

**The Honorable Marcia L. Fudge, of Ohio,  
to be Secretary, U.S. Department of Housing and Urban Development,  
Committee on Banking, Housing, and Urban Affairs  
Questions for the Record  
January 28, 2021**

**Questions for The Honorable Marcia L. Fudge, of Ohio, to be Secretary, U.S. Department of Housing and Urban Development, from Chairman Mike Crapo:**

1. The Trump administration recognized that land-use restrictions and other regulatory barriers reduce and delay development, increase construction costs, and limit the supply of affordable homes. They launched an interagency council to assess and eliminate such barriers—the most recent in many efforts over the years, by both Democratic and Republican administrations, to identify and reduce restrictive zoning and unnecessary housing regulations. More recently, HUD published a final report laying out ways in which the federal government can encourage and support jurisdictions to increase housing supply across income levels.

To break down barriers to affordable housing development, will you continue this work to address land-use restrictions and other regulatory barriers?

**Response:**

As a former Mayor, I know that land-use regulations and most regulatory barriers are a matter of state and local policy. HUD and other federal agencies can play a role in providing research and best practices for state and local governments to consider when they are exploring ways to reduce the costs and barriers that prevent the development of affordable housing. We can also look at how federal programs and requirements contribute to increasing the costs or preventing the development of affordable housing and see if there are better ways to balance the goals of those other programs and rules against the need for affordable housing. If confirmed, I look forward to learning more about the work HUD has supported in the past and building off that work.

2. The HUD-Veterans Affairs Supportive Housing (HUD-VASH) program combines HUD Housing Choice Voucher (HCV) rental assistance with clinical services and case management provided by the Veterans Affairs Department. The HUD-VASH program plays a significant role in our Nation's efforts to end veterans' homelessness.

If confirmed, will you continue to support this program and work with members to assist the unique needs of our veterans?

**Response:**

Yes. The HUD-VASH program's success is rooted in a strong HUD and VA partnership both in Washington, DC and through local collaborative efforts throughout the Nation. If confirmed, I

will work with the VA to continue to support this program and work with members to ensure that the program continues to meet the needs of our homeless veterans.

**Questions for The Honorable Marcia L. Fudge, of Ohio, to be Secretary, U.S. Department of Housing and Urban Development, from Ranking Member Sherrod Brown:**

1. Between 2009 and 2018, HUD staffing fell by 19 percent. For the Office of Fair Housing and Equal Opportunity – the office charged with overseeing Fair Housing Act compliance – staff has declined more than 30 percent. How will you work to rebuild HUD’s workforce so that it can fulfill its mission?

**Response:**

Recruiting and retaining the best talent is imperative to rebuilding HUD’s workforce and fulfilling its mission. The Office of Administration has taken immediate steps to increase HUD’s hiring capacity, almost doubling hiring from 2019 to 2020.

Simultaneously, the Office of Administration has also begun to redesign the hiring process, developing a new hiring blueprint that reduced the number of steps to hire a new employee by up to 75 percent. This blueprint provides the roadmap for HUD to create the best-in-class hiring process and outcomes in the Federal government. The Office of Administration is focused on continuing these efforts to improve not only the Department’s hiring capability, but the capability to recruit, train, and retain a strong, stable workforce. The Office of Administration will also closely assess, and support staffing needs in important HUD offices like the Office of Fair Housing and Equal Opportunity, where the historical data shows above average staffing attrition.

2. Where have you excelled in hiring and promoting people of color in your Congressional office and in previous jobs?

**Response:**

Something I pride myself on is not just hiring a diverse staff but elevating and promoting them accordingly. Understanding that I represent a diverse community, it has always been important to me that my staff reflects the demographic of my constituents. In addition to diverse hiring practices, I have been able to cultivate teams where diversity is reflected amongst leadership positions in my offices. Each of my Chiefs of Staff over the last 12 years have been Black women. Three of my six Legislative Directors have been people of color, and four of my Legislative Assistants were people of color that began their service as interns in my office and were promoted over time. I not only look forward to promoting staff internally, but, when the time comes, assisting them to the best of my ability in their next venture.

3. In August 2011, President Obama issued an Executive Order establishing a coordinated, government wide initiative to promote diversity, equity and inclusion (DEI) in the federal workforce. The executive order reads, in part, that “Attaining a diverse, qualified workforce is one of the cornerstones of the merit-based civil service . . . To realize more fully the goal of

using the talents of all segments of society, the Federal Government must continue to challenge itself to enhance its ability to recruit, hire, promote, and retain a more diverse workforce. Further, the Federal Government must create a culture that encourages collaboration, flexibility, and fairness to enable individuals to participate to their full potential.” The order required each agency to establish an agency-specific diversity, equity, and inclusion strategic plan with specific objectives.

Please describe your commitment to diverse hiring at HUD. Will you establish a HUD-specific diversity, equity, and inclusion strategic plan with specific objectives?

**Response:**

I am fully committed to establishing a diverse workforce at HUD. I will work with HUD’s Office of Departmental Equal Employment Opportunity and the Office of Administration to promote equal opportunity and identify and eliminate any discriminatory practices and policies. I will ensure that we have a diversified workforce through systematic training of HUD employees, monitoring our employment policies for any discriminatory impact, and ensuring that our senior leadership are evaluated in terms of their commitments to diversity, equity, and inclusion. I will also work diligently in furtherance of President Biden’s instructions to the head of each agency, including Executive Order 13985 on “Advancing Racial Equity and Support for Underserved Communities Through the Federal Government” and Executive Order 13988 on “Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation.”

4. Will you commit to establishing a system for reporting regularly on HUD's progress in implementing an agency-specific diversity, equity, and inclusion strategic plan and in meeting the objectives under the plan?

**Response:**

I will ensure HUD employment practices are monitored and evaluated on the basis of diversity, equity, and inclusion, and I will direct HUD’s Director of the Office of Departmental Equal Employment Opportunity and HUD’s head of Administration to meet regularly with my office to report on our diversity, equity, and inclusion strategic plan. I will review HUD’s current Inclusive Diversity Strategic plan and ask HUD’s Office of Diversity and Inclusion to revise it to align with the vision laid out by President Biden and my track record.

5. Will you commit to implementing and requiring diversity, equity, and inclusion training for all employees within your purview? What is your plan for implementing these trainings?

**Response:**

I will direct leadership of the Office of Departmental Equal Employment Opportunity, the Office of Administration, and the Office of General Counsel to work with HUD’s Office of Diversity & Inclusion to deliver diversity-oriented events and activities, specifically, DEI trainings and cross-cultural workshops for the entire workforce.

6. Will you commit to implementing and requiring implicit bias training for managers within your purview? What is your plan for implementing these trainings?

**Response:**

Yes, I will. And it is my understanding that HUD has begun these trainings and plans to virtually host implicit bias training to staff throughout headquarters and field offices. I will direct leadership of the Office of Departmental Equal Employment Opportunity, the Office of Administration, and the Office of General Counsel to analyze the content of these trainings and continue to strengthen them during my tenure at HUD.

7. Please list at least 3 specific priorities for advancing racial equity, diversity, and inclusion at HUD. What specific measures will you use to evaluate success in these areas, and over what period of time?

**Response:**

As I stated in my testimony, advancing racial equity, diversity, and inclusion is a top priority for me in all things including as, if confirmed, HUD secretary.

First, I will help reenergize staff morale and internal dedication to DEI efforts. This will begin immediately through my senior leadership team and will continue throughout my tenure as I evaluate what is currently in place and work with HUD staff to strengthen these efforts.

Second, I will reinvigorate HUD's enforcement of the Fair Housing Act to combat discriminatory practices that prevent too many people from having equal access to housing. This will include addressing the previous administration's rules regarding Affirmatively Furthering Fair Housing and disparate impact. President Biden's executive orders direct HUD to evaluate the impact of both rules and the appropriate measures to take in response as swiftly as is practicable, and I would take immediate steps to do so. I will also direct HUD's Office of Fair Housing and Equal Opportunity to enforce the Fair Housing Act in a manner consistent with the President's directive to eliminate bias in the housing market and ensure equal housing opportunities for all.

Finally, we know that there are a disproportionate number of people of color, people with disabilities, and LGBTQ people among those experiencing homelessness. I am committed to advancing policies and practices that reduce homelessness among this population in all aspects of our work over the course of my tenure at HUD.

