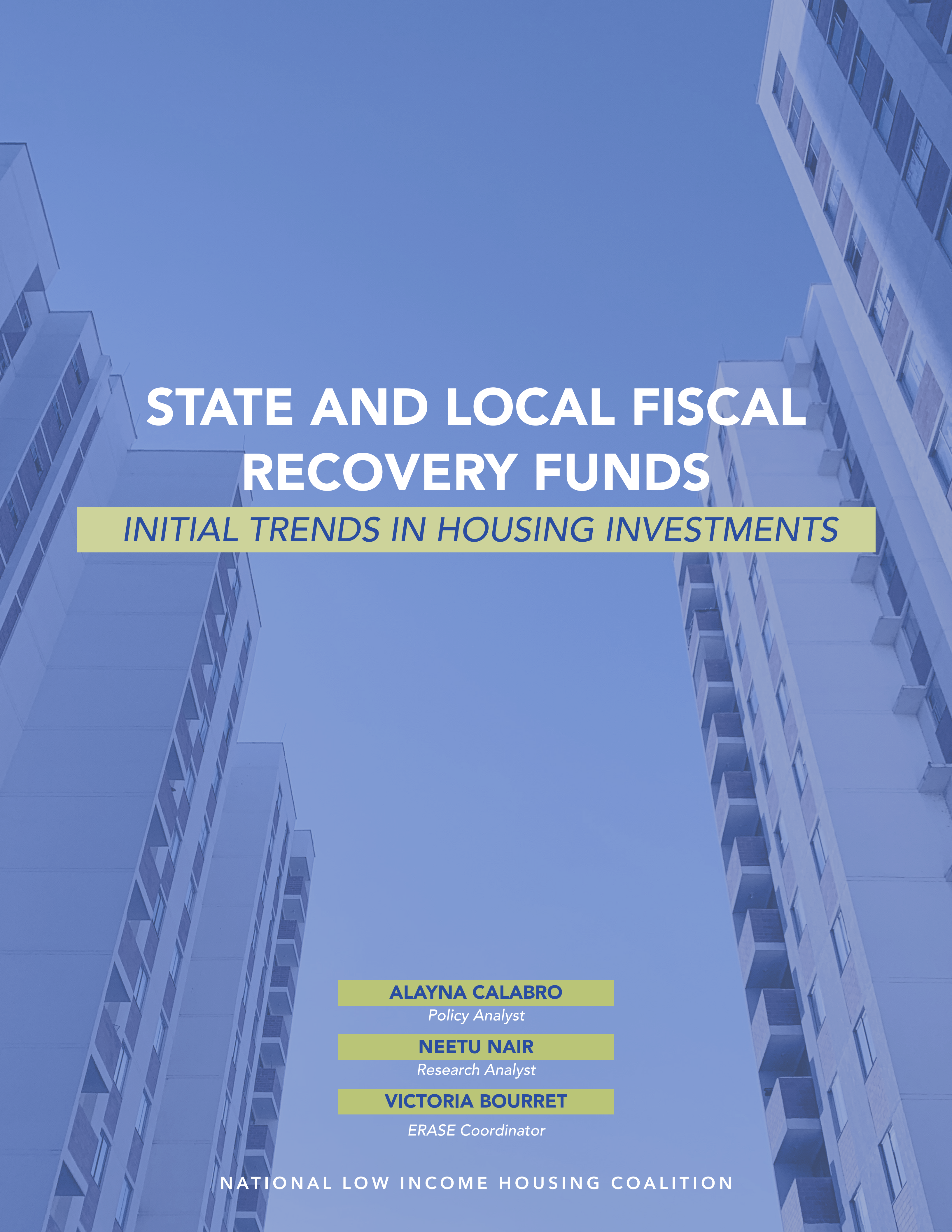

STATE AND LOCAL FISCAL RECOVERY FUNDS

INITIAL TRENDS IN HOUSING INVESTMENTS

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STATE AND LOCAL FISCAL RECOVERY FUNDS: INITIAL TRENDS IN HOUSING INVESTMENTS

INTRODUCTION

OVERVIEW

Many states and localities across the country are successfully using the $350 billion Coronavirus State and Local Fiscal Recovery Funds (SLFRF) program to keep families housed during the pandemic, tackle the growing homelessness crisis, and develop affordable housing to address the root causes of housing instability and homelessness. Established by the "American Rescue Plan Act" and administered by the U.S. Department of the Treasury (Treasury), the SLFRF program provides state, local, and tribal governments with resources to respond to the pandemic and its economic impacts and to build stronger, more equitable foundations for the future. The National Low Income Housing Coalition (NLIHC) estimates that 55 states, localities, and territories are already using a combined total of $13.77 billion to prevent homelessness and provide affordable housing. However, more can still be accomplished with SLFRF funds.

