

United States House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, D.C. 20515

May 16, 2019

Memorandum

To: Members, Committee on Financial Services

From: FSC Majority Staff

Subject: Tuesday, May 21, 2019, Full Committee Hearing entitled “Housing in America: Oversight of the U.S. Department of Housing and Urban Development”

The Full Committee will hold a legislative hearing entitled, “Housing in America: Oversight of the U.S. Department of Housing and Urban Development” on Tuesday, May 21, 2019 at 10:00 a.m. in room 2128 of the Rayburn House Office Building. This hearing will examine the U.S. Department of Housing and Urban Development’s current state of affairs and address major changes to agency policies and programs since 2017.

Witness List

- **The Honorable Dr. Benjamin S. Carson**, Secretary, U.S. Department of Housing and Urban Development

Background

Established in 1965, the Department of Housing and Urban Development’s (HUD) mission is to “create strong, sustainable, inclusive communities and quality affordable homes for all.”¹ HUD carries out this mission through the administration of a range of affordable housing and community development programs, including public housing, Section 8 Project-Based Rental Assistance (PBRA), Section 8 Housing Choice Vouchers (HCV), Community Development Block Grants (CDBG), HOME Investment Partnerships (HOME), and Native American Housing Block Grants (NAHBG). HUD supports access to homeownership through the Federal Housing Administration (FHA), which provides federally-backed mortgage insurance, and through the Government National Mortgage Association (Ginnie Mae), which provides an explicit federal guarantee for mortgage-backed securities comprised of federally-backed mortgages. HUD is also the primary federal agency tasked with enforcing the Fair Housing Act, which prohibits discrimination in the housing market and requires recipients of federal housing funding to take steps to affirmatively further fair housing.

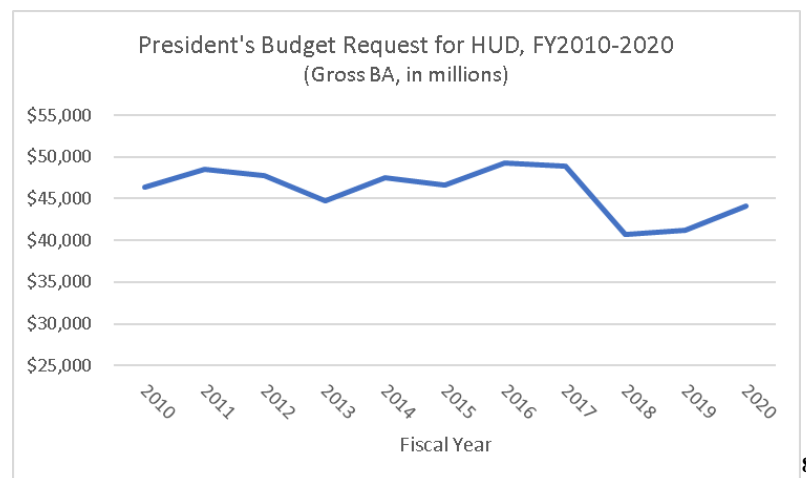
Research has shown that HUD’s housing assistance programs can have a positive impact on recipients. For example, when families are provided with HCVs, children are 42 percent less likely to be separated from their families, 20 percent less likely to be food insecure, and 34 percent less likely to experience domestic violence.² HUD programs have also been used to attract matching private-sector investments. According to HUD, every \$1.00 of CDBG and HOME funding leverages an additional \$3.65 in non-CDBG funding and \$4.17 in non-HOME funding, respectively. According to the National

¹ HUD website, available at: <https://www.hud.gov/about/mission>

² Center on Budget and Policy Priorities, *Housing Choice Vouchers Strengthen Families and Communities in Every State*, Aug. 9, 2017.

Association of Home Builders, building 100 affordable rental homes generates 297 jobs, \$28 million in wages and business income, and \$11 million in taxes and revenue for state, local, and federal governments.³

Today, the United States is experiencing an affordable housing crisis, but HUD lacks sufficient resources to fully meet this need. Federal rental assistance programs, for example, have enough funding to serve only one in four eligible households.⁴ More than half a million people experience homelessness on any given night.⁵ According to the National Low Income Housing Coalition, there is 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.⁶ According to HUD, FHA's technological systems are so outdated that there were 73 outages of FHA's origination systems during 2017, crippling the ability of FHA lenders to originate loans and harming their profitability.⁷ Secretary Carson has responded by proposing budget cuts (see chart below).



