



November 21, 2022

Snider Page
Acting Director
Office of Civil Rights and Equal Employment Opportunity
and Designated Federal Officer of TACRE
Department of the Treasury
1500 Pennsylvania Ave. NW
Washington, DC 20220

Dear Snider Page:

The Treasury Department has made a positive impact on thousands of distressed households during the national health emergency. Through emergency resources including the child tax credit, economic impact payments, and emergency rental assistance, the Department has afforded at-risk individuals and families a sense of economic stability and security. The Treasury Department should continue to prioritize actions that have the potential to create economic mobility for people who have been historically marginalized by the US financial system. Understanding this requires a coordinated and strategic effort across multiple systems, there are additional actions Treasury could take to catalyze economic mobility for low and moderate income black and indigenous people of color.

Mitigate impact of program cliffs and high effective marginal tax rates to increase assets of low to moderate income families.

The effective marginal tax rate (EMTR) is the percentage of an extra dollar of income that a benefit recipient loses due to income taxes, payroll taxes, and any decline in tax credits. For example, if a family earns an additional \$400 during the year which prompts a \$200 reduction in program benefits, this is an effective marginal tax rate of 50 percent on their new earnings. A program “cliff effect” refers to a marginal tax rate of 100 percent or more. This results from a loss of benefits that equals or exceeds the earnings gain. Due to a cliff effect, 100 percent or more of new earnings are eclipsed by benefit losses. According to a [2012 CBO report](#), people tend to work fewer hours when marginal tax rates are high, suggesting the fear of losing benefits creates a disincentive to make more money or build wealth. Economists have recommended different approaches to address high EMTR and cliff effects. For people nearing retirement, for example, some have suggested that lowering the means test or shielding pensioners from tax until their income reaches the means test cutout points could potentially reduce EMTRs by 50 percent. Economists using recent data have shown that the child tax credit has significantly reduced poverty for recipient families with children, making this kind of credit defensible for people who qualify for means tested assistance benefits regardless of their parental status. **We strongly encourage TACRE to recommend new policy or new policy**

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interpretations that could mitigate the impact of high EMTR and cliff effects on populations historically marginalized by the US financial system.

Remove administrative burdens that create barriers to receiving timely assistance through Treasury's programs.

The Centers for Medicare & Medicaid Services (CMS) has found that greater reliance on electronic verifications has reduced the enrollment administrative burden on both States and individuals and has increased program integrity. CMS is now exploring ways to use data reported by non-CMS programs such as Social Security Administration's SSI in making participant eligibility determinations, reducing the need for beneficiaries to submit duplicate information. **We recommend that Treasury Department explore how programs such as Emergency Rental Assistance can be better integrated with housing assistance programs administered by the Department of Housing and Urban Development in order to facilitate and increase participation by populations historically marginalized by the US financial system.** Enclosed are a few suggestions from one of our state partners on how this could be accomplished.

Assist USDA with implementing section 22007 of the Inflation Reduction Act.

Black people and indigenous people of color have been victimized for centuries by [domestic terrorism](#). Many of these acts have been rooted in fear of economic success that shifts power away from white dominant culture and creates intergenerational wealth for people of color. The racism underlying these horrific acts has been prevalent throughout American systems. Systemic racism has been particularly evident in land use and ownership. Courts and historians have already determined that the agricultural system has [discriminated](#) against black farmers, ranchers, and forest landowners. Section 22007 of the Inflation Reduction Act of 2022 ("section 22007") directs the U.S. Department of Agriculture (USDA) to provide \$2.2 billion in financial assistance for producers and landowners determined to have experienced discrimination in USDA's farm lending programs. This is not close to being sufficient to address centuries of land loss and human trauma. However, it is an acknowledgement that more action is needed to address past discriminatory practices. USDA has held several listening sessions to request input on how it should design and implement this new program. One consistent theme in every session is an expression of distrust for USDA. During several sessions, participants recommended that impartial parties such as Treasury-designated Community Development Financial Institutions (CDFIs) design and implement this program with trusted farmer advocacy groups that can fairly represent BIPOC interests. **Treasury should engage the USDA to learn more about how the CDFI Fund could assist with the section 22007 design and implementation effort** which could be strengthened and made more reparative if leveraged with the \$3.1 billion in loans/assistance provided through Section 22006 of the Inflation Reduction Act and other federal financial assistance.