NLIHC estimates that 55 states, localities, and territories are already using a combined total of $13.77 billion of SLFRF to prevent homelessness and provide affordable housing.

To support states and localities in leveraging these funds for affordable housing, NLIHC weighed in on Treasury's Interim Final Rule governing the implementation of the SLFRF program through a public comment submitted in June 2021 and a follow-up letter sent in September 2021. NLIHC urged Treasury to issue clear guidance on how communities can use SLFRF to meet the housing needs of people with the lowest incomes. Treasury published in January 2022 a final rule on the SLFRF program that addressed many of NLIHC's concerns and recommendations. The final rule expanded the set of eligible uses for SLFRF and broadened the number of households and communities eligible for SLFRF programs and services. The final rule also provided further clarity on eligible affordable housing projects.

This brief documents how states and localities are using SLFRF to invest in affordable housing and homelessness prevention and services. The brief also highlights project examples under each of the major program categories we have identified: housing development, homelessness services, short-term aid to households, and other housing-related uses. Each jurisdiction faces unique affordable housing challenges that will impact its SLFRF allocation decisions. With that caveat, the brief provides recommendations for how advocates and elected officials can leverage the SLFRF program to meet urgent housing needs in their communities and address a housing crisis that most severely impacts people with the lowest incomes.

ELIGIBLE USES AND INCOME ELIGIBILITY

Treasury's final rule presumes certain populations and households are "impacted" and "disproportionately impacted" by the pandemic and are therefore eligible for services that respond to the impacts they have experienced. While most affordable housing and homelessness services outlined in the final rule are available in all impacted communities, states and localities can target additional resources to the lowest-income households considered to be disproportionately impacted by the pandemic.

Treasury's final rule outlines a non-exhaustive list of eligible households and uses. SLFRF recipients may designate additional households as impacted or disproportionately impacted beyond those households presumed to meet the definitions in the final rule. State and local recipients may also pursue projects not listed in Treasury's guidance that respond to the impacts of the pandemic, consistent with the guidance.

The final rule recognizes that the pandemic caused broad-based impacts that affected many communities, households, small businesses, and nonprofit organizations. Treasury presumes the following households and communities are "impacted" by the pandemic:

- Low- or moderate-income households and communities (those with incomes below 300% of the Federal Poverty Guidelines [FPG] or 65% of the area median income [AMI]).[1,2]
- Households that experienced unemployment or increased food or housing insecurity.
- Households that qualify for the national Housing Trust Fund (HTF) and Home Investment Partnerships Program (HOME).
- Households that qualify for the Children's Health Insurance Program, child care subsidies through the Child Care and Development Fund Program, or Medicaid.

"Impacted" households and communities are eligible for the following housing-related services through SLFRF:

- Rent, mortgage, and utility assistance.
- Housing stability services, such as housing counseling, legal aid, and eviction diversion programs.
- Services for people experiencing homelessness, including rapid rehousing and non-congregate shelter.
- Development, rehabilitation, and preservation of affordable homes for low-income households.
- Permanent supportive housing.

Treasury's final rule acknowledges that the pandemic caused disproportionate impacts in certain communities, including in low-income and underserved communities. Treasury presumes the following households and communities are "disproportionately impacted" by the pandemic:

- Low-income households and communities (those with incomes below 185% of FPG or 40% of AMI).
- Households residing in Qualified Census Tracts.
- Households that qualify for certain federal programs, including Section 8 Vouchers and the Low-Income Home Energy Assistance Program (LIHEAP).
- Households receiving services provided by tribal governments.
- Households residing in the U.S. territories or receiving services from territorial governments.