It will take both an internal and external approach to advancing DEI related to HUD's mission and I am committed to both.

8. Please describe how you plan to work with and engage the housing and financial services industries to serve Black, Indigenous, and People of Color (BIPOC) and dismantle systemic racism's impact in those sectors. How, specifically, will you hold the industry accountable on these issues? How will you accelerate private sector efforts to achieve more inclusive leadership?

**Response:**

The dismantling of decades of racist housing policy and business practices will require intention, coordination, and serious commitment from inside the federal government and from the financial services and real estate industries. During my hearing I said that this nation has “failed to have a holistic approach to housing.” I recognize that housing is a necessity for every single American and a critical part of our nation’s infrastructure, and HUD is central to that. We have seen decades of disinvestment in our housing stock, including in our state of Ohio and the 44105 Zip code, and a direct connection of that disinvestment to formerly redlined and highly segregated areas where Black people live and where poverty is concentrated. I plan to work with key housing agencies inside the government on a unified strategy to ensure lenders and financial institutions are not leaving BIPOC communities behind because of the legacy of racist business practices that have excluded these groups for generations. HUD should be included in the housing finance reform debate, because we have one housing finance system that should be serving all the people and the FHA insurance program is the largest provider of mortgage credit for BIPOC communities, first time homebuyers, and LMI households. I will also work with state and local housing agencies who play a critical role in delivering housing programs and services, as well as with mayors and governors with focus on those communities we know have been inadequately invested in. Private industry must be a part of the solution because they have been deeply involved in creating the problem. After George Floyd was killed this past summer many industry leaders, including the Business Roundtable, made strong statements and commitments about dismantling racism, changing business practices and valuing diversity, equity, and inclusion. I intend to hold them accountable to their words through their actions.

9. How do you plan on incorporating the views and work of the Office of Diversity and Inclusion across the Department?

**Response:**

I will work with my senior leadership team to explore ways to reenergize the Office of Diversity and Inclusion and ensure that its mission is embedded in all offices and at all levels of the agency. It is important that all staff understand that HUD leadership is committed to a healthy work environment that values diverse life experiences and viewpoints. My team and I will work with ODI to deliver innovative trainings, strengthen recruitment practices, and implement best practices for overall staff management, which includes creating an open work environment where people at every level have a voice in the development of HUD programs and policies. My approach is to hear from everyone - that’s what makes us all grow stronger, together, and I intend to bring that approach to HUD.

10. HUD has advisory councils and committees comprised of industry leaders, academics, non-profits, and other stakeholders. They serve as volunteers but have significant influence being appointed by and working closely with you. How will HUD include more diverse advisors on these councils and committees, and over what period of time?

**Response:**

If confirmed, I will work diligently to seek out diverse participants in HUD's councils and committees, and will do so in light of President Biden's instructions to the head of each agency, including Executive Order 13985 on "Advancing Racial Equity and Support for Underserved Communities Through the Federal Government" and Executive Order 13988 on "Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation."

11. A department's budget reflects its values and goals. How do you plan to allocate and sufficiently resource internal and external efforts to advance DEI as part of the agency's annual budget process? How will you ensure sufficient financial support for the agency-specific diversity, equity, and inclusion strategic plan to ensure you are able to meet the objectives established under that plan in a reasonable time period?

**Response:**

Diversity, equity, and inclusion are at the core of HUD's mission - to create strong, sustainable, inclusive communities and quality affordable homes for all. If confirmed, I will request sufficient staff resources so that the Department can fully execute its mission and partner with our grantees to enhance their capacity. I will have a DEI plan for the Department and hold leaders across the agency accountable for meeting it. Without adequate resources, for example, the Department cannot effectively enforce fair housing law and ensure that tenants are in safe, sanitary and decent housing. As I said in my testimony, we need to expand resources for HUD's rental assistance and homeownership programs to all people who are eligible. Too often those who experience the worst outcomes from housing instability are people of color. Black, Latino, Native American, and Asian people are all over-represented among people experiencing homelessness. For example, HUD data indicates that 40 percent of people experiencing homelessness are Black, when Black people only make up 13 percent of the general population. Deepening the resources available to serve more eligible people is an investment in diverse, equitable, and inclusive communities. And within the resources that Congress provides, I look forward to working with you and other partners to find ways that we can prioritize and expand diversity, equity, and inclusion. And finally, if confirmed, if there are statutory improvements required to advance these aims. I will rely on your partnership to change the laws where appropriate.

12. Please describe how you view the role of the Secretary of the Department of Housing and Urban Development in appropriately serving BIPOC. How do you view HUD's role in furthering racial equity?

**Response:**

As I stated in my testimony, HUD and its programs are central to furthering racial equity, particularly for people with low and moderate incomes. Homeownership is a key ticket to the middle class but has historically been denied to BIPOC because of racism and discrimination. I plan to evaluate new ways HUD can help BIPOC and other marginalized populations afford to purchase a home and build family wealth, including through encouraging lenders to expand their reach into BIPOC communities.

Renters should also have the opportunity to grow their incomes and build savings. I, like the President, am committed to expanding access to federal rental assistance and improving program implementation so that people have true choice in where they live. Too often BIPOC who receive assistance are segregated into communities that have experienced under or disinvestment by local leaders. I am committed to investing in local communities so that all people have access to strong schools, healthy housing, and strong community support services.

13. What are some short- and long-term strategies for addressing housing inequality and the racial and ethnic homeownership gap that you will pursue at HUD?

**Response:**

Reducing the racial homeownership and wealth gaps that have persisted for decades will be a priority if I am confirmed. Facts will be our guide, and I will collect and review the evidence and work to remove harmful legacy policies that have contributed to the gaps. Short term, I will ensure that the FHA continues to be a consistent source of credit supporting homeownership for BIPOC households, and work across the housing system to promote and advocate for policy changes that help break down barriers to help more families purchase their first home. I also want to see a healthier flow of financing to low-cost housing markets, like those in and around Cleveland, where smaller mortgage loans could help families get started on the path to homeownership. One way to do that will be to expand the footprint of lending institutions that do FHA lending, especially large national and regional banks that have pulled back in recent years. Strengthening HUD's housing counseling network and programs to help renters who are ready to become homeowners prepare will be a key focus, as will making sure our counseling services are reaching the communities that need it most. We will take a comprehensive approach to creating and improving down payment assistance programs to help those families who need federal support in order to buy their first home because they do not have access to savings or parents whose wealth can transfer to help. I will also work to broaden and improve our nation's affordable housing stock, including finding ways to expand factory built and manufactured housing as an affordable housing solution for suburban and rural areas.



14. What specific measures will you use to evaluate HUD's success in understanding and addressing the needs of BIPOC? Will you regularly report to Congress on the progress being made on these measures?

**Response:**

Yes, I look forward to working with Congress on this particular issue and welcome an ongoing conversation on HUD's progress. As stated in my testimony, first and foremost we must prevent evictions, foreclosures, and homelessness due to the pandemic and economic crisis which has disproportionately impacted BIPOC. We also need to improve homeownership for BIPOC. I plan to look for ways to implement down payment assistance for families and apply an equity lens to loan qualification criteria and appraisals, among other strategies. I also believe expanding access to rental assistance given the role it can play in reducing poverty among BIPOC should be a high priority and will be a measure of HUD's success. There are a myriad of additional ways HUD's policies and programs can address the needs of BIPOC, such as redoubling efforts to advance fair housing policy. I plan to work with HUD staff and my leadership team to lift up these opportunities and work with HUD's Office of Policy Development and Research to measure our success.

**Questions for The Honorable Marcia L. Fudge, of Ohio, to be Secretary, U.S. Department of Housing and Urban Development, from Senator Tom Cotton:**

1. An issue that has garnered bipartisan support on this committee has been the regulation of Property Assessed Clean Energy loans. An important part of these efforts was a decision issued by HUD in 2017 to stop issuing FHA insurance on homes that carry PACE liens. The rationale behind this decision was two-fold. First, by placing PACE loans in a first-lien position, this program put the federal government – and the taxpayers who stand behind FHA – in a second loss position. And second, the lack of consumer protections associated with PACE lending led to documented abuses at the hands of predatory lenders.

