselves as change agents to execute administrative reforms. Otherwise, whether because of a sheer lack of skill and expertise or simply a lack of will and philosophical alignment with reforms, staff may frustrate the efforts of committed political appointee staff and leadership to execute substantive administrative reforms. To achieve the policy and regulatory reforms outlined in this chapter, political appointees must be carefully placed in positions that reflect not only technical, market/industry, and operational expertise, but also a shared will and commitment.

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25. Process must prioritize where political leadership can implement administrative reforms through regulatory action and subregulatory guidance reforms.
26. China and other foreign nations should not be able to disrupt our nation's housing markets, including by artificially driving up prices and reducing affordability and access to housing for Americans who are crowded out of the market by such market participation.
27. These initiatives are maintained under such designations as diversity, equity, and inclusion (DEI); critical race theory (CRT); black, indigenous, Pacific Islander, and other people of color (BIPOC); and environmental, social, and governance (ESG).
28. At a minimum, these efforts duplicate what the federal government already collects and assesses; at worst, they institute arbitrary procedures in real estate appraisal practices that undermine integrity and perversely introduce arbitrary biases into what should be an unbiased system for determining financial value.
29. Revise regulatory and subregulatory guidance, where applicable within statutory authorities, that adds unnecessary delay and costs to the construction and development of new housing and has been estimated to account for about 40 percent of new housing unit costs in multifamily housing.
30. The Biden Administration has issued a proposed rule to replace the Trump Administration's "Preserving Community and Neighborhood Choice" rule that had repealed earlier rules expanding AFFH enforcement. See U.S. Department of Housing and Urban Development, Office of Fair Housing, "Preserving Community and Neighborhood Choice," Final Rule, *Federal Register*, Vol. 85, No. 153 (August 7, 2020), pp. 47899–47912, <https://www.govinfo.gov/content/pkg/FR-2020-08-07/pdf/2020-16320.pdf> (accessed March 5, 2023), and U.S. Department of Housing and Urban Development, Office of the Secretary, "Affirmatively Furthering Fair Housing," Proposed Rule, *Federal Register*, Vol. 88, No. 27 (February 9, 2023), pp. 8516–8590, <https://www.govinfo.gov/content/pkg/FR-2015-07-16/pdf/2015-17032.pdf> (accessed March 5, 2023).
31. Certain pilot initiatives may encourage greater take-up of loan products designed for faster equity accumulation, including loans with shorter terms and accelerated amortization schedules. In concept, the FHA's Home Equity Accelerator Loan (HEAL) and Good Neighbor Next Door (GNND) pilot initiatives might lead to meaningful wealth generation for first-time buyers, but they should be available to all eligible households only when they do not arbitrarily discriminate based on race or other characteristics.
32. Housing supply does remain a problem in the U.S., but constructing more units at the low end of the market will not solve the problem. Investors and developers can deliver at more efficient cost new units that will allow for greater upward mobility of rental and ownership housing stock and better target increased construction of mid-tier rental units. Further, and more fundamental to the housing supply challenge in markets across the U.S., localities can consider revising land use, zoning, and building regulations that constrict new housing development, adding time delays and costs that impede construction. Federal housing policy should get out of the way where possible and minimize the distortive impact that stimulating greater demand through loose lending can have in driving up housing prices for households that are looking for affordable entry into the housing market.
33. U.S. Department of Housing and Urban Development, Office of the Secretary, "Housing and Community Development Act of 1980: Verification of Eligible Status," Proposed Rule, *Federal Register*, Vol. 84, No. 91 (May 10, 2019), pp. 20589–20595, <https://www.govinfo.gov/content/pkg/FR-2019-05-10/pdf/2019-09566.pdf> (accessed March 5, 2023).
34. Reforms should contemplate rent payment flexibilities, allow escrow savings, and set maximum term limits that can reduce implicit penalties for increasing household incomes over eligibility terms for housing assistance and reweight waiting-list prioritization for two-parent households.
35. Some PHAs have been able to implement work requirements and term limit policies in various congressionally authorized demonstration programs, notably the Moving to Work (MTW) demonstration program established in 1996 for 39 PHAs (Congress has since authorized another 100 PHAs) in which participating MTW PHAs were given authority to implement rent reforms, work requirements and other experimental policies in rental assistance programs along with flexibilities in the use of capital and operating appropriations.
36. The FSS program has a general five-year term with a possible two-year extension, which could be applied at the term limit for overall benefits, and certain PHAs have imposed five-year to seven-year term limits. Families in these programs build escrow savings during their term eligibility that helps to facilitate successful transitions to family self-sufficiency and unassisted housing.