HUD Inspector General Investigations

HUD's Office of Inspector General (HUD OIG) has initiated several investigations into the conduct of Secretary Carson and other senior HUD staff. In February 2018, HUD OIG was reportedly investigating ethics concerns raised by HUD officials that the participation of Carson's son and daughter-in-law in an official HUD listening tour would violate federal ethics rules.⁹

HUD OIG has also raised concerns about HUD's delays in responding to HUD OIG investigations and other oversight efforts. In a December 2017 evaluation report, HUD OIG identified deficiencies in HUD's capacity to make timely productions of electronically-stored information ("ESI").¹⁰ According to HUD OIG, these deficiencies undermined government investigations and exposed HUD to legal risks.¹¹ On April 29, 2019, HUD Inspector General Rae Oliver Davis issued a Management Alert to Carson, citing

³ *Id.*

⁴ Center on Budget and Policy Priorities, *Chart Book: Federal Housing Spending is Poorly Matched to Need*, Mar. 8, 2017.

⁵ HUD, *The 2018 Annual Homeless Assessment Report (AHAR) to Congress*, Dec. 2018.

⁶ National Low Income Housing Coalition, *The Gap*, Mar. 2019.

⁷ HUD, *FY 2019 Congressional Budget Justifications*, Feb. 15, 2018.

⁸ Data retrieved from HUD Budget Authority Reports for FY2010-2020, HUD, *CFO Reports*, available at https://www.hud.gov/program_offices/cfo/reports/cforept..

⁹ See, e.g., CNN, *HUD inspector general looking into role Ben Carson's family has played*, Feb. 20, 2018.

¹⁰ HUD OIG, *E-Discovery Management System's Capacity to Meet Customer Demands for Electronic Data*, Evaluation Report 2017-OE-0008, Dec. 6, 2017.

¹¹ *Id.*

“unreasonable delays in [HUD OIG’s] access to departmental information,” which caused “OIG oversight efforts to be diluted, become stale, or worse, halt entirely.”¹²

HUD’s failure to provide timely responses to oversight requests has reportedly delayed a HUD OIG investigation into HUD’s administration of disaster recovery funds for Puerto Rico. In 2018, HUD allocated \$18.4 billion to Puerto Rico in response to damage caused by Hurricanes Irma and Maria.¹³ To date, Puerto Rico has only spent a fraction of this money due to multiple delays in HUD’s release of the funds.¹⁴ During a March 2019 Oversight and Investigations Subcommittee hearing, Counsel to the Inspector General, Jeremy Kirkland, confirmed that HUD OIG was investigating allegations that the White House sought to interfere with HUD’s disbursement of the aid to Puerto Rico.¹⁵ A month after the hearing, the Washington Post reported that HUD’s Office of General Counsel had impeded the investigation by delaying production of requested ESI and interfering with HUD OIG’s access to HUD records and witnesses.¹⁶ According to the Washington Post, HUD claimed to have produced the requested ESI to HUD OIG within a week of the April 2019 Management Alert.¹⁷

Some of the oversight and management challenges are due, in part, to HUD’s historically low staffing levels, which have continued to decline under Carson’s leadership. According to an October 15, 2018 HUD OIG report, HUD’s staffing has fallen more than 49 percent from its highest staffing levels in 1991. Understaffing and outdated systems at HUD may have contributed to HUD’s mishandling of the government shutdown earlier this year that resulted in a failure to renew approximately 1,150 Section 8 PBRA contracts despite clear protocols in HUD’s Contingency Plan to the contrary.¹⁸

Secretary Carson’s Approach to Housing Policy

Secretary Carson’s substantive policy decisions have largely centered around reversing policies enacted by the Obama administration.

Fair Housing

Under Secretary Carson’s leadership, HUD has taken several actions changing its approach to fair housing. On March 10, 2017, HUD withdrew an Obama administration proposal to require owners and operators of HUD-funded homeless shelters to post a notice informing individuals of their rights under HUD’s “Equal Access in Accordance with an Individual’s Gender Identity in Community Planning and Development Programs” rule. On August 11, 2017, HUD suspended the Obama administration’s Small Area Fair Market Rent (FMR) rule,¹⁹ which sets voucher amounts at the neighborhood rather than metro level to help voucher holders move into areas of opportunity, but this decision was later overruled by a federal court after civil rights groups brought suit.²⁰ On May 23, 2018, HUD halted implementation of the Obama administration’s Affirmatively Furthering Fair Housing (AFFH) rule, which carries out a key mandate under the Fair Housing Act that requires recipients of federal housing grants to take steps to affirmatively further fair housing. And, on March 28, 2018, the New York Times reported that HUD ordered its Office of Fair Housing and Equal Opportunity to halt a Secretary-initiated investigation that

¹² HUD OIG, *Management Alert: OIG Access to Electronically-Stored Information*, Memorandum 2019-IG-001, Apr. 29, 2019.

