MEMO

To: Xavier deSouza Briggs, Associate Director for General Government Programs, Office of Management and Budget
Cc: Secretary Shaun L.S. Donovan and Secretary Steven Chu
Fr: Lydia Tom, Senior Advisor, Enterprise Community Partners
Michael Bodaken, President, National Housing Trust
Tom Deyo, Senior Advisor, NeighborWorks America
Date: March 26, 2009
Re: Recommendations to Maximize Job Creation Opportunities by Leveraging Department of Energy ARRA Funding in Multifamily Housing

SUMMARY

The American Reinvestment and Recovery Act (ARRA) provides unprecedented funding for building energy retrofits through a range of new and existing programs, including $5 billion for the Weatherization Assistance Program (WAP), $3.1 billion in State Energy Program (SEP) grants and $3.2 billion in energy efficient and conservation block grants that will be allocated to states to carry out their own renewable energy and energy efficiency programs.

This tremendous infusion of additional resources is a very timely way to create jobs while enabling working and low-income families to benefit from more sustainable and healthy housing while minimizing energy and utility bills. In particular, older multi-family rental housing – which is home to many of our nation's low and very low-income residents – are at risk from disrepair and renovations that are decades old. These properties confront skyrocketing expenses and can greatly benefit from additional funding available through the Department of Energy (DOE). Much of this existing housing is available to low-income families as unassisted housing.

However, to maximize the opportunity of these DOE programs to more easily leverage these funds with other financing for existing and rehabilitated affordable rental housing, the federal government needs to direct states on certain uses of funds in order to facilitate a consistent and flexible use of those funds.

BACKGROUND

Using Weatherization and SEP funds to finance affordable multifamily housing energy retrofits is a good strategic use of the funds that will result in wide scale energy savings, immediate green jobs, and reduced CO_2 emissions.

Approximately 20% of total carbon emissions in the U.S. are from residential energy use. With the increased funding from ARRA, weatherization funding was raised from $3,000 to $6,500 per unit. If creatively combined with other energy retrofit resources, such as SEP funds, important financing gaps can be closed while resulting in significant energy cost savings for low-income families and building owners.

Providing as much flexibility and direction for using these DOE funds for affordable rental housing energy retrofits would accomplish several goals:

- preserve much needed affordable housing;
- put the funds to immediate use in larger scale projects that will generate substantial numbers of improved homes and green jobs in the shortest amount of time; and
- improve the lives of thousands of low-income renter families with reduced energy bills.

Currently, many retrofits of existing properties that entail acquisition, refinancing or rehabilitation are stalled because of financing gaps due to lack of investment or a funding shortfall. This kind of work produces jobs quickly and will yield more immediate relief for existing tenants struggling to make ends meet.

In addition, the new and renewed focus on these energy efficiency programs represents an excellent opportunity to begin collecting data on their effectiveness and demonstrated results. Data collection and analysis will be critical not just to prove the effectiveness but also to help build the case for private financing of energy efficiencies.

Several projects blending multiple financing sources demonstrate how more sustainable housing can be a true success. See attached the case study of Riverdale/Osborne, a former HUD 236 project of 523 units that creatively financed renovations with Low Income Housing Tax Credit (LIHTC) Equity, private bank financing, public subsidies, and New York State Energy and Weatherization Funds. However, with the drive to quickly disburse funds and get shovel ready projects rolling, there are some recommendations that would further facilitate the ease of combining this with other financing as well as minimize administrative coordination and delays.

RECOMMENDATIONS

The following are suggested recommendations and approaches to the programs that we believe will make sure these funds are eligible and encouraged for use with multifamily projects.

STREAMLINE INCOME ELIGIBILITY/TENANT TEST FOR DOE FUNDING THAT LEVERAGES ELIGIBILITY REQUIREMENTS OF EXISTING PUBLICLY ASSISTED PROGRAMS

Documentation of income eligibility of tenants for the DOE programs can be a laborious process. However, if the building/project is already receiving other financing or subsidies that demonstrate eligibility under requirements of the DOE programs, then flexibility in accepting that documentation and deeming the project eligible would quicken and simplify the process. For example, if this is a Low Income Housing Tax Credit Project, receives HUD funding or if tenants receive HUD Section 8 rental assistance or other public subsidies requiring income documentation and subjecting the project to long term affordability restrictions, then these developments should be deemed automatically eligible for WAP funding. Similarly, if SEP funding is being used and state(s) require documentation of tenants' income eligibility for any financing, then documentation of income eligibility required by other public agencies (e.g. Low Income Housing Tax Credit Income Compliance, HOME compliance, Section 8 Rental Assistance) would be accepted to demonstrate compliance with income guidelines.