"Disproportionately impacted" households and communities are eligible for the following additional housing-related services through SLFRF:

- Housing vouchers.
- Relocation assistance.
- Improvements to vacant and abandoned properties to address the negative impacts of the pandemic on disproportionately impacted households or communities, including for the purpose of conversion to affordable housing.

1 Recipients can measure income for a specific household or the median income for the community, depending on whether they plan to provide services to specific households or the general community. Income thresholds vary by household size.

2 Treasury has released an easy-to-use spreadsheet with FPG and AMI levels.

> **The 112 jurisdictions tracked by NLIHC account for 64.1% of all SLFRF dollars awarded nationally.**

METHODS

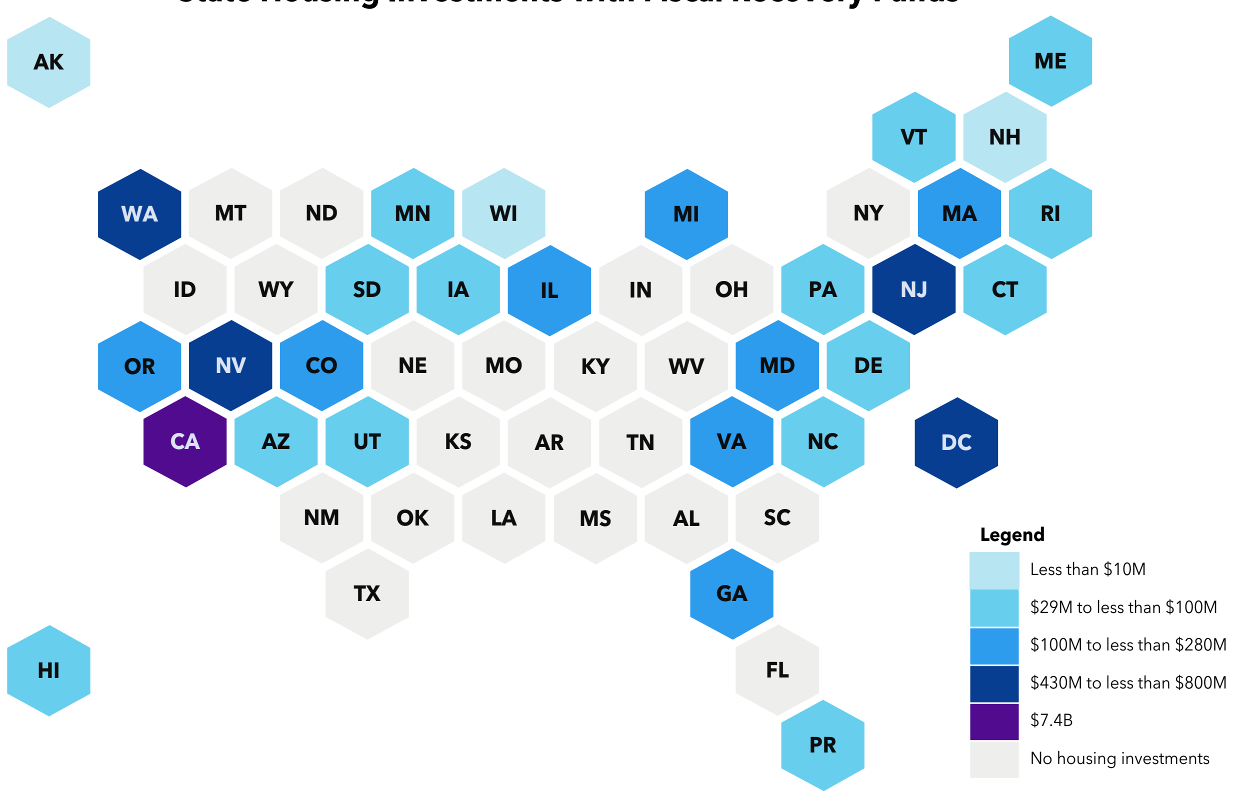
In March 2022, NLIHC began systematically tracking SLFRF investments allocated for housing. Since thousands of grantees received funds through the "American Rescue Plan Act," we limited our analysis to include all 50 states and the District of Columbia, Puerto Rico, and 60 localities, including the 10 cities or counties receiving the highest allotments of Local Fiscal Recovery Funds and the largest city or county in every state (to reflect geographic diversity). These 112 jurisdictions account for 64.1% of all SLFRF dollars awarded nationally.