Fannie Mae, Freddie Mac, and the VA all ban PACE lending, just like FHA. If confirmed to lead HUD, will you continue to protect both homeowners and taxpayers by maintaining a strong ban on FHA insuring mortgages with PACE liens?

**Response:**

Yes. I am committed to protecting homeowners and taxpayers and maintaining this policy. I agree that the current FHA policy on Property Assessed Clean Energy (PACE) loans is consistent and prudent for the housing finance industry, and the current PACE structure that subordinates FHA to second lien position puts the FHA insurance program and taxpayers at risk. As you know, energy efficiency and climate are key priorities for the Administration, and I believe that housing has a role to play in that. If I am confirmed, I hope that progress can be made to improve and expand sustainable and equitable clean energy housing programs, and I commit to working across agencies, with the White House Climate Council, and with Congress to determine affordable ways to ensure safe and efficient home construction, manufacturing and financing options for homeowners who wish to make energy efficient improvements to their homes. This is an area we will continue to evaluate.

**Questions for The Honorable Marcia L. Fudge, of Ohio, to be Secretary, U.S. Department of Housing and Urban Development, from Senator John Kennedy:**

1. In 2020, five categorized storms struck Louisiana, affecting all sixty-four parishes across the state. The most powerful of these storms, Hurricane Laura, hit Southwest Louisiana as a Category 4 storm and is one of the strongest storms to make landfall in American history. Because of the previous administration's decision to issue major disaster declarations prior to landfall for both Hurricanes Laura and Delta, many lives were saved across Louisiana. However, the physical damages to homes, businesses, and infrastructure were extensive. Hurricane Laura alone caused an estimated \$14 billion in damages. Hurricane Delta further compounded the damage when it made landfall in the same area just forty-two days later. The Louisiana Governor, and the Louisiana Congressional delegation have called for disaster relief appropriations that would focus primarily on HUD's Community Development Block Grants for Disaster Relief. This funding is imperative to fill the gap between available funds.

Louisiana's citizens are resilient, but our state and local resources cannot cope with these hurricanes' severity and frequency without emergency supplemental assistance. As Secretary of HUD, will you urge the President to make this request to Congress for these funds?

**Response:**

Over the past decade, communities across the country have witnessed a historic number of deadly and destructive weather and climate events. In 2020 alone, there were 22 weather and climate disaster events with losses exceeding \$1 billion each to affect the United States – a new record. If confirmed, I will work with HUD and FEMA to estimate unmet recovery needs and work with the President to implement his historic vision for building back better.

**Questions for The Honorable Marcia L. Fudge, of Ohio, to be Secretary, U.S. Department of Housing and Urban Development, from Senator Robert Menendez:**

**Healthy Housing**

1. Last Congress, Senator Scott and I introduced and passed into law our CO Alerts Act, which requires carbon monoxide alarms in federally-assisted housing units that have potential carbon monoxide sources like gas-fired appliances, fireplaces, forced air furnaces, and attached garages. Since carbon monoxide is a silent killer, carbon monoxide alarms are the only way to safely detect the poison's presence.

How will you prioritize implementing this bill to ensure public housing residents' exposure to danger from carbon monoxide is reduced each successive winter?

**Response:**

I was very pleased to see that the CO Alerts Act was enacted as part of the FY 2021 Consolidated Appropriations Act. The CO Alerts Act aligns with my commitment to ensure that public housing offers safe homes for all residents. And even though the Act allows up to two years to implement, if confirmed as Secretary, I will pursue implementation of the Act as quickly as possible. I hope that Congress will follow up on the authorization of funds with a specific appropriation. This would allow the Department to build on steps already taken to eliminate carbon monoxide exposure risks over the past two years, including the Department having provided in the past 12 months nearly \$10 million in funding for 117 public housing agencies to install carbon monoxide detectors in thousands of residential units across the nation.

2. Another poison present in federal housing is lead. Senator Scott and I also have a bill on this issue, the Lead-Safe Housing for Kids Act.

Will you consider reevaluating how HUD currently conducts risk assessments and how current evaluation tools are used to identify lead hazards in federally-assisted housing before a family moves in?

**Response:**

First, I want to thank you and Senators Durbin and Scott for introducing the Lead-Safe Housing for Kids Act in 2019. Every child, regardless of their zip code, deserves a safe and healthy place to lay their head at night. The Centers for Disease Control and Prevention consistently cautions that no level of lead exposure is safe. As I am sure you know, based on Title X, HUD already requires, with only a few exceptions, all older HUD-assisted public housing and project-based rental housing to have a risk assessment followed by control of any lead-based paint hazards identified. However, Title X does not authorize HUD to require the same risk assessments in the Housing Choice Voucher program. It is my understanding that in an effort to address the problem, HUD conducts visual assessments for deteriorating paint, followed by stabilization of the area identified.

If confirmed, I will explore how HUD currently conducts risk assessments and how visual assessments are used to identify lead hazards in tenant-based housing before a family moves into pre-1978 housing. HUD's Real Estate Assessment Center developed a lead inspection methodology and performed a pilot test in FFY20 as a prototype inspection for public housing agencies that received funding for lead abatement. In addition, a recent Government Accountability Office (GAO) report recommended that HUD take definitive actions to address lead hazards in its project-based rental assistance properties. If confirmed, I will ensure that HUD develops an action plan to address the findings in the GAO report, which is a start to reevaluating this issue on a larger scale.

### **3. Puerto Rico**

In September 2017, Puerto Rico was nearly destroyed after being hit by two back-to-back category 5 hurricanes. Under the Trump Administration, HUD wrapped financial aid in so much red tape, that 3 years after the hurricanes the island has only received \$3.2 billion of the nearly \$20 billion that Congress appropriated in CDBG-DR funds between 2017 and 2018.

Congresswoman Fudge, can you commit to working with the people of Puerto Rico to ensure that they get all of the congressionally appropriated funding as expediently as possible?

#### **Response:**

Yes. We will work to ensure that Puerto Rico receives the federal disaster reconstruction funding that it urgently needs to support the long-term recovery of Puerto Rico and increase its ability to withstand any future storms.

### **4. Elderly Housing**

HUD rental housing programs bring affordable housing to more than 1.9 million older adults, a population ravaged by COVID-19.

Under your leadership, how will HUD ensure the federally-assisted senior housing communities have the tools and resources they need to protect residents and staff?

#### **Response:**

Safeguarding the welfare of older adults across the Department is, and must remain, one of our highest priorities. While older adults are the focus of the Section 202 Supportive Housing for the Elderly program, older Americans are supported by nearly all HUD programs including- public housing, tenant-based rental assistance, and project-based rental assistance. The Department will continue to administer supplemental funding provided by Congress and to protect residents and staff. Supplemental funding appropriated by Congress is being used to support a variety of resident safety measures, such as personal protective equipment, extra cleaning and disinfecting, equipment to facilitate social distancing, and temporary staffing increases to maintain or enhance

ongoing service coordination for residents. HUD should also strengthen its partnerships with HHS and state and local public health agencies to ensure that older Americans are vaccinated. If confirmed, I look forward to working with you to ensure older adults are protected in HUD-assisted housing.

**Questions for The Honorable Marcia L. Fudge, of Ohio, to be Secretary, U.S. Department of Housing and Urban Development, from Senator Kyrsten Sinema:**

1. As you know, rental assistance dollars are administered by the Treasury Department. However, if confirmed, you will have an important role as HUD Secretary in advising the president on how he should engage on relief disbursement. Arizona struggled to allocate the rental assistance dollars provided by the CARES Act. Much of the backlog seems to have been attributed to onerous requirements at the state level, which require renters to go to great lengths and provide excessive paperwork to prove financial damage due to the coronavirus outbreak. While it is vital we prevent fraud in all federal coronavirus relief programs, we also need the relief to get to Americans who are hurting. If confirmed, how will you help streamline rental assistance programs, including those in Arizona, so that dollars get to those in need in a timely manner?

**Response:**

I understand that HUD staff are providing technical support and participating in stakeholder listening sessions as the Treasury Department revises guidance published by the previous administration on the recently funded Emergency Rental Assistance program. It is a top priority to provide whatever assistance HUD may legally provide to Treasury Secretary Yellen, as her team seeks to implement this important program quickly and effectively. I am also committed to learning more about what barriers are slowing the expenditure of HUD CARES funded programs in order to take actions that will speed up the effective expenditure of those funds. We must do whatever we can with the resources we have to quickly support people who are housing insecure due to the health and economic crises.

