

THE HFA INSTITUTE 2021

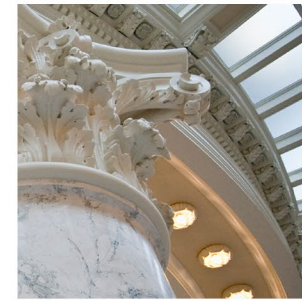
Housing Credit Regulatory Briefing 2.3.21



National Council of
State Housing Agencies



**MRBs and
Other Federal
Homeownership
Programs**
FEBRUARY 1 – 3



Housing Credit
FEBRUARY 3 – 5



**Section 8 and
Other Federally
Assisted
Multifamily
Housing**
FEBRUARY 8 – 10



**HOME and
Housing Trust
Fund**
FEBRUARY 10 – 12



DISCUSSION LEADER

James Tassos, Deputy Director of Tax Policy and Strategic Initiatives | National Council of State Housing Agencies

PANELISTS

Tom Davis, Director, Office of Recapitalization | U.S. Department of Housing and Urban Development

Mike Hollar, Senior Economist, Office of Policy Development and Research | U.S. Department of Housing and Urban Development

George Lydford, Senior Program Analyst, Examination Quality and Technical Support | Internal Revenue Service

Ginny Sardone, Director, Office of Affordable Housing Programs | U.S. Department of Housing and Urban Development

Dillon Taylor, Attorney, Office of Chief Counsel | Internal Revenue Service



IRS Policy Briefing

February 3, 2021
Washington, D.C.




Panelists
Office of Chief Counsel,
Internal Revenue Service

Dillon Taylor, Attorney
George Lydford, Senior Program Analyst

Agenda

- o COVID-19 Relief for Certain § 42 Requirements
- o Compliance-Monitoring Regulations
- o Average Income Regulations
- o IRS Forms, Reminders, and Updates



COVID-19 Relief

Dillon Taylor

Notice 2021-12

- On January 15, 2021, the IRS issued Notice 2021-12.
- This notice extends the temporary relief provided in Notice 2020-53 from certain requirements under § 42 for qualified low-income housing projects and under §§ 142(d) and 147(d) for qualified residential rental projects.
- Notice 2021-12 also provides temporary relief from additional § 42 requirements not previously addressed in Notice 2020-53.

Notice 2021-12 – Relief for section 42 deadlines

- o If the last day for an Owner of a building with a carryover allocation to meet the 10-percent test is on or after April 1, 2020, and before September 30, 2021, the last day for the Owner to meet the 10-percent test is postponed to the earlier of one year from the original due date or September 30, 2021.
- o If the 24-month minimum rehabilitation expenditure period for a building originally ends on or after April 1, 2020, and before September 30, 2021, the last day for the Owner to incur the minimum rehabilitation expenditures with respect to the building is postponed to the earlier of one year from the original end date or September 30, 2021.
- o If the deadline for a low-income building to be placed in service is the close of calendar year 2020, the last day for the Owner of the building to place the building in service is postponed to December 31, 2021.

Notice 2021-12 – Relief for section 42 deadlines (cont.)

- o In the case of a casualty loss not due to a pre-COVID-19-pandemic Major Disaster, and in the case of a casualty loss due to a pre-COVID-19-pandemic Major Disaster, if a low-income building's qualified basis is reduced by reason of the casualty loss and the Reasonable Restoration Period ends on or after April 1, 2020, then the last day of the Reasonable Restoration Period is postponed by a period of one year from the original end date but not beyond December 31, 2021.
- o If the close of the first year of the credit period with respect to a building is on or after April 1, 2020, and on or before June 30, 2021, then the qualified basis for the building for the first year of the credit period is calculated by taking into account any increase in the number of low-income units by the close of the 6-month period following the close of that first year.

Notice 2021-12 – Relief for section 42 deadlines (cont.)

- o If a correction period that was set by the Agency ends on or after April 1, 2020, and before September 30, 2021, then the correction period is extended by a year, but not beyond December 31, 2021.

o .