Increase the number BIPOC-led CDFIs

The Community Reinvestment Act (CRA) is one of several laws enacted in the 1960s and 1970s to address fairness and financial inclusion in access to housing and credit. These fair lending laws prohibit discriminatory lending practices based on race and ethnicity. However, the laws

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haven't prevented banks from continuing practices that increase racial disparities in banking or rectified past discrimination by banks that denied racial minority groups access to financial services that build intergenerational wealth. According to the [Brookings Institute](#), "there are [still] stark contrasts in access to credit for African Americans: Interest rates on business loans, bank branch density, local banking concentration in the residential mortgage market, and the growth of local businesses are markedly different in majority Black neighborhoods." These contrasts can be directly attributed to actions undertaken by the US banking system. For this reason, a new framework for addressing past discriminatory practices and current racial disparities needs to be constructed. This framework must ensure community agency over financial resources. CDFIs can be an instrument for effecting this outcome.

Treasury-certified CDFIs address the development needs of small businesses and communities that have been underserved by conventional banks. Some have had much success in partnering with banks in this endeavor although white-led CDFIs hold six times as many assets as black-led CDFIs. This is a contradiction in purpose of CDFI existence. **We recommend that Treasury with TACRE's assess how direct infusion of capital will allow existing and upcoming black-led CDFIs to strengthen their balance sheets, build loan capacity and generate more revenue through interest income.** In turn, black-led CDFIs can provide more affordable capital to communities and businesses they serve.

Thank you for the opportunity to comment. We hope that TARCRC takes these comments into consideration in advising and making recommendations to the Offices of the Secretary and Deputy Secretary.

Marquerite Pridgen

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Enclosure:
As stated.

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Federal Regulatory Reforms To End Administrative Burdens In Housing

A nationwide housing crisis requires policies that respond with urgency and help Americans secure safe, quality housing as quickly as possible. Yet access to public assistance, rental subsidy vouchers, and affordable units often requires long and onerous processes involving extensive paperwork, in-person appointments, and valuable time that people facing housing instability or homelessness simply do not have. Applicants are often asked to repeatedly verify basic facts about their identity and eligibility for benefits to multiple government agencies. These burdens have a very real cost for Americans in need, causing families experiencing homelessness to live in shelter longer and allowing scarce affordable housing to sit vacant for months.

A large portion of units financed by municipalities are subject to federal standards, pursuant to financing from LIHTC, PBV Section 8, HOME, Tax-Exempt Bonds, and other programs. The following suggestions are proposed changes to HUD and IRS rules relating to these programs, some to be changed through statute, some through regulation, that can remove administrative burdens that keep Americans from getting the housing they need. We look forward to working with our partners in the federal government and advocacy to bring about change.

Proposed changes to HUD and IRS rules:

Rule/Requirement	Challenges	Proposal	Citations
“120 Day Rule” – all documents must be dated within 120 days.	<ul style="list-style-type: none"> • HUD allows for document to be dated within 120 days of receipt, while IRS requires document to be dated within 120 of move-in. • Documents “go stale” during processing due to reasons outside of the applicant’s control, e.g., construction delays, and all documentation must be resubmitted. 	<ul style="list-style-type: none"> • Align interpretation of “120 days” between HUD and IRS. Allow for certain documents for fixed income sources (e.g. Social Security, Pensions, etc.) to be exempt from this rule as long as it is within the current calendar year, since these amounts do not change. • Only require 120-day rule to be implemented at time of processing and certification, regardless of the actual date of move-in. I.e. Eligibility determination does not expire after initial qualification, prior to lease up. 	<ul style="list-style-type: none"> • HUD 4350 5-13, Section B,b(1): • HUD 4350 5-16, Section B,1: • IRS 8823 guide Pg 4-30 ‘Documentation Requirements’
6 statements required for all checking accounts.	<ul style="list-style-type: none"> • 6 statements is excessive, especially for extremely low-income households with very few assets. • The more statements submitted, the more the developer needs to review and scrutinize for other income sources that often are not significant. 	Allow for the current balance of checking accounts to be accepted instead of 6, which would align with all other asset sources such as savings and retirement accounts.	HUD 4350.3 REV-1 Appendix 3
Bank deposits must be scrutinized and explained.	<ul style="list-style-type: none"> • While the intent of this guidance from HUD and the IRS is to look for unreported sources of income, many applicants receive and send money electronically through their banks for everyday reasons that are unrelated to income sources (e.g. Venmo, Zelle, Cashapp, etc.) • Requiring the applicant to explain every single deposit on 6 months of their bank account history is tedious and invasive. 	HUD/IRS currently requires owners to use “due diligence” in identifying potential sources of unreported income. However, HUD must publish guidance on what qualifies a deposit needing an explanation so developers and agencies alike have clear instruction on when an applicant must clarify their bank deposits. This reasoning should be based in logic and reduce burden on the applicant.	<ul style="list-style-type: none"> • HUD Notice PIH 2018-18 • IRS 8823 guide Page 4-7
EBT card balances must be documented through an ATM receipt or other method.	<ul style="list-style-type: none"> • Award letters from the Public Assistance source of this cash card is also a required document, making this request redundant. • Applicants with EBT cards often do not know how to retrieve a paper statement of their balance since they only use it as the source of their cash assistance and not for any other banking method. • Because the EBT cards hold a cash balance, housing agencies are required to document these accounts as assets. 	Adjust the definition of an asset, and exclude EBT cards.	HUD 4350 Section 5-7, A