2. As you know, HUD's definition of homelessness excludes children and youth living in motels or staying with other people temporarily, effectively and systematically preventing many families and children from receiving any HUD assistance. Every year, there are efforts to broaden and align HUD's definition of homelessness with those of other federal agencies, such as the Department of Education and the Department of Health and Human Services. The coronavirus outbreak has led to record-breaking homelessness levels, including homeless children.
- a. How do you feel about aligning HUD's definition with other agencies?
  - b. Would you be willing to waive any HUD regulation or practice that restricts access to housing and homeless assistance for children, youth, and families who are experiencing homelessness as a result of the coronavirus outbreak?
  - c. How else do you plan to combat families and youth experiencing homelessness?

**Response:**

I look forward to discussing the issues you raise. With respect to the definition of homelessness, any expansion of the definition of homelessness should also be coupled with additional resources. The challenge is that we do not have enough resources to serve those who currently meet the homelessness definition, and we must ensure families living in crowded shelters or on

the street receive the housing and services they need. I recognize that many families live on the edge of homelessness and need help finding and maintaining affordable housing. I will reenergize HUD's efforts to partner with other federal agencies to ensure that federal programs across the board are doing as much to prevent and end homelessness as possible. I will also explore every waiver and authority available to ensure that HUD's programs are assisting as many people as possible during the pandemic.

I am also interested in ways to expand housing assistance so that all people who are eligible for assistance receive it. As I said in my testimony, only 1 in 5 households who are eligible for federal rental assistance receive it. Increasing access to HUD assistance is essential not only to ending homelessness but to ensuring families on the edge of homelessness stay housed. Finally, increasing access to affordable housing also includes partnering with communities to accelerate the development of affordable housing and ensuring homeless families and youth are prioritized for health care, education, employment, and other needed services.

3. In addition to our families and children, I am concerned about homelessness levels for Arizona seniors and veterans. How do you plan to combat homelessness in these demographics?

**Response:**

I am very troubled by the rise in homelessness among seniors. We need to ensure that there is enough affordable and accessible housing to ensure that seniors do not fall into homelessness. For those seniors who are homeless now or become homeless in the future, we need to ensure that we help them move quickly into housing and connect them with the health care and other services they need. I will work closely with my counterparts at HHS and with communities to coordinate housing and health care, and I will advocate for more affordable housing opportunities for seniors.

HUD's partnership with VA is crucial for ending homelessness among our nation's veterans. The HUD-VA Supportive Housing (HUD-VASH) program has helped reduce veteran homelessness by half since 2010 and several communities report ending homelessness for veterans. However, HUD-VASH is facing new challenges, particularly in communities where housing costs have skyrocketed. I will work to reenergize this partnership, increase the impact of HUD-VASH, and look for opportunities to direct housing assistance to more veterans with low incomes who need housing subsidies but do not need intensive supportive services.



**Questions for The Honorable Marcia L. Fudge, of Ohio, to be Secretary, U.S. Department of Housing and Urban Development, from Senator Tina Smith:**

1. On November 27, 2019, a fire broke out on the upper floors of Cedar High Apartments, a public housing building in Minneapolis, Minnesota. Five residents tragically lost their lives in the fire. In the wake of this tragedy, I learned that Cedar High Apartments, like so many other multifamily public housing buildings around the country, was built long before 1992, when Congress passed a law requiring new public housing to be equipped with automatic sprinkler systems.

As a result, the federal sprinkler requirement does not apply to Cedar High Apartments, and any efforts to voluntarily upgrade fire safety in that building have to be funded by the Minneapolis Public Housing Authority's limited capital funds.

Improving fire safety in public housing should be a core part of fulfilling HUD's mission to provide safe, stable housing to low-income families. I also see this as an issue of equity, since public housing residents are disproportionately people of color and people with disabilities. We must do everything we can to ensure that these individuals are safe in their own homes.

I authored a bill, the *Public Housing Fire Safety Act*, to help public housing agencies fund efforts to improve fire safety in older public housing buildings. Rep. Fudge, if confirmed, will you commit to working with me to get this effort across the finish line and provide funding for efforts to retrofit older public housing buildings with sprinkler systems?

**Response:**

I am committed to working with you to ensure that the nation's public housing properties meet high standards for safety and security. Fire safety is one of a number of critical issues that must be addressed in order to ensure that the homes of public housing residents are safe places to live. As referenced in your question, the Federal Fire Safety Act of 1992 required the installation of sprinklers in all new government-owned high-rise buildings, but not in the thousands of public housing developments around the country built before that date. Given the age of the public housing portfolio and the backlog of capital needs faced by many public housing agencies, additional capital funds are necessary to quickly address health and safety risks, including fire safety. If confirmed, I look forward to working with you and Congress on this important issue.

**Questions for The Honorable Marcia L. Fudge, of Ohio, to be Secretary, U.S. Department of Housing and Urban Development, from Senator Patrick Toomey:**

**Disparate impact**

1. I appreciate hearing you commit during your hearing to following the law in any potential revisions to HUD's disparate impact regulations, including the Supreme Court's 2015 decision *Texas Department of Housing and Community Affairs v. Inclusive Communities*. Will you commit that any revisions to HUD's disparate impact rule will follow the Supreme Court's dictate in *Inclusive Communities* that "disparate-impact liability [should not] be so expansive as to inject racial considerations into every housing decision" or cause courts "to second-guess" between "two reasonable approaches?"

**Response:**

As I testified during my hearing, I am fully committed to ensuring that any actions HUD takes related to disparate impact are consistent with the Supreme Court's ruling in *Texas Department of Housing and Community Affairs v. Inclusive Communities*. I understand that businesses subject to Fair Housing Act requirements are concerned about potential liability and potentially meritless litigation, just as individuals protected by the Fair Housing Act need meaningful access to the courts to ensure they are protected from intentional and unintentional discrimination.

2. Will you commit that any revisions to HUD's disparate impact rule will follow the Supreme Court's dictate in *Inclusive Communities* that "disparate impact liability must be limited so employers [can] make . . . practical business choices and profit-related decisions [to] sustain a vibrant and dynamic free-enterprise system?"

**Response:**

As noted in my answer to Question #1 above, I am committed to ensuring that any revisions to HUD's disparate impact rule will be consistent with the Supreme Court's ruling in *Texas Department of Housing and Community Affairs v. Inclusive Communities*. I will commit to considering all aspects of the Supreme Court's opinion during any rulemaking process.

3. Will you commit that any revisions to HUD's disparate impact rule will follow the Supreme Court's dictate in *Inclusive Communities* to have "adequate safeguards" for defendants at the prima facie (pleading) stage so "race [is not] used and considered in a pervasive way [that] would almost inexorably lead governmental or private entities to use numerical quotas...?"

**Response:**

As noted in my answers to Questions #1 and #2 above, I am committed to ensuring that any revisions to HUD's disparate impact rule will be consistent with the Supreme Court's ruling in

*Texas Department of Housing and Community Affairs v. Inclusive Communities*. I will commit to considering all aspects of the Supreme Court’s opinion during any rulemaking process.

4. Will you commit that any revisions to HUD’s disparate impact rule will follow the Supreme Court’s dictate in *Inclusive Communities* to have “robust causality” between the defendant’s actions and the harm to a protected class so that defendants will not be held liable for racial disparities they did not create?

**Response:**

As noted in my answer to Question #1, #2, and #3 above, I am committed to ensuring that any revisions to HUD’s disparate impact rule will be consistent with the Supreme Court’s ruling in *Texas Department of Housing and Community Affairs v. Inclusive Communities*. I will commit to considering all aspects of Supreme Court’s opinion during any rulemaking process.

5. Will you commit that any revisions to HUD’s disparate impact rule will follow the Supreme Court’s dictate in *Inclusive Communities* to focus on removing “artificial, arbitrary, and unnecessary barrier[s]” to housing?