¹³ P.L. 115-56; P.L. 115-123.

¹⁴ Wash. Post, *After butting heads with Trump administration, top HUD official departs agency*, Jan. 16, 2019.

¹⁵ House Financial Services Committee, Oversight and Investigations Subcommittee, *Hearing on the Administration of Disaster Recovery Funds in the Wake of Hurricanes Harvey, Irma, and Maria*, Mar. 21, 2019.

¹⁶ Wash. Post, *HUD’s top watchdog: Agency impeded probe into Puerto Rico hurricane aid*, Apr. 30, 2019.

¹⁷ *Id.*

¹⁸ NBC News, *House Democrats investigate HUD’s ‘failure’ to act as shutdown threatens affordable housing*, Jan. 9, 2019.

¹⁹ HUD General Deputy Assistant Secretary for Public and Indian Housing letter to PHA Executive Directors, Aug. 11, 2017.

²⁰ See, e.g., Novogradac, *Federal Court Reinstates Small Area Fair Market Rent Requirements*, Dec. 28, 2017.

was filed against Facebook in 2016 under the Obama administration.²¹ HUD reopened the investigation nearly a year later, after civil rights groups had independently filed their own fair housing lawsuit against Facebook.²² After civil rights groups reached a settlement with the advertising company and tech giant, HUD charged Facebook with violating the Fair Housing Act by providing tools to advertisers to limit housing ads based on race, gender and other protected characteristics.²³

Federal Housing Administration

After President Trump's inauguration, HUD issued an administrative order that suspended a quarter-point decrease in annual FHA insurance premiums.²⁴ This premium cut was projected to save prospective FHA borrowers an average of \$500 in the first year alone. While, this change was made prior to Secretary Carson's official start date at HUD, he has maintained this suspension indefinitely and defended the decision despite the strong financial health of FHA's Mutual Mortgage Insurance Fund and calls from advocates and stakeholders to lift the suspension. Further, HUD's Budget Request for FY19 indicated, without any explanation, that HUD would be winding down the FHA's partnership with the Federal Financing Bank (FHA-FFB Partnership), which had been in place since June 26, 2014.²⁵ The FHA-FFB Partnership supports affordable housing preservation and construction by providing low-cost financing for multifamily risk-share loans that are originated by state and local housing finance agencies.

Public Housing

In a letter to housing authority executives dated November 13, 2018, HUD indicated that it would be focusing on "repositioning" 105,000 public housing units by September 30, 2019.²⁶ One means of repositioning public housing that reduces the public housing stock is the continued implementation of the Rental Assistance Demonstration (RAD) program, which has been criticized by GAO for having serious, negative impacts on tenants, and for HUD's failure to adequately track these impacts.²⁷ Carson's goal of repositioning public housing through RAD, however, is at odds with HUD's budget requests, which do not request funding for the public housing capital fund and underfund rental assistance programs²⁸ that are critical to ensuring that RAD deals are financially feasible. HUD has also issued a series of notices that would reduce public housing units,²⁹ including by expanding the circumstances under which HUD could approve demolitions or dispositions of public housing.³⁰

Rent Increases on Low-Income Families

On April 25, 2018, Secretary Carson proposed the "Making Affordable Housing Work Act of 2018" (MAHWA), which would increase rents for HUD-assisted families in order to help offset proposed reduction in funding included in the HUD budget request. Specifically, MAHWA would raise rents by an average of nearly 50 percent and triple rents for the lowest income households.³¹ MAHWA would also impose federal work requirements for the first time in the context of federal housing programs, despite

²¹ See, e.g., The New York Times, *Under Ben Carson, HUD Scales Back Fair Housing Enforcement*, Mar. 28, 2018.

²² See, e.g., Housing Wire, *HUD Investigates Facebook (again) over housing discrimination ads*, Apr. 23, 2018.

²³ See, e.g., Housing Wire, *HUD charges Facebook with housing discrimination over targeted ads*, Mar. 28, 2019.

