



November 6, 2020

MEMORANDUM

TO: NCSHA Members
FR: NCSHA Policy and Government Affairs Team
RE: What a Biden Administration Would Mean for Affordable Housing

Executive Summary

A Joe Biden Administration would likely pursue an ambitious affordable housing agenda, albeit one calibrated to reflect the realities of an increasingly gridlocked and intensely partisan environment in Congress. This would be the case even if the Democrats gain control of the Senate, which will not be decided until January. (Please see NCSHA's [November 6 updated Election Analysis](#) for more.)

This memorandum provides a comprehensive overview of what NCSHA believes a Biden affordable housing agenda would encompass, including legislative proposals, regulatory and administrative action, and key appointments. The information is based on Biden campaign materials, legislation and analysis produced by congressional Democrats, various news reports, and NCSHA staff communication with individuals informally advising the Biden team.

First 100 Day Priorities

Presidents typically have the most political capital on domestic affairs early in their terms ("the first 100 days"). In the closing days of the campaign, candidate Biden suggested his early priorities would be addressing the public health and economic fallout from the coronavirus.

[During a recent podcast](#), a former colleague from the Obama Administration asked Biden, "What are the three or four things that are at the top of Joe Biden's first-term agenda?" Biden started his response as follows:

“Get control of coronavirus. Without that, nothing else is going to work very well, number one. Number two: invest in the community, in real infrastructure.... So we’re going to invest in generating economic growth in the United States by making it and buying it. Buy it in America, made in America.”

Biden’s campaign proposed a [stimulus package](#) substantially similar to the [HEROES Act](#) passed by the House earlier this year, which included more than \$175 billion in emergency renter and homeowner assistance. Although the summary of Biden’s plan does not specify funding for emergency housing aid, Biden has indicated support for it separately, issuing [a statement](#) in August that said in part:

“To prevent a catastrophic rise in evictions and homelessness, President Trump must work with Congress to act swiftly and enact a broad emergency housing support program for renters, just as we would in the aftermath of a natural disaster. Such a step would get help out quickly and at scale so that millions of people aren’t evicted or forced to choose between rent and food.”

Prior to the election, congressional Democrats and the Trump Administration had reportedly agreed to include \$75 billion in emergency housing assistance in a stimulus bill. It is unclear whether stimulus negotiations will resume in the lame duck session of Congress or remain paused until early next year.

On infrastructure, Biden has proposed a 10-year, [\\$2 trillion plan](#) that would include funding for the construction and rehabilitation of 1.5 million affordable housing units under energy efficiency standards, among many other items. The plan would be funded primarily from revenue raised by rolling back some of the corporate and individual tax cuts enacted in 2017.

The House this year passed a comprehensive infrastructure bill, the [Moving Forward Act](#), which overlaps in a number of areas with the Biden proposal and includes an expansion of the Housing Credit and Private Activity Bonds and fixed four percent Credit rate for bond-financed Housing Credit developments. Biden has proposed to expand the Housing Credit as part of his housing plan.

Legislative Proposals

Biden has proposed a 10-year, [\\$640 billion housing plan](#). In a [statement](#) this summer, the campaign said: “About \$300 billion of the housing plan is devoted to new construction and is encompassed in the \$1.3 trillion infrastructure plan. The remaining portion is paid for by instituting a financial fee on certain liabilities of firms with over \$50 billion in assets.”

Biden's legislative proposals include a \$10 billion expansion of the Housing Credit and enactment of the Neighborhood Homes Investment Act, both of which are [NCSHA priorities](#). Legislation to enact these proposals is pending in Congress, and NCSHA is working already to ensure it is "ready to go" early next year. Biden has also proposed to reinstate the Federal Financing Bank FHA-HFA Multifamily Risk-Sharing Initiative. NCSHA believes a Biden Administration could accomplish that using its own authority, without new legislation.

Biden has also proposed to:

- Create a new refundable, advanceable homeownership tax credit of up to \$15,000;
- Create a new renter's tax credit, designed to reduce rent and utilities to 30 percent of income for lower-income individuals and families; and
- Provide Section 8 housing vouchers to every eligible family so no lower-income family must pay more than 30 percent of their income for rental housing.

None of these proposals have been introduced in the current Congress although NCSHA has spoken with congressional staff who are developing potential legislative language.