ENCOURAGE STATES GIVE EQUAL PRIORITY TO PRIVATELY OWNED, SUBSIDIZED HOUSING

Most states currently prohibit landlords from raising rents for only 2 years after weatherization funds are put in to the property. The use of Weatherization funds in properties that already have long term use restriction agreements is an especially effective use of resources because it ensures that low income tenants benefit for a much longer timeframe. Therefore, we encourage DOE to ensure that states provide equivalent priority to privately owned, subsidized housing in making decisions about allocating weatherization funds.

ASSIGNING LEAD AGENCIES IN STATES TO COORDINATE INTERAGENCY FUNDS

To facilitate the ease of combining multiple funding sources, including those projects where different state agencies may require different documentation and methodology for energy audits and reports, it would be extremely helpful to streamline the two audits to be more similar or agree to have one agency as the "lead."

REDUCE USE OF MULTIPLE CONTRACTORS FOR WAP WORK ONACQUISITON/ REHABILITION PROJECTS

The WAP program requires that WAP work be done by the subgrantee or their approved contractor. This may pose an additional layer of project management where WAP is being used in conjunction with a refinance and rehabilitation because this may require use of a separate contractor from the one already doing work on the project. Consideration for allowing the general contractor or their relevant subcontractor(s) to be eligible to do the WAP work would simplify the process, presuming their specifications and costs are within programmatic guidelines.

REQUIRE NO MATCH FROM OWNERS FOR ELIGIBLE AFFORDABLE RENTAL PROPERTY RETROFITS UNDERTAKEN BY NONPROFIT OWNERS

Each state decides whether to undertake affordable rental housing with weatherization funds and how much, if any, an owner must pay as a match to the WAP. This match requirement is an option for the program per the federal regulation. This match often creates a burden on nonprofit owners to use the WAP. Eliminating this match among states for affordable rental properties owned by nonprofits would allow more affordable rental units to be improved. This would ultimately benefit either the low-income renter with lower renter-paid utility bills or lower overall utility costs of the nonprofit owner who can manage a stable utility expense and keep rents lower.

ALLOW DOE FUNDS IN A LIHTC PROJECT WITHOUT AFFECTING ELIGIBLE BASIS

To maximize equity investment in projects using LIHTC, it is important to be able to bring WAP and/or DOE funds into the ownership entity (usually a limited partnership or a limited liability company) of a project without any detrimental tax implications for the tax credit investor. Any federal grants which support the development of a project result in a reduction of eligible basis. This could reduce the amount of tax credits for which a project is eligible. Two potential remedies for this problem are: 1) allowing the WAP or SEP funds to come in as a direct or indirect low-interest, cash flow contingent loan, as federal loans do not result in a reduction of eligible basis or tax credits, or 2) providing a legislative exception to allow for WAP and SEP funds to be granted to ownership entities (or to sponsors, which then contribute the funds as equity into the ownership entity) without a corresponding reduction in eligible basis. The first solution is used for HOME and CDBG loans and the second solution has been used for Section 202 capital advances to build affordable, multifamily elderly housing.

A CONTINUUM OF RESOURCES TO MAXIMIZE UTILIZATION OF DOE FUNDS TO RETROFIT MULTIFAMILY HOUSING

In order for building owners to assemble resources that provide a continuum of support, they need to be informed and receive training on how to access these new and expanded funding opportunities. This will facilitate a broadening of the reach and ability to more quickly develop a pipeline of ready projects to meet the aggressive production goals while ensuring that all building owners, including not for profits and private owners with unassisted rental housing, have ready knowledge and access to these resources.