Notice 2021-12 - Relief for Operational Provisions

- o An Owner of a § 42 building is not required to perform income recertifications under in the period beginning on April 1, 2020, and ending on September 30, 2021.
- o An Agency is not required to conduct compliance-monitoring inspections or reviews in the period beginning on April 1, 2020, and ending on September 30, 2021.
- o If an amenity or common area in a low-income building or project is temporarily unavailable or closed during some or all of the period from April 1, 2020, to September 30, 2021, and if the unavailability or closure is in response to the COVID-19 pandemic and not because of other noncompliance for § 42 purposes, then this temporary unavailability or closure does not result in a reduction of the eligible basis of the building.

Notice 2021-12 - Relief for Operational Provisions (cont.)

- o For the purposes of an Agency's QAP meeting the requirements of § 42(m)(1)(A), if a hearing on or after April 1, 2020, and before September 30, 2021, is held by teleconference that is accessible to the residents of the locality where the Agency has jurisdiction by calling a toll-free telephone number, then the hearing does not fail to satisfy § 42(m)(1)(A) solely on the grounds that it was not held in-person.
- o Section 42 properties may be used temporarily to provide emergency housing for medical personnel and other essential workers providing services during the COVID-19 pandemic.



**Compliance-
Monitoring
Regulations**

Dillon Taylor

Compliance-Monitoring Regulations Update

- o The low-income housing credit compliance-monitoring proposed regulations were published on July 7, 2020.
- o On the 2020-2021 PGP (released on November 17, 2020), the project is open.
- o Comment period closed on September 8, 2020.
- o We are currently reviewing the comments.



Average Income Regulations

Dillon Taylor

Average Income Regulations

- o The average income proposed regulations were published on October 30, 2020.
- o On the 2020-2021 PGP (released on November 17, 2020), the project is open.
- o Comment period closed on December 29, 2020.
- o We are currently considering the comments.



**Forms, Reminders,
and Updates**

George Lydford

Topics

- o **Form 8610 - Reminders and Updates**
- o **Schedule A (Form 8610) Carryover Allocation of Low-Income Housing Credit – RP 2014-49 Relief**
- o **Form 8823 – IRS Enterprise Electronic Fax (IRS-EEFax)**
- o **Form 8823 –IRS-EEFax Processing Reminders**
- o **Upcoming Form Changes – Legislation & COVID Relief**

Form 8610 - Reminders and Updates

- o Form Changes for Tax Year 2020
- o Split line 2a into line 2 and 3 form count request
- o Separated the bulleted requested information on line 2a into line 2 and 3
- o Eliminated Line 14 and Line 15

Schedule A (Form 8610) Carryover Allocation of Low-Income Housing Credit – RP 2014-49 Relief

- o Rev. Proc. 2014-49 relief granted – COVID or other
- o File New Schedule A (Form 8610)
- o Check relief granted box
- o Not applicable for relief under Notice 2020-53, or prior IRS Notice related to COVID-19
- o Attach to 2020 Form 8610
- o Do not include in form count, or dollar totals
- o Provide a cover sheet, or separate all forms with relief

Form 8823 – IRS Enterprise Electronic Fax (IRS-EEFax)

- o IRS-EEFax submission process
- o Toll-free fax number **855-242-6545**
- o Effective January 4, 2021
- o Paper form submission still acceptable
- o Contact Program Analyst to verify receipt, or test
- o EEFax only approved for Form 8823
- o Next steps - E-Signature Pilot - Form 8823

Form 8823 -IRS-EEFax Processing Reminders

- o Ensure F-8823 is hand signed by designated official.
- o Convert Form 8823 into an electronic document.
- o Include supporting documentation.
- o Use stand-alone fax machine, all in one printer, or commercial third-party E-Fax solution.
- o Do not send hard copy to the LIHC Campus Unit if you use EEFax option to submit.

Upcoming Form Changes – Legislation & COVID Relief

- o Form 8610

- o Additional credit ceiling qualified disaster zones

- o Schedule A Form 8610)

- o COVID Relief – 10% test extension

- o Form 8609 and Instructions

- o Instructions change related to minimum 4% credits.