**Response:**

As noted in my answer to Question #1 through #4 above, I am committed to ensuring that any revisions to HUD’s disparate impact rule will be consistent with the Supreme Court’s ruling in *Texas Department of Housing and Community Affairs v. Inclusive Communities*. I will commit to considering all aspects of the Supreme Court’s opinion during any rulemaking process.

**AFFH**

6. Is ever it appropriate for HUD to tell localities how to conduct their education, transportation, or environmental policy? If so, under what circumstances?

**Response:**

HUD-administered funds, particularly Community Development Block Grant Funds, are often used by localities to fund many activities in a community. Those activities may relate in some respect to education, transportation, or environmental justice. If a locality is covered by any of the laws that HUD administers, I understand that it is HUD’s duty to work with the locality to achieve compliance with any applicable statutes. Given my experience working in local government, I understand and respect localities’ legitimate desire for flexibility in how they comply with federal law.

7. Is it ever appropriate for HUD to tell localities precisely where to place new housing? If so, under what circumstances?

**Response:**

Based on my understanding of the Fair Housing Act, a locality may not refuse to permit housing to be built in a particular location for a discriminatory reason. If the evidence showed that such discrimination had occurred, it would be appropriate for HUD or the Department of Justice to seek a remedy for the discrimination, either through voluntary means or through a lawsuit.

8. We may disagree about what the content of a final AFFH rulemaking should look like, but I hope we agree that the outcome should come from a process that maximized stakeholder input. Will you commit that before making any revisions to HUD's AFFH regulations, you will receive extensive community and stakeholder input on any potential revisions, including how HUD's AFFH rule can respect local autonomy and avoid overly burdening localities?

**Response:**

HUD will seek community and stakeholder input in the development of any revision to the AFFH rule.

9. Will you consider the possibility of tailoring the AFFH process to meet the unique nature of public housing agencies (PHAs), including by exempting PHAs altogether from having to undergo a separate AFFH process?

**Response:**

I will commit to giving very careful consideration to all options relating to the AFFH process and will carefully consider the burdens that an AFFH process may place on public housing agencies.

**Barriers to Affordable Housing**

10. HUD just released a report "Eliminating Regulatory Barriers to Affordable Housing: Federal, State, Local, and Tribal Opportunities," which "identifies many federal regulations and practices that could be revised to eliminate unnecessary burdens to providing Americans with affordable, safe, quality places to live, including opportunities to make sustainable homeownership more achievable."<sup>1</sup> Which of the report's recommendations do you agree with?

**Response:**

As you noted, this report was just published on January 19<sup>th</sup>. I understand that there is also forthcoming research on this same topic in HUD's Research Journal *Cityscape*. If confirmed, I

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<sup>1</sup> <https://www.huduser.gov/portal/portal/sites/default/files/pdf/eliminating-regulatory-barriers-to-affordable-housing.pdf> at ix.

look forward to discussing the breadth of the recent research on this topic with Congress, other federal agency leaders, HUD staff, the research community, and those most impacted by these regulatory barriers to determine an appropriate role for HUD and the federal government.

### **Pilot projects**

11. In recent years, HUD has started some important pilot programs to study the effectiveness of Housing Choice Vouchers and to try to improve them for beneficiaries. Would you be open to additional pilots? If so, what kinds of pilots?

### **Response:**

Yes, I am open to conducting pilots on the HCV program especially as we also work to increase access to vouchers for low-income families. The HCV program is the nation's largest rental assistance program serving over two million families. However, as stated in my testimony, it only reaches 1 in 5 eligible households due to funding limitations. It is critical that HUD continues to study the effectiveness of the program to make improvements for our families, landlords and public housing agencies. Some of the pilots may include activities such as improving safety inspections and housing modifications; promoting interventions that reduce segregation of families receiving assistance in disinvested communities and improve housing choice; developing innovative practices that assist disabled families, homeless families, youth aging out of foster care, and other people who face additional barriers to accessing housing; and implementing strategies that increase landlords' willingness to accept voucher recipients.

### **Ensuring that HUD assistance is not for a "lifetime"**

12. I appreciated your comment that "public housing or low income housing should not be [for] a lifetime" but "just a stopping point." What do you intend to do during your time as HUD Secretary to advance that goal?

### **Response:**

Shortening tenancy requires a two-part strategy: increasing the supply of affordable housing and helping people increase their incomes. We need to produce more housing in every community that is affordable for people with low incomes. Housing affordability studies show that no state in the country has an adequate supply of affordable housing. HUD plays a key role in affordable housing supply along with the Treasury Department and USDA. If confirmed, I will work with Secretaries Yellen and Vilsack to increase the number of affordable housing units.

Second, we need to increase tenant incomes by raising wages and helping people connect to education, training, and other services that can help improve their economic circumstances. While these issues are outside of HUD's direct responsibilities, I will partner with my colleagues

to examine all the ways we can increase people's incomes to help them afford a safe place to call home.

13. Do you support expanding the number of Moving to Work (MTW) jurisdictions to allow more communities to experiment on how to make that a reality?

**Response:**

As you know, the Fiscal Year 2016 Appropriations Act authorized HUD to expand the MTW demonstration program from the 39 PHAs in the program to an additional 100 PHAs over a period of seven years. In 2020, HUD finalized the Operations Notice for the MTW demonstration program expansion, which established requirements for the implementation and operations of the MTW expansion pursuant to the 2016 statute. HUD added 30 new PHAs to the MTW Program in January 2021, with plans to increase to the full 100 expansion MTW agencies through 2022. If confirmed, I am committed to working with the Congress as HUD follows through on its requirements under the 2016 Act.

14. Would you consider expanding MTW to allow defined-stay tenancy for new tenants (time limits) in exchange for a set rent that won't increase with income?

**Response:**

One of the key aspects of the MTW Expansion is HUD's commitment to engage in structured research and analysis on specific flexibilities offered to PHAs under the original authorizing statute, including but not limited to tenancy issues such as those your question suggests, in order to provide HUD sound basis for future policy decisions. I am committed to working with Congress as we study MTW flexibilities going forward and work to determine policy and practices that best serve residents of federally assisted housing with the resources available to us.

**CDBG reforms**

15. Will you commit to evaluating whether the CDBG program formula allocates too much money to wealthier areas, at the expense of funding poorer and more rural areas? If so, will you consider CDBG reforms that could address this issue?

**Response:**

If confirmed, I will review past efforts to make changes to the CDBG funding formula. I look forward to discussing with members of Congress what further evaluation efforts are needed to inform improvements to the formula targeting.

16. Will you commit to evaluating whether the CDBG program insufficiently prioritizes the building of affordable housing because of other allowable uses for CDBG dollars? If so, will you consider CDBG reforms that could address this issue?

**Response:**

If confirmed, I look forward to working with the HUD staff and CDBG grantees to better understand how and why grantees prioritize different community development activities to meet their local program objectives. As a former mayor, I appreciated that CDBG was not focused solely on housing. The CDBG program has a community development approach, with a broad, statutory goal of providing decent housing, a suitable living environment, and economic opportunity, principally for low- and moderate-income persons. HUD, as you know, has other programs, like the HOME program, that are specifically targeted to housing. I am committed to reviewing how the Department's programs work together to produce affordable housing.

17. Will you consider the possibility of supporting reforms that could leverage existing CDBG dollars to reward grantees that increase their housing stock, in order to improve housing affordability?

**Response:**

With just 1 in 5 renters who qualify for HUD rental assistance receiving it, and millions of very low-income renters paying more than half their income for rent, there is a pressing need to ensure that, in addition to housing subsidies, there is an adequate supply of affordable housing. CDBG plays an important role in preserving housing stock through rehabilitation while the HOME program, Low Income Housing Tax Credit, Public Housing, the Housing Choice Voucher, and Project Based Rental Assistance programs support creation and long-term subsidy needed for creating and preserving affordable housing. If confirmed, I look forward to identifying local challenges with creating affordable housing and discussing with the Congress what policy tools, including incentives such as how much CDBG funding a community receives, might be used to support the creation of decent, safe, and affordable housing for all Americans.

**CDBG-DR reforms**

18. What are appropriate guardrails to enact in any potential permanent authorization to HUD's CDBG-DR program to ensure that disaster relief reaches a community swiftly but in a manner that minimizes fraud?