SUPPORT MAJOR OUTREACH & EDUCATION TO SUPPORT ADDITIONAL REQUIREMENTS OF PROGRAM

Additional training will be required both to provide an overview on how to access additional WAP funds and other building retrofit funding made available by states and the federal government, and to instruct the numerous professionals that will be needed in the ramping up of the program to manage and deliver this service.

For example, in New York, Enterprise has partnered with the Association for Energy Affordability (AEA) to host a one-hour training on March 31 to provide an overview on how to access the $404 million in Weatherization funding that New York State will receive, most of which DHCR expects to target to multifamily buildings. The session will be free and open to developers both on-site at Enterprise New York and online. A case study will also be presented. Topics covered include: program eligibility, preparation and application process, necessary documentation, tips on working with weatherization agencies and coordinating additional sources of funding energy efficiency (NYSERDA and National Grid grant programs). The training will be accompanied by an information packet that contains a step-by-step guide to using the Weatherization Assistance Program to fund energy efficiency improvements.

SUPPORT THE FINANCIAL NEEDS OF THE EXISTING AND NEW WEATHERIZATION PROVIDERS WHO COULD INCUR SIGNIFICANT ADDITIONAL EXPENSES ASSOCATED WITH THE INCREASED PROJECT PIPELINE

Weatherization Providers need to buy a substantial amount of equipment for the ramp up of their production units – ranging from $50,000 to $100,000. This can be a significant burden on a nonprofit entity providing this service. Under the current WAP, there is an inconsistent method that states use to pay Weatherization Providers for these costs. In some instances, states require that the Provider must pay out of pocket for these costs and get reimbursed by the program. This reimbursement approach rather than an upfront funding approach places a burden on the nonprofit organizations to find funds to make these purchases which can delay the ramp up, or even their ability to participate in the ramp up of the program.

FUNDING CAPITOL NEEDS ASSESSMENTS TOWARDS ACCESSING RESOURCES

Not for profit and small building owners do not have deep knowledge or capital to front load costs to contract with approved vendors for energy audits and capital needs assessments. Flexibility in allowing easy access to quickly contract for and obtain energy audits would be critical to ramping up use of WAP and other building retrofit funds.

SUPPORT LEVERAGING OF NEIGHBORHOOD STABILIZATION PROGRAM FUNDS WITH DOE PROGRAMS TO SUPPORT ENERGY EFFICIENCY IMPROVEMENTS

The Housing and Economic Recovery Act of 2008 allocated $3.92 billion to fund the Neighborhood Stabilization Program, a newly created resource to state and localities to address foreclosed and abandoned properties. The NSP stipulates that 25% of the funds be targeted to serve households at or below 50% of the area median income. Some states and localities are expecting to target these resources to preserve multi-family and rental properties. It would be important that NSP funds are allowed to be combined with DOE resources so NSP eligible properties can be sustainable, healthy and energy efficient homes for these low-income families.

ABILITY TO LEVERAGE NEW & EXPANDED DOE RESOURCES WITH OTHER INNOVATIVE FINANCING

The access to expanded resources will be instrumental in furthering the greening of potentially thousands if not millions of homes for America's working and low-income households. Even with the additional resources,

programs may not fund all the needed capital improvements of older and worn multi-family housing, particularly those related to improving the indoor air quality and other healthy living environment improvements. An ability to leverage additional resources like green retrofit funds in combination with WAP and the other expanded funds would be important to maximizing support to making older buildings as green as possible while allowing important renovations to be simultaneously funded.

The ARRA will make available unprecedented investments to green America's homes. Preserving our multifamily housing will make these homes more energy efficient, sustainable and healthy for our country's families while allowing households to reduce energy expenses and carbon emissions. This can be an effective and efficient way to contribute to quickly advancing the production goals of this program and create vitally necessary jobs to stimulate local economies.

Thank you for allowing us to submit these recommendations. If you have any additional comments or questions, please feel free to contact Lydia Tom at Enterprise Community Partners (ltom@enterprisecommunity.org or (212) 284-7112), Michael Bodaken at National Housing Trust (mbodaken@nhtinc.org or (202) 333-8931 ext 11) or Tom Deyo at NeighborWorks America (tdeyo@nw.org or (202) 220-2301).