- o COVID Relief - Placed in service extension

IRS – LIHC Contact

- o Inquiries go to: sbse.lihc@irs.gov
- o George Lydford, Senior Program Analyst, LIHC
 - o (480) 503-7287

2021 NCSHA Housing Finance Institute

Housing Credit Regulatory Forum:

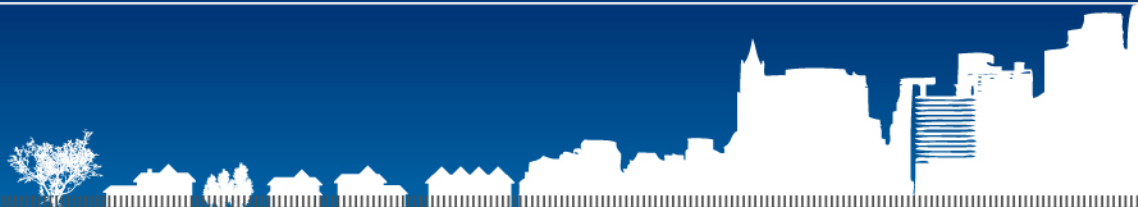
PD&R's Data Releases, HUD's LIHTC Data Collection, Physical Inspection Alignment Initiative

February 3, 2021

Michael Hollar

Senior Economist

U.S. Department of Housing and Urban Development

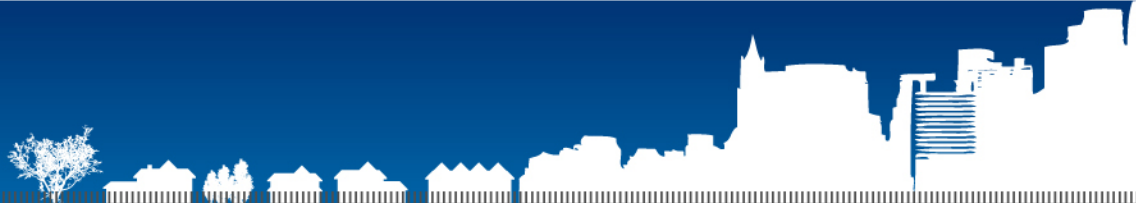


PD&R's Federal Register Notices

1. Income Limits
2. Fair Market Rents
3. QCTs & DDAs



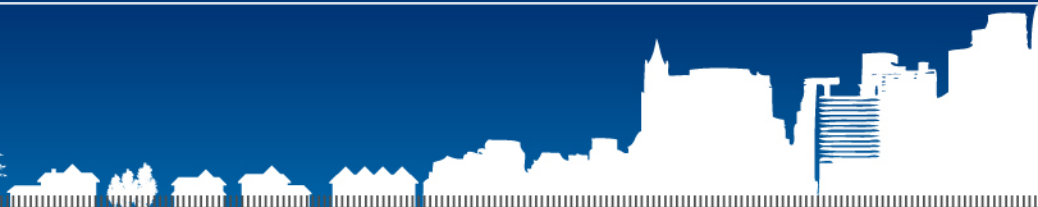
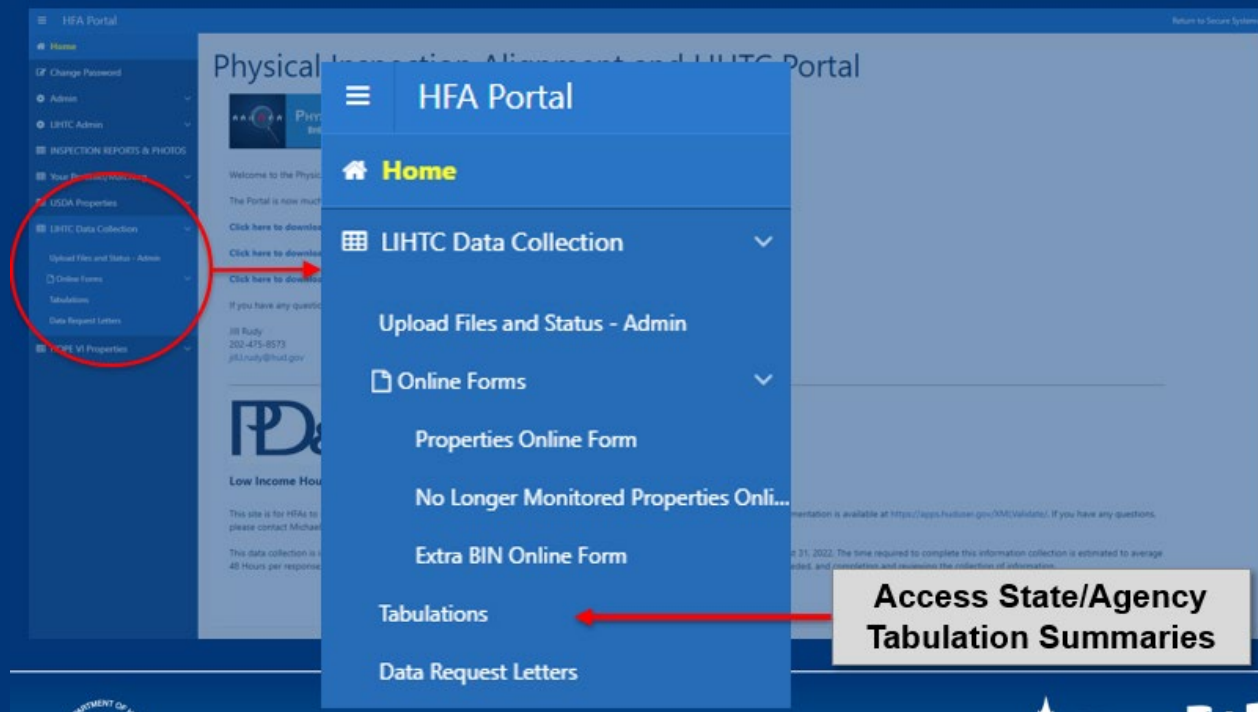
PD&R