Proposed changes to HUD and IRS rules continued:

Rule/Requirement	Challenges	Proposal	Citations
Households comprised of full-time students may not qualify for IRS/HUD funded housing.	<ul style="list-style-type: none"> • Current IRS and HUD rules were intended to prevent subsidized housing from becoming student housing. However, the other documentation requirements, layered with the restriction on guarantors, does not make this concern a reality. • These rules disincentivize tenants from going back to school once in affordable housing. • HUD and IRS requirements on the definition of a student and any exemptions to this rule are not consistent. IRS rules are more restrictive. 	<ul style="list-style-type: none"> • HUD and IRS must align their definitions of this rule. • Pass Section 203 of the Affordable Housing Credit Improvement Act (S.1136/H.R.2573), which clarifies that full-time students are eligible for federally-assisted so long as they meet all other eligibility criteria. 	<ul style="list-style-type: none"> • IRC §152(f)(2) • IRC §42(i)(3)(D)

Proposed changes to IRS rules:

Rule/Requirement	Challenges	Proposal	Citations
For LIHTC, if total assets are less than \$5K, an “Under \$5,000 Certification” form can be accepted with no backup. For Tax-Exempt Bonds (TEB), account statements/verifications are needed for all assets regardless of total value of household assets.	<ul style="list-style-type: none"> • LIHTC and TEB are often layered programs, so the more restrictive policy will always apply. • By requiring the verification of assets under \$5k, applicants are burdened when it is very unlikely that eligibility will be impacted. 	Align requirements across LIHTC and TEB programs and allow the self-declaration of assets under \$5k to be sufficient for TEB.	<ul style="list-style-type: none"> • 26 CFR § 1.42-5 (b)(vii) ‘Monitoring compliance with low-income housing credit requirements’ • IRC §142(d)(3)

Proposed changes to HUD rules:

Rule/Requirement	Challenges	Proposal	Citations
For Section 8 units, PHAs are required to conduct Employer Verifications via third-party system for all employed applicants. LIHTC has different verification rules.	<ul style="list-style-type: none"> • Extremely administratively burdensome. • Most commonly redundant, as the information provided by the third-party system is the same as provided by the applicant from paystubs or tax-return documentation. 	<ul style="list-style-type: none"> • Recommendation for Section 8: Remove the requirement to perform on all applicants. Only make available when clarification is needed or a discrepancy is suspected. • Impactful change for Section 8 and LIHTC: Allow LIHTC program to access the EIV and use EIV alone to verify income, therefore not requiring any documentation from the applicant. 	<ul style="list-style-type: none"> • PIH 2017-12 • HUD 4350.3 5-13(A) Acceptable Methods of Verification: • 26 CFR § 1.42-5 (b)(1)(vii), ‘Monitoring compliance with low-income housing credit requirements’:
Section 8 qualification <i>cannot</i> serve as a proxy for LIHTC tenant income certification, despite sharing almost entirely the same documentation requirements and eligibility methodologies.	<ul style="list-style-type: none"> • The CFR rule on LIHTC certification explicitly allows this. • However, the McKinney Act presently prevents PHAs from sharing participant information externally. 	Legislative recommendation: Amend the McKinney Act to have a carve-out for sharing of discrete participant information to meet the proxy definition in the CFR.	<ul style="list-style-type: none"> • 26 CFR § 1.42-5 (b)(vii) • Section 904 of the Stewart B. McKinney Act Homeless Assistance Amendments Act of 1988 (McKinney Act) (42 U.S.C. 3544)