**Response:**

HUD has and will continue to provide technical drafting services for the various CDBG-DR authorization proposals under consideration. As I said during my testimony, I support a permanent authorization and look forward to working with Congress to ensure that HUD is a

good steward of federal funds by expediting recovery activities while ensuring appropriate oversight.

19. What are appropriate guardrails to enact in any potential permanent authorization to HUD's CDBG-DR program to eliminate any potential duplication of benefit?

**Response:**

HUD has and will continue to provide technical drafting services for the various CDBG-DR authorization proposals under consideration. As I said during my testimony, I support a permanent authorization and look forward to working with Congress to ensure that HUD's role in disaster recovery is complimentary of SBA, FEMA, and other programs and fills critical gaps in recovery, especially by focusing on the most vulnerable.

**Environmental regulations**

20. Regarding HUD's environmental regulations that govern assisted programs, how will you balance the need to protect the environment with the need to limit the cost of building new affordable housing?

**Response:**

The history of redlining, urban renewal, and other policies have forced too many families, especially poor people of color, to live in undesirable areas. Many studies have shown the disproportionate impact that our country's contaminated sites have had on low-income housing. Having a roof over your head and being safe from harm should not be competing choices. That's why it's absolutely critical that HUD's mission is to create safe, decent, and affordable homes for all.

**DPA**

21. Down payments for homes increase a lender's confidence that the borrower is a good credit risk. They also ensure the borrower has "skin in the game." That's why lenders often require a twenty percent down payment. Put another way, the down payment protects both the lender and the borrower. But as recently noted by HUD in its FY20 Report on the Mutual Mortgage Insurance (MMI) Fund, when FHA borrowers secure down payment assistance (DPA) — in effect undermining the reason for requiring even a minimal down payment — serious delinquency rates are over 25 percent higher than FHA loans where no DPA was provided.<sup>2</sup> Early payment default rates for DPA loans exceeded non-DPA loans by about 60 percent prior to FY20.<sup>3</sup>

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<sup>2</sup> See FY20 MMI Report at 30.

<sup>3</sup> See *id.* at 39.



- a. You testified that you will explore ways to increase DPA for more borrowers. How do you intend to do that?

**Response:**

There are hundreds of down payment assistance programs available nationwide and all DPA programs are not created equal. If confirmed, I intend to review the current DPA programs primarily used with FHA loans, and assess the viability, risks, and benefits of each, as well as performance data. We will work together with the Administration to find ways to streamline, improve, and expand DPA programs to help credit worthy households that need assistance to get over the down payment hurdle have options to buy their first home.

- b. Only three years after HUD's establishment, Congress authorized FHA to insure loans with nominal down payment requirements and substantially below-market interest rates through the decidedly unsuccessful 235 program, which cost taxpayers billions in losses and led to many foreclosures. Should you decide to support more DPA programs where borrowers may have little or no money down for their home purchases, what will you do differently to prevent FHA from insuring borrowers not ready for homeownership?

**Response:**

If confirmed, I intend to find ways to bring more efficiency to DPA programs and low-down payment lending, and I will work to ensure that people are given safe, appropriately priced loans and they have the ability to repay. I will always stand behind making sure loans are sustainable and homeowners are put in the best position to succeed and build wealth.

- c. How will you concurrently make sure borrowers with DPA do not perform significantly worse than borrowers without DPA?

**Response:**

Certainly, FHA will need to look at the performance of mortgages by down payment assistance type, the risk to the Mutual Mortgage Insurance Fund, credit qualifications of borrowers, and other factors when exploring options for the use of down payment assistance with FHA-insured mortgages.

- d. As you consider DPA for borrowers, will you examine and report performance metrics of loans with DPA by individual DPA providers to ensure they do not perform worse than loans without DPA and commit to identifying any corrective measures?

**Response:**

Yes. As part of FHA's annual report to Congress on the MMIF, I plan to continue to review and assess down payment assistance program performance and will make recommendations or take corrective action, as appropriate.

- e. In what ways can HUD ensure taxpayers do not foot the bill for bad credit risks?

**Response:**

I can assure you that any policy actions we propose will only promote insuring safely underwritten mortgages for borrowers who are otherwise unable to achieve homeownership and will also take into account the risks and costs to the Mutual Mortgage Insurance Fund.

**MIPs**

22. Although the MMI Fund Capital Ratio remained above the statutory minimum in FY20 at 6.10% (but still below that of many private-market lenders), this was primarily due to continued and strong house price appreciation (HPA). However, as the 2008 economic recession demonstrated, strong HPA is not sufficient to shield the MMI Fund from a sudden and severe reversal in home prices. If home prices declined again, FHA could require another taxpayer bailout. Delinquency rates remain alarmingly elevated and Dave Stevens, the former FHA Commissioner in the Obama administration, recently admitted that “forbearance numbers in the FHA program are the worst of any program in mortgages . . . .”<sup>4</sup> A premium reduction would sharply reduce the capital buffer and threaten FHA’s ability to withstand stress caused by potential losses resulting from the COVID-19 pandemic and slower growth from government-imposed economic shutdowns. Moreover, few market observers think a cut in the MIP would do much to stimulate homebuying in a market with tight supply.<sup>5</sup>

- a. Because the health of the MMI Fund continues to be at-risk, will you commit to not lowering MIPs during COVID-19 public health emergency?

**Response:**

People have lost their incomes and in some cases their lives during COVID, and we are prioritizing helping families remain safely housed through the pandemic. FHA plays a critical role in times of crises such as this, and a priority will be to ensure the fund is safe, stable, and sound and that we continue to make access to credit available to populations seeking homeownership. We have taken actions to keep families housed through the pandemic using forbearance, a streamlined loss mitigation program, and a foreclosure moratorium in line with federal law. Ultimately, I am fully committed to finding ways to make homeownership more affordable and sustainable and to advance equity in homeownership opportunity under my watch, and we will use facts to drive our decisions and act when it’s safe to do so.

- b. If you do lower MIPs, how will you ensure borrowers will see the benefits of such reductions?

**Response:**

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<sup>4</sup> Hanna Lang, *Biden administration likely to cut FHA premiums despite credit risks*, American Banker (Jan. 28, 2021), <https://www.americanbanker.com/news/biden-administration-likely-to-cut-fha-premiums-despite-credit-risks>.

<sup>5</sup> *Id.*

Any considerations relative to changing FHA Mortgage Insurance Premiums will need to be in concert with evaluating the risk to the Mutual Mortgage Insurance Fund and ensuring that there is a quantifiable benefit to the borrower. Interest rates remain at historic lows, which naturally help borrower mortgage affordability.

- c. Do you disagree with Ted Tozer, the former president of Ginnie Mae in the Obama administration, that borrowers will not “benefit much at all” as any reduction will be reflected in the sale price of homes?<sup>6</sup>

**Response:**

I believe we have to look at the entirety of the situation, including market factors, and I will take steps that both benefit homebuyers and protect the safety and soundness of the FHA insurance program.

23. The FY20 Report on the MMI Fund shows that subjecting the FY20 portfolio to the same macroeconomic conditions faced during the housing crisis would create losses in excess of MMI Fund Capital, resulting in the MMI Fund Capital Ratio of -0.63%, below the statutory 2% minimum, and requiring a bailout.

- a. Would you consider it a failure if FHA draws funds from the Treasury to cover losses, or put more simply, requires a bailout?

**Response:**

I will consider my fiduciary responsibility to prudently manage the financial soundness of the Mutual Mortgage Insurance Fund as equal to my duty to achieve the statutory goals of the National Housing Act to remove homeownership inequities and support the housing needs of the nation’s most vulnerable populations. However, we are in an unprecedented economic disaster as a result of COVID-19, and thus far Congress has not provided assurances that it will pass the larger economic stimulus proposed by President Biden. While still currently unlikely that FHA’s capital ratio will dip below the two percent mandated by Congress, if confirmed, I will direct my staff to analyze FHA’s current use of its loss mitigation authorities and take any actions necessary to ensure those authorities are utilized effectively. After taking those steps, should the capital ratio fall below 2%, will be a temporary circumstance incurred by the federal government to ensure the MMIF remains available to support the individuals and families that it is supposed to serve while we endeavor to return the ratio to above the statutorily-mandated 2%.

- b. Do you think the MMI Fund as of FY20 has sufficient capital reserves?