## Mandate for Leadership: The Conservative Promise

37. HUD should implement administrative changes in regulation and guidance and seek statutory authority to end all Housing First directives of Continuum of Care (CoC) grantees and contract homelessness providers in addition to establishing restrictions on local Housing First policies where HUD grant funds are used.
38. The U.S. Interagency Council on Homelessness (USICH) was established in the 1990s, and numerous Administrations have devoted enormous resources to the Housing First model, experimenting with various ways to provide federally financed rapid rehousing and permanent housing opportunities. Housing First is a far-left idea premised on the belief that homelessness is primarily circumstantial rather than behavioral. The Housing First answer to homelessness is to give someone a house instead of attempting to understand the underlying causes of homelessness. Federal intervention centered on Housing First has failed to acknowledge that resolving the issue of homelessness is often a matter of resolving mental health and substance abuse challenges. Instead of the permanent supportive housing proffered by Housing First, a conservative Administration should shift to transitional housing with a focus on addressing the underlying issues that cause homelessness in the first place.
39. The Senate Low-Income First-Time Homebuyers (LIFT) Act would address this policy goal. See S. 2797, Low-Income First-Time Homebuyers Act of 2021 (LIFT Homebuyers Act of 2021), 117th Congress, introduced September 22, 2021, <https://www.congress.gov/117/bills/s2797/BILLS-117s2797is.pdf> (accessed March 5, 2023).
40. FHA did not facilitate the widespread use of 30-year mortgages until the 1950s when, interacting with Federal Reserve policies, federal agencies began broader adoption of the mortgages, which, despite lowering the monthly repayment terms, result in slow equity accumulation and wealth-building opportunities.
41. The Housing and Economic Recovery Act of 2008 fundamentally revised the scope of federal regulation in the nation's housing finance system, placing Fannie Mae and Freddie Mac under the purview of a newly established Federal Housing Finance Agency (FHFA) and establishing a Housing Trust Fund (HTF) that is administered in the HUD Office of Community Planning and Development. See H.R. 3221, Housing and Economic Recovery Act of 2008, Public Law No. 110-289, 110th Congress, July 30, 2008, <https://www.congress.gov/110/plaws/publ289/PLAW-110publ289.pdf> (accessed March 5, 2023).
42. Guiding questions: What reforms should be proposed that could be accomplished within five years? What reforms can be done administratively, and what reforms would need legislative authorization? Are there functions that HUD administers that could be achieved more effectively at another department or agency? What big-picture reforms should be proposed that might take more than five years that would reorganize HUD and its programs to meet the objectives in the vision or mission? What would occur in the absence of these public finance subsidies? How much crowd-out do these subsidies create in the market? Would America be a seriously underhoused nation without these subsidies? Who are the policies intended to benefit? What organizational changes must be made?
43. The Faircloth Amendment (Quality Housing and Work Responsibility Act of 1998) amended the Housing Act of 1937 to maintain public housing units at 1999 levels, preventing housing authorities from maintaining more public housing than they did then. H.R. 4194, Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999, Public Law No. 105-276, 105th Congress, October 21, 1998, Title V, <https://www.congress.gov/105/plaws/publ276/PLAW-105publ276.pdf> (accessed March 5, 2023). In recent years, the statutory restriction on new construction of public housing units has been circumvented through some narrow uses of preservation programs such as the Rental Assistance Demonstration (RAD) program, initially authorized in 2012 and reauthorized several times since under higher program unit conversion caps. Congress also provided paths for renewal and continuation of a portion of existing public housing; project/site-based housing stock (refinancing with long-term HAP contract commitments); and Section 8 units through the Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA). H.R. 2158, Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998, Public Law No. 105-65, 105th Congress, October 27, 1997, Title V, <https://www.congress.gov/105/plaws/publ65/PLAW-105publ65.pdf> (accessed March 5, 2023).
44. As the evolution of HUD rental assistance transitions away from the public housing model toward housing choice vouchers, there should be adequate landlord participation to ensure that the supply of housing units for rent in these programs meets the demand for rent among eligible tenants. This issue has been addressed in various ways, including by a task force instituted at the department during the Trump Administration, but could likely remain a challenge in the administration of the program.