HUD's LIHTC Data Collection

1. Last Year's Data Collection (2019 Data)

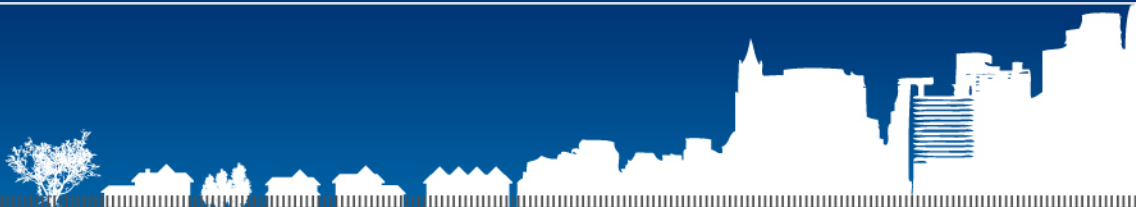
- Data summaries to be posted by end of Feb for HFA review.
- Please provide feedback by end of April.



HUD's LIHTC Data Collection

2. This year's Data Collection (2020 Data)

- There are no changes to data collection forms.
- Data Issues from last year's collection.
 1. Make sure to use most recent Excel Tool.
 2. The XML files must have DOS\Windows format and UTF-8 encoding type.
 3. Do not include a new line character in street address.
 4. Allocation amount is often missing.
 5. Frequent format issues for HUD Property ID, FHA Number or other loan numbers.

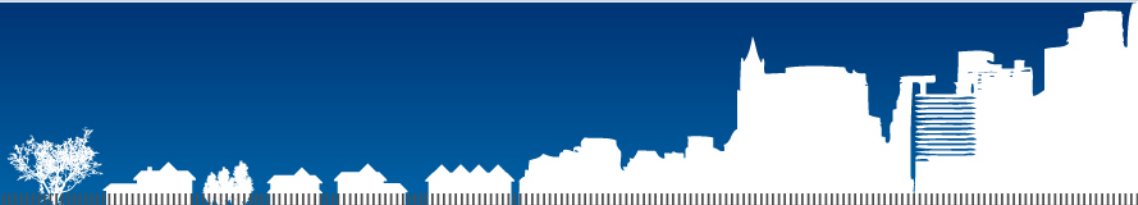


HUD's LIHTC Data Collection

2. This year's Data Collection (2020 Data) - *continued*

- Data Issues from last year's collection.
 6. County Name is sometimes missing.
 7. PIN & BIN are either missing or, for BINs, in invalid format.
 8. Do not include special characters in first or last name.
 9. Dollar amounts CANNOT contain decimals or commas.
 10. Invalid code submitted for Race. ('7' is not valid)

Code	Race
1	White
2	Black/African American
3	American Indian/Alaska Native
4	Asian (India='4a'; Chinese='4b'; Filipino='4c'; Japanese='4d'; Korean='4e'; Vietnamese='4f'; Other Asian='4g')
5	Native Hawaiian/Other Pacific Islander (Native Hawaiian='5a'; Guamanian or Chamorro='5b'; Samoan='5c'; Other Pacific Islander='5d')
6	Other
8	Tenant Did Not Respond
9	Missing/Not Collected



Need Access to Portal?