**Response:**

The MMIF is currently 3 times above the statutory minimum required reserve ratio.

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<sup>6</sup> *Id.*

- c. Do you think it is inappropriate to build a capital buffer able to withstand a shock of the kind experienced during the 2008 housing crisis?

**Response:**

This crisis is very different than the 2008 housing crisis thus far, as home prices have not dipped nor do borrowers have unsafe or exotic high priced loan types like what we saw in the last crisis. Looking at natural disasters as a comparison is more appropriate as we think about the capital buffer we need to endure future crises.

- d. Do you have plans to impose the same climate stress tests and climate change regulatory standards on FHA's lending portfolio as several Biden administration officials have discussed doing for private sector market participants?

**Response:**

I do believe it is important that FHA's Mutual Mortgage Insurance Fund is managed using appropriate modeling and "stress testing" to have an appropriate capital buffer to withstand significant economic shock events. Certainly, we will continue to evaluate the stress testing we are using and will analyze climate change stress testing outcomes for the FHA program.

**Manufactured Housing**

24. The Manufactured Housing Consensus Committee (MHCC) is a Federal Advisory Committee statutorily authorized to develop and submit to the HUD Secretary manufactured home construction and safety standards. The law requires the MHCC to "submit proposed revised standards . . . to the [HUD] Secretary in the form of a proposed rule, including an economic analysis." 42 U.S.C. § 5403(a)(4)(A)(ii). Accordingly, the MHCC must have resources devoted to developing these required economic analyses.

- a. Will you provide resources that are necessary for the MHCC to develop economic analyses to accompany the construction and safety standards being considered by the MHCC so that the standards are revised to keep up with innovations in the market?

**Response:**

Manufactured Housing is a critical source of unsubsidized affordable housing, and as I mentioned in my testimony, I will explore more ways to further its use as an affordable housing option. As mandated by statute, the Manufactured Housing Consensus Committee (MHCC) assists HUD in formulating and evaluating its oversight functions of the Manufactured Home Construction and Safety Standards. HUD agrees the MHCC should have adequate resources necessary to achieve its purpose. HUD program office and research staffing resources provide economic analysis assistance and HUD's Office of Manufactured Housing Programs maintains sufficient contracted resources that conduct economic analyses for MHCC recommendations.

## **Rental Assistance**

25. Dean Rouse testified that to put the economy on strong economic footing, money appropriated by Congress needs to be targeted, smart, and in areas where we know the economic benefit outweighs the cost.

- a. Do you agree that Congressional support needs to be targeted so that benefits outweigh costs?
- b. Is providing housing assistance without confirming household need a smart or targeted method of spending appropriated dollars?

## **Response:**

If we are both confirmed, I look forward to working with Dean Rouse on how we can target the resources Congress provides to ensure a solid economic footing for all Americans. As you know, HUD plays a critical role by providing rental assistance that not only prevents homelessness for millions of Americans. HUD's programs have been shown to help families with low incomes afford other basic needs like food, health care, and childcare. HUD's rental assistance program rules are already designed to target those with the lowest incomes, and local programs can institute additional targeting preferences as permitted by law. The challenge for HUD programs isn't that they aren't targeted, it is that funding levels are inadequate to meet the need. Millions of very low-income families pay more than half their income for rent each month because they do not receive federal assistance due to lack of funding. Similarly, the Federal Housing Administration plays a critical role making affordable mortgage credit available to first time homebuyers and underserved populations. During economic crises, we must use all of the tools at our disposal to ensure that all people remain safely and stably housed. Targeting assistance to prioritize the places and people who are most in need is always the goal, as is ensuring equity in allocations and getting funds in hands of struggling households expeditiously.

## **Delinquent federal tax debt**

26. Borrowers with delinquent federal tax debt are ineligible for FHA loans but HUD OIG discovered that FHA fails to verify with the IRS whether borrowers have such debt.<sup>7</sup> In FY18 alone, FHA insured over 56,000 loans to borrowers with delinquent federal tax debt worth \$13 billion. OIG also found that for FY18, the serious delinquency rate was almost 89 percent higher for those loans than that of the general population.

- a. How can FHA realistically protect taxpayers if it insures loans for people who fail to pay their own taxes?
- b. Can you commit to work with the Department of the Treasury to ensure FHA can verify prospective borrowers do not have delinquent federal tax debt?

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<sup>7</sup> <https://www.hudoig.gov/sites/default/files/2019-10/2019-KC-0003.pdf>.

**Response:**

While I would be unable to comment on the exact scenario that led to the previous Administration's insurance of mortgages to individuals with delinquent tax debt, HUD is required to comply with the Debt Collection Improvement Act of 1996 (DCIA). This law requires that federal agencies refer delinquent debtors to the Department of the Treasury's Treasury Offset Program (TOP), for withholding of any eligible federal payments, including Social Security benefit payments. I will ensure that this process continues.

**Depository institution participation**

27. Many depository institutions lend in their communities and banks' participation in FHA is critically important for FHA's first-time homebuyers and minority borrowers. Will you commit to working to bring banks into FHA so that first-time homebuyers and minority borrowers continue to have access to credit?

**Response:**

Robust participation in FHA programs by quality lending institutions, regardless of their structure, is something that I will continue to encourage. To date, the majority of FHA lender participants are non-depository institutions. It would be beneficial for FHA to have greater participation by depositories to make FHA-insured mortgage financing more easily available to borrowers, and to better balance counter-party risk. Bringing large bank lenders and regional banks back to the FHA program will be one of my priorities. It means more people have access to credit and a shot at homeownership and will help us meet goals for equity and support more communities that have historically not been served by these financial institutions.

**Rental Assistance Programs**

28. In December, Congress enacted a new \$25 billion rental assistance program to help renters who have fallen behind on their bills.

- a. Even though that program will be run through the Treasury Department and not HUD, do you support that program?
- b. The National Low Income Housing Coalition claims that renters may owe \$57 billion in back rent. Do you think that Congress should prioritize funding to address that backlog, which would help to remove the threat of eviction from landlords who, in some cases, may not have received their past-due rent for nine or more months?
- c. Do you support making sure that any future funding appropriated to the emergency COVID rental assistance program is used exclusively to retire those arrears and get those renters out from under the threat of eviction?

**Response:**

I understand that HUD has been providing answers to Treasury's questions as they have been working to implement the new \$25 billion Emergency Rental Assistance program. If confirmed, it will be one of my highest priorities to continue whatever HUD can legally do to support Secretary Yellen's implementation of this important program.

I agree that Congress should provide funding to help people pay back rent owed due to the health and economic crises. Rental housing depends on responsible landlords providing safe, decent housing. To do that effectively, landlords need to receive the rent. Many landlords have mortgages that need to be paid, all have taxes, insurance, utilities, and maintenance costs to be paid. The growing rent arrearages is certainly negatively impacting landlords and their tenants.

Treasury's Emergency Rental Assistance program will play an important role at helping not only prevent eviction but ensuring landlords get the funding they need to continue to provide safe and decent housing. I look forward to working with the Congress to craft effective policies that keep Americans housed as this crisis continues to evolve.

**Homelessness**

29. In 2020, HUD estimated that the homeless population of the United States exceeded 560,000, driven in large part by substantial increases in California and New York, which have four of the top five cities in terms of homeless populations. As the homeless population continues to increase in places like New York City, Los Angeles, San Diego, and San Jose, it is clear that the strategies those places are using to reduce homelessness are simply not working.

- a. Can you explain what the permanent supportive housing method known as Housing First entails?
- b. Are you aware that the Housing First model prohibits, as a condition of receiving funding, homeless services providers from creating safe spaces free from drugs and alcohol use for chronically homeless individuals in need of sobriety services, or that it prohibits requiring individuals suffering from severe mental illness from having to take psychiatric medications?
- c. By awarding federal funding through a Housing First model, HUD is essentially locking out successful homeless services providers with long track records of both sheltering chronically homeless individuals and treating their alcohol, drug, or mental illness issues to increase their chances to remain permanently housed. As Secretary, will you commit to reviewing HUD's Housing First formula bias and working to ensure that all providers of successful homeless services have equal access to federal funding, even those with programs that feature sobriety or mental health treatment requirements?