²⁴ HUD Mortgage Letter 2017-07, Jan. 20, 2017.

²⁵ U.S. Department of the Treasury, *Secretary Lew Unveils New Efforts to Assist Struggling and Prospective Homeowners, Provide More Affordable Options for Renters*, June 26, 2014.

²⁶ HUD General Deputy Assistant Secretary for Public and Indian Housing letter to PHA Executive Directors, Nov. 13, 2018.

²⁷ GAO, *Rental Assistance Demonstration: HUD Needs to Take Action to Improve Metrics and Ongoing Oversight*, GAO-18-123, Feb. 20, 2018.

²⁸ See, e.g., National Low Income Housing Coalition, *Analysis of President Trump's FY2020 Budget Request*, Mar. 11, 2019.

²⁹ See, e.g., HUD, *Required Conversions*, Notice PIH 2019-10 (HA), Apr. 30, 2019; HUD, *Streamlined Voluntary Conversions of Last Remaining Projects of Small Public Housing Agencies*, Notice PIH 2019-05 (HA), Mar. 21, 2019.

³⁰ See, e.g., Nixon Peabody, *HUD's New Demo/Dispo Notice Could be a Game-Changer for Combining RAD & Non-RAD PBVs*, June 12, 2018.

³¹ Center on Budget and Policy Priorities, *Trump Plan Would Raise Rents on Working Families, Elderly, People With Disabilities*, Apr. 27, 2018.

evidence that work requirements in other federal programs have been ineffective and harmful.³² According to the Center on Budget and Policy Priorities (CBPP), this proposal would put approximately 1.7 million people, including nearly 1 million children, at risk of eviction, hardship, and homelessness.³³

EnVision Centers

Secretary Carson's signature initiative is the EnVision Center demonstration, which is intended to provide "centralized hubs" for HUD-assisted residents to access "support services that can help them achieve self-sufficiency."³⁴ According to one news report, "the program remains mired in confusion and bureaucratic tangles, according to interviews with HUD officials and staffers for non-profits and housing authorities that have been designated as EnVision Centers."³⁵ HUD is not providing any additional funding for its EnVision Centers, but aims to bring resources to HUD-assisted residents by creating a platform for communities to collaborate and leverage public-private partnerships.³⁶ At least three EnVision Centers have opened in Inkster, MI; Fort Worth, TX; and Spokane, WA.

Treatment of Families with Mixed Immigration Status

On May 10, 2019, Secretary Carson issued a proposed rule³⁷ that would require most HUD-assisted households - including all recipients of public housing, HCVs, and PBRA - to submit proof of their immigration status for DHS verification and would eliminate current policies that allow families with mixed immigration status to stay together and pay a prorated rent level to ensure that any family members without eligible immigration status do not receive HUD assistance. According to HUD's own analysis, 55,000 children who are legal residents of the U.S. could lose housing assistance under this proposal. Moreover, HUD's analysis found that the proposal would result in increased costs to the federal government.

Legislative Proposals

- H.R.1690, the "Safe Housing for Families Act of 2019," introduced by Rep. Garcia (IL) would require carbon monoxide detectors in certain federally-assisted housing.
- H.R. 2763, introduced by Rep. Garcia (TX), would prohibit HUD from implementing, administering, enforcing, or in any manner making effective the proposed rule entitled "Amendments to Further Implement Provisions of the Housing and Community Development Act of 1980."
- H.R. ____, the "Fair Chance at Housing Act," introduced by Rep. Ocasio-Cortez (NY) would reform the eviction and screening policies for federally-assisted housing to remove barriers to housing, family reunification, and rehabilitation for formerly-incarcerated individuals.

³² Center on Budget and Policy Priorities, *Work Requirements Don't Work*, Jan. 10, 2018.

³³ Center on Budget and Policy Priorities, *Trump Plan to Raise Minimum Rents Would Put Nearly a Million Children at Risk of Homelessness*, Apr. 27, 2018.

³⁴ HUD press release, *Secretary Carson kicks off EnVision Center Demonstration*, Jun 7, 2018.

³⁵ See, e.g., NBC News, *Ben Carson's 'signature' HUD initiative has gone nowhere*, Feb. 19, 2010.

³⁶ HUD, *Advanced Notice of Envision Center Demonstration*, 82 FR 58441, Dec. 12, 2017.

³⁷ HUD, *Proposed Rule: Housing and Community Development Act of 1980: Verification of Eligible Status*, 84 FR 20589, May 10, 2019.