1. Apply for Access to HUD's Secure Systems at

https://hudapps.hud.gov/public/wass/public/independent/indreg_page.jsp

- You may already have an ID if your agency is a HUD contract administrator.
- SSN or Agency's Tax ID is required.

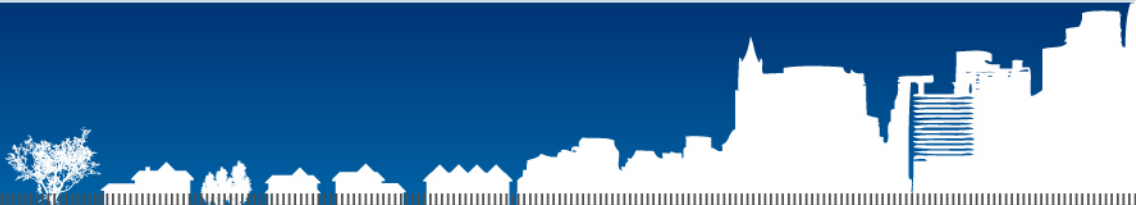
2. Send me your ID and I'll provide access to the HFA Portal.

Need Password Reset?

Call REAC Technical Assistance Center (TAC) at

1-888-245-4860

- Users must log in at least once every 90 days or account is de-activated. To re-activate, must call REAC TAC.



Physical Inspection Alignment Initiative

Contacts:

Jill Rudy:

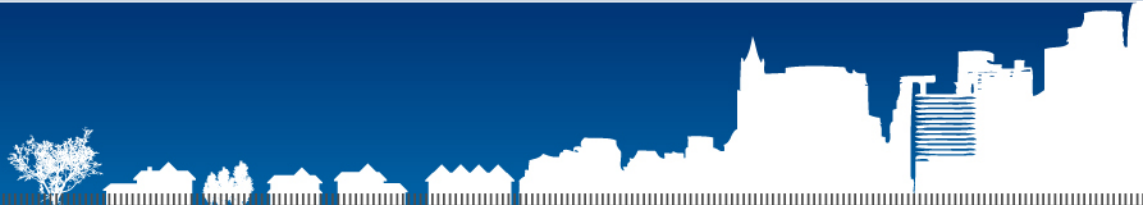
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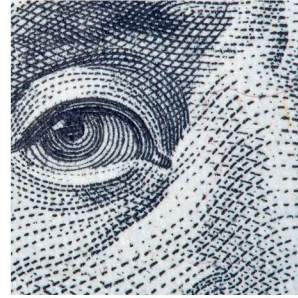
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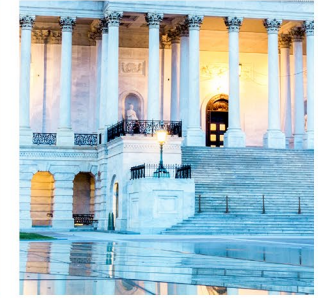
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HOME Program COVID Response

- Using the statutory suspension authority for Presidentially-declared major disasters, on April 10, 2020 HUD issued two suspension and waiver packages for the HOME Program
 - General Program Suspensions and Waivers
 - Emergency and Short-Term Tenant-Based Rental Assistance (TBRA)
- Suspensions and waivers had December 31, 2020 expiration
- On December 4, 2020, HUD revised and updated packages:
 - Extended suspensions/waivers through September 30, 2021
 - Clarified or broadened applicability of suspensions/waivers
 - Issued one new suspension and one new waiver

HOME Program COVID Response

- Suspensions and waivers intended to:
 - Provide additional administrative resources to HOME participating jurisdictions (PJs), nonprofit subrecipients, and community housing development organizations;
 - Eliminate burdensome administrative requirements that complicate or slow provision of assistance;
 - Prevent spread of COVID-19 by facilitating social distancing for PJ staff and tenants.
 - Enable PJs to mobilize uncommitted grant funds in their Federal accounts to assist tenants pay rent and utilities and to help stabilize the finances of existing HOME-assisted rental projects.