**Response:**

Housing First is an approach that is applied to a variety of different types of programs, including permanent supportive housing, rapid re-housing, and transitional housing. The techniques used as part of a Housing First approach are tailored to the specific needs of each person being served. However, all projects that use a Housing First approach share three elements:

- There are low barriers to entry, meaning that people can be served by programs using a Housing First approach, regardless of the barriers they face.
- Housing First programs focus first on helping people move into safe and stable housing as quickly as possible. One of the reasons Housing First approaches are effective is that when people are in safe and stable housing, they are much better able to address the challenges that led to their homelessness.
- A Housing First approach involves providing customized and client-driven supports, which may include primary health, behavioral health, employment, and education.

If confirmed, a primary goal will be to ensure that HUD provides the most effective assistance possible. I support using a Housing First approach because numerous studies have shown it is the most effective strategy for reducing homelessness. If confirmed, during my tenure, HUD will continue to look at all different approaches and promote ones that evidence shows will most help us achieve our goal of ending homelessness.

30. In August, GAO reported that HUD may be misstating the size of the U.S. homeless population because of flawed data collection and monitoring processes. One factor in that flawed data collection is the use of different definitions of the term “homeless” by different federal agencies, like the Department of Education. For example, GAO stated: *“The definition of homeless that Education uses is broader than HUD’s...[and] includes children and youth who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason (that is, are doubled up); living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; or living in substandard housing.”* The result of that disparity is that over one million children who qualify as homeless by part of the federal government are omitted and cut off from assistance by HUD under its more restricted definition.

- Do you support the inclusion of all children who are homeless within the HUD definition of homeless so that they can access HUD funding along with adults?

**Response:**

I look forward to discussing the issues you raise. With respect to the definition of homelessness, any expansion of the definition of homelessness should also be coupled with additional resources. The challenge is that we don’t have enough resources to serve those who currently meet HUD’s homelessness definition, and I think we need to ensure families living in crowded shelters or on the street receive the housing and services they need. I recognize that many families live on the edge of homelessness and need help finding and maintaining affordable housing.



Therefore, I am interested in ways to expand housing assistance so that all people who are eligible for assistance receive it. As I said in my testimony, only 1 in 5 households who are eligible for rental assistance receive it. Increasing access to HUD assistance is essential not only to ending homelessness but to ensuring families on the edge of homelessness stay housed. Finally, increasing access to affordable housing also includes partnering with communities to accelerate the development of affordable housing and ensuring homeless families and youth are prioritized for health care, education, employment, and other needed services.

31. As Secretary, would you support the harmonizing of the definition of homeless across all federal agencies?

**Response:**

I will reenergize HUD's efforts to partner with other federal agencies to ensure that federal programs across the board are doing as much as possible to prevent and end homelessness.

**Questions for The Honorable Marcia L. Fudge, of Ohio, to be Secretary, U.S. Department of Housing and Urban Development, from Senator Elizabeth Warren:**

1. Eviction poses a severe threat to families and to public health, and new research shows that a strong eviction moratorium can save lives during this pandemic. While the CDC eviction moratorium has been a critical intervention, it must be strengthened. The Trump administration made the moratorium as weak as possible – the order allows landlords to file eviction proceedings, requires renters to sign a declaration under penalty of perjury that could be intimidating, and allows landlords to evict renters who do not know their rights. The administration also failed to conduct public outreach – particularly troubling because eligible renters do not automatically receive eviction protection – and did not enforce the ban.

- a. Will you work with the CDC to strengthen the moratorium?

**Response:**

If confirmed, I will direct my staff to work with CDC to look for ways to strengthen their moratorium.

- b. Will you conduct public outreach to renters and landlords regarding the moratorium, including in multiple languages?

**Response:**

The Limited English Proficiency Initiative provides funding for the creation and promotion of translated materials and other programs that support the assistance of persons with limited English proficiency in utilizing the services provided by the Department of Housing and Urban Development. If confirmed, I will direct my staff to work with CDC staff to provide public outreach regarding the moratorium to renters and housing providers, which would include sharing information in multiple languages.

- c. Will you work with other agencies to ensure there is meaningful enforcement of the moratorium?

**Response:**

The U.S. Department of Justice (DOJ) prosecutes violations of the moratorium. If confirmed and asked for guidance on enforcement, I will direct my staff to work with DOJ staff to find ways to more meaningfully enforce the moratorium, based on HUD's experiences enforcing regulations for our own housing programs.

- d. Will you work with housing advocacy organizations and low-income renters to determine necessary changes to strengthen the order?

**Response:**

If confirmed, I will ensure that we listen to the concerns of housing advocacy organizations and low-income renters before making determinations about our consultations with the CDC on the future of their eviction moratorium.

2. In 2016, HUD found that ‘transgender and gender nonconforming persons continue to experience significant violence, harassment, and discrimination in attempting to access programs, benefits, services, and accommodations’ and reported that “transgender persons are often discriminatorily excluded from shelters or face dangerous conditions in the shelters that correspond to their sex assigned at birth.”

- a. Will HUD abandon the Trump administration’s proposed rule undermining the 2016 Equal Access rule protections?

**Response:**

Yes, HUD will withdraw the proposed rule. Transgender and gender non-conforming persons experience extremely high rates of homelessness, and historically, emergency shelters have not appropriately and consistently met the needs of these communities. The 2016 rule helps protect transgender persons from discrimination in emergency shelters, and I am committed to enforcing it. Furthermore, HUD will re-publish training materials that help communities effectively implement the 2016 rule.

3. We face a worsening affordable housing crisis that is hitting families of color the hardest. Today, there are only 36 affordable rental homes available for every 100 extremely low-income families, and a housing shortage exists for *all* families making below the area median income. Tackling this crisis will require significant, targeted investments in building affordable housing for the lowest-income Americans, like the Housing Trust Fund.

- a. Will you advocate for investments in the Housing Trust Fund in the HUD budget and in an infrastructure package or other legislation?

**Response:**

I support President Biden’s plan for investing in our communities through housing, including his call for increased investment in the Housing Trust Fund.

4. Amidst an ongoing affordable housing crisis, it is critical to preserve and maintain existing affordable housing, including 1.2 million public housing units. Years of chronic underfunding have resulted in an estimated \$70 billion backlog of repairs to the existing public housing stock.

- a. Will you advocate for investments in the Public Housing Capital Fund in the HUD budget and in an infrastructure package or other legislation?

**Response:**

In the opening statement of my testimony, I voiced my conviction that we must work together to improve the quality, safety, and accessibility of affordable housing throughout the nation. Many communities suffer from disinvestment; and unfortunately, given the age of much of the public housing stock, the level of funding for public housing has been insufficient to address the backlog of repairs.

Modernization of HUD's housing stock would allow us to accomplish multiple objectives: strengthening our economy through energy retrofitting which will generate green jobs, addressing health hazards, and, most importantly, creating high-quality living conditions for some of our most vulnerable communities. If confirmed, I welcome the opportunity to work with you on significant capital investment in our public housing portfolio.

5. As of October 2020, HUD had still not established conditions for using CDBG-DR funds to implement long-term repairs to Puerto Rico's energy grids following the 2017 hurricanes, or approved any long-term grid recovery projects.

- a. Will you prioritize getting appropriated disaster relief money to Puerto Rico, and addressing administrative roadblocks that have prevented Puerto Rico from using that funding?

**Response:**

Yes. We will work to ensure that Puerto Rico receives the federal disaster reconstruction funding that it urgently needs to support the long-term recovery of Puerto Rico and increase its ability to withstand any future storms. In addition, I will work with HUD to take additional administrative steps to remove unnecessary barriers to distributing much-needed housing recovery funds.

6. President Biden has committed to take a "housing first" approach to ending homelessness, and to conduct a review of federal housing programs to ensure they pursue and incentivize this approach. Will you encourage the U.S. Interagency Council on Homelessness to appoint an Executive Director who has a demonstrated commitment to a "housing first" approach?

**Response:**

Yes. I agree that the Executive Director of USICH serves a critical role in shaping the Nation's homelessness response. That role must be filled by a person who understands and follows the evidence. Numerous studies and the experiences of communities across the country show that Housing First approaches are the most effective way to address homelessness for the vast

majority of people. I will ensure that it is the primary strategy promoted by HUD and I will advocate for a new USICH Executive Director who understands and supports Housing First strategies.