Biden's housing plan also calls for a \$100 billion Affordable Housing Fund to construct and upgrade affordable housing, with \$65 billion for state housing authorities, \$20 billion for the Housing Trust Fund, \$10 billion to make homes more energy-efficient, and \$5 billion for the HOME and Capital Magnet Fund programs.

Rural housing programs, eviction protection, Community Development Block Grants, the Community Development Financial Institution Fund, and New Markets Tax Credits would be increased under Biden's plan. The plan also identifies "housing first" and veterans as priorities in responding to homelessness.

Finally, Biden's legislative housing plan proposes several broad-based principles that would apparently apply broadly to federal housing programs. They include:

- A "national strategy for making housing a right for all" and a "homeowner and renter bill of rights;"
- Allocating 10 percent of all federal funding programs to counties where 20 percent or more of the population has been living below the poverty line for the last 30 years; and
- Tying new federal investments in housing to a requirement that states and localities eliminate regulations that reduce the availability of affordable housing and contribute to sprawl.

Regulatory and Administrative Plans

Biden's housing agenda includes plans to reverse and revise pending and promulgated regulations under the jurisdiction of the Consumer Financial Protection Bureau (CFPB), Federal Deposit Insurance Corporation (FDIC), Federal Housing Administration (FHA), Federal Housing Finance Agency (FHFA), Federal Reserve Bank (Fed), Office of the Comptroller of the Currency (OCC), and the Department of Housing and Urban Development (HUD).

A Biden Administration may have more opportunity to enact parts of its agenda in this area sooner than the legislative arena — as long as it can get timely Senate confirmation of key personnel, which is not guaranteed. Among the specific goals Biden seeks to accomplish are:

- Strengthening and expanding the Community Reinvestment Act, in part “to ensure that bank and non-bank financial services institutions are serving all communities” (OCC, FDIC, and Fed jurisdiction);
- Reinstating and revising fair housing policies that have been changed by the Trump Administration, including the Affirmatively Furthering Fair Housing and Disparate Impact rules (HUD jurisdiction); and
- Reversing and revising recent action by the administration to better “protect LGBTQ individuals by ensuring federally funded homeless shelters provide housing according to an individual’s gender identity and cannot refuse services based on gender identity or sexual orientation” (HUD jurisdiction).

The Biden housing plan also includes federal agency efforts, which may require legislation or at least appropriated funding, to further address racial inequities in the housing market. Key policy proposals in this area include:

- Creating a national standard for housing appraisals that ensures appraisers are adequately trained “and do not hold implicit biases because of a lack of community understanding;”
- Providing incentives and requirements to reduce “exclusionary zoning” at the local level; and
- Reinstating powers of the CFPB’s Office of Fair Lending and Equal Opportunity to enforce settlements against lenders found to have discriminated against borrowers.

The Biden housing plan does not propose major changes to Fannie Mae and Freddie Mac, whose regulator, the FHFA, has been focused for the last several years on reducing the companies’

affordable housing activities as part its top priority to move Fannie and Freddie out of conservatorship.

Major legislative changes to the GSEs (“housing finance reform”) seem off the table at least until the economy has improved and possibly for as long as a Biden Administration is in office. NCSHA believes and is advocating that a Biden Administration would aim to responsibly expand Fannie and Freddie’s role under FHFA’s existing authority to address low- and moderate-income housing needs under their current authority, as their charter makes plain they are required to do.

Like all the regulatory and administrative priorities in Biden’s plan, the first step is key appointments.

Key Appointments

The guessing game about whom the president-elect might appoint to his Cabinet has begun. Although these suggestions are mostly speculative, some of the names people think might be on Biden’s short list for HUD include Representative Karen Bass (D-CA), former Jacksonville Mayor Alvin Brown, Los Angeles Mayor Eric Garcetti, Representative Jesus “Chuy” Garcia (D-IL), former Philadelphia Mayor Michael Nutter, and former District of Columbia Mayor Anthony Williams.

In addition, many former Obama Administration HUD appointees would be strong possibilities for returning to a Biden Administration in other HUD positions.

In addition, the president can appoint leaders and members of many regulatory agencies responsible for housing and banking programs. Based on a June 2020 Supreme Court decision, the president has the authority to remove and replace the director of the CFPB. Many observers believe the court’s decision and reasoning means the president also has the authority to replace the director of the FHFA, as the agency’s statutory structure is essentially the same as CFPB’s.