General Suspensions/Waivers Unchanged

- Administrative set-aside increased from 10% to 25% for FY19 and FY20 grants
- Eliminated CHDO set-aside for FY 2017 through FY 2020 grants
- Increased cap on CHDO operating assistance cap from 5% to 10% of FY 2019 and FY 2020 grants
- Eliminated match requirement for FY 2020 and FY 2021

General Suspensions/Waivers Extended

- Four-Year HOME Project Completion Deadline
- Nine-Month Sale Deadline for HOME Homebuyer Units
- Periodic inspection of HOME rental units

General Suspensions/Waivers Revised & Extended

- Provision permitting households applying for a HOME rental unit or HOME TBRA to self-certify income in lieu of source documentation
 - Expanded to requalification of TBRA recipients and to recertifications of in-place tenants of HOME rental units (every 6th year of project operation)
 - Aligned treatment of pandemic-related Unemployment Income with other HUD programs
 - Expires September 30, 2021

General Suspensions/Waivers Revised & Extended

- Provision extending time period for required annual inspections of units occupied by TBRA recipients (in regular TBRA programs)
 - Expanded to include initial inspection of units to be occupied by TBRA recipients
 - Extended through September 30, 2021

New General Statutory Suspension

- Maximum Per Unit Subsidy Limit suspended:
 - For all rental and homeownership projects underway or to which HOME funds are committed on or before September 30, 2021
 - For existing rental projects to which HOME funds are being provided for operating reserve contributions under these waiver and suspension packages

General Suspensions/Waivers Revised & Extended

- Provision permitting investment of HOME funds in HOME rental projects to recapitalize operating reserves for HOME-assisted units only in amount equal to 100% of operating costs
 - Previously limited to projects experiencing operating deficits due to nonpayment of rent; expanded to projects with deficits due to COVID-related operating costs increases (e.g., cleaning, closure of amenities)
 - Language added prohibiting duplication of benefits (e.g., cannot accept operating funds to cover unpaid rent and pursue back rent)
 - Period covered by waiver, which began April 1, 2020, is extended through September 30, 2021

Tenant-Based Rental Assistance Waivers

- All TBRA waivers extended through September 30, 2021
- Payment of 100% of rent and utility arrearages plus associated late fees dating back to January 27, 2020 made explicitly eligible
- Unit inspections waived through September 30, 2021. PJs are only required to conduct inspections after the waiver period if the tenant will continue receiving TBRA beyond the deadline under a new TBRA contract.
- Treatment of Unemployment Income aligned with other HUD programs

HOME COVID-19 Suspensions and Waivers

- For more information on the HOME COVID-19 response, please visit: <https://www.hudexchange.info/programs/home/covid-19/#regulatory-resources>
 - Suspension and Waiver packages
 - FAQs
 - Webinars
 - Toolkits (sample forms, contracts; program design, planning, and management checklists)

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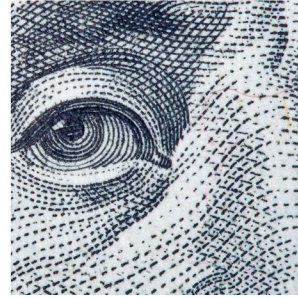
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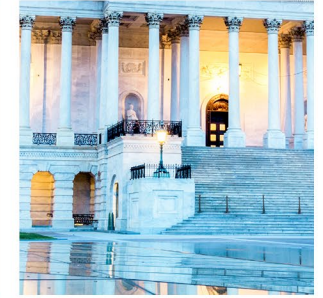
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RAD for Public Housing

- RAD Public Housing Conversion Status
 - Making strong progress on the capital backlog crisis (which remains huge)
 - \$10.9 Billion in construction activity
 - \$12.57 of other funds for every \$1.00 of public housing appropriations
 - 34 years to complete an equivalent level of modernization based on traditional public housing processes
- Higher levels of investment rely on LIHTCs
- COVID Flexibilities
- Other Current Topics

Other Office of Recap. Programs

- RAD for Multifamily Housing
 - Continued Mod Rehab Conversions
 - New RAD for PRAC Conversion Program
 - 2 Conversions Closed (87 units)
 - 3 Conversions In Closing (192 units)
- Other Preservation Efforts (Sec. 236, Pre-1974 Sec. 202)
- New Housing for the Elderly – Section 202 NOFA
 - \$150 Million available
 - Applications due May 26, 2021