NLIHC tracks data on SLFRF allocated and appropriated for housing based on publicly available information from (1) 2021 Fiscal Recovery Plan Reports, (2) state and local legislation and executive actions, and (3) news articles. SLFRF-funded programs are recorded once proposals have been approved by Treasury and assigned to specific administrative units. As of May 2022, NLIHC had identified 242 unique SLFRF-funded programs in these 112 jurisdictions.

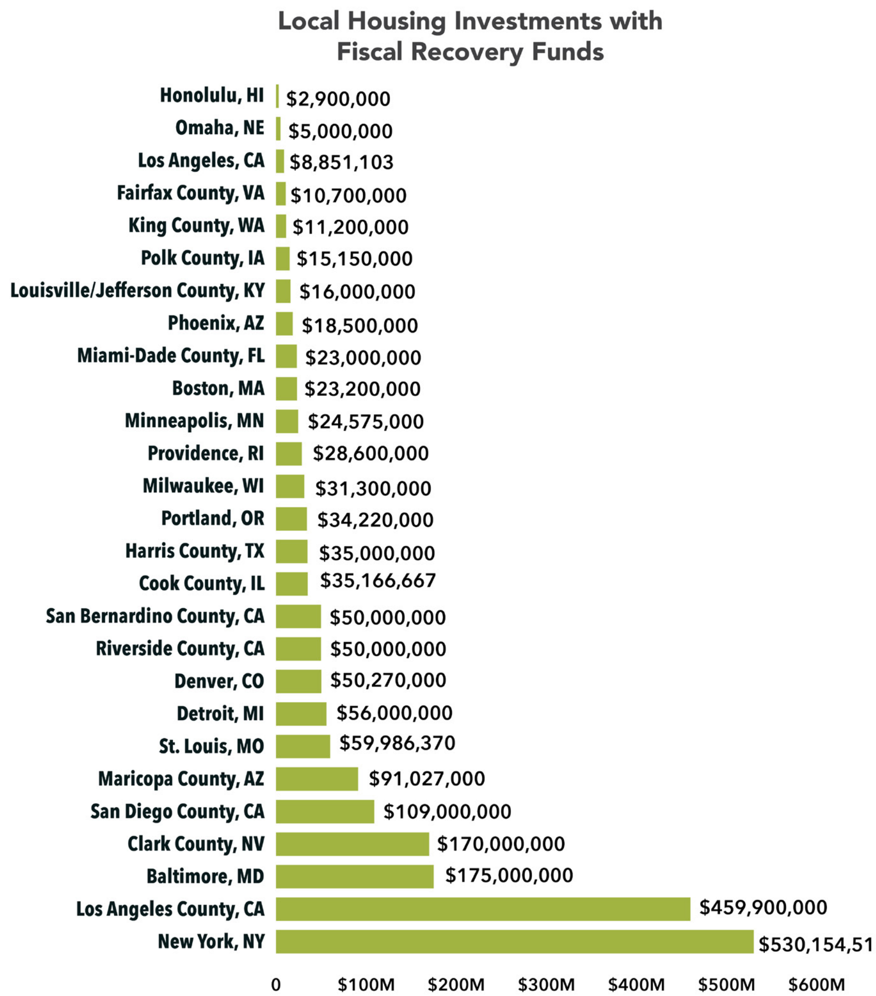
PRELIMINARY FINDINGS

As of May 2022, 55 of the 112 jurisdictions (49%) we track use SLFRF for housing activities, including over half of all states and over 41% of the selected cities and counties. In total, these jurisdictions are allocating more than $13.77 billion for housing. Twenty-eight states, the District of Columbia, and the Territory of Puerto Rico have allocated fiscal recovery funds for housing. Investments range from $1.5 million to $7.4 billion, with a majority of jurisdictions (21 states and Puerto Rico) allocating between $29 million and $280 million. New Jersey, Washington, Nevada, and the District of Columbia have invested over $430 million in housing, and California has invested more than $7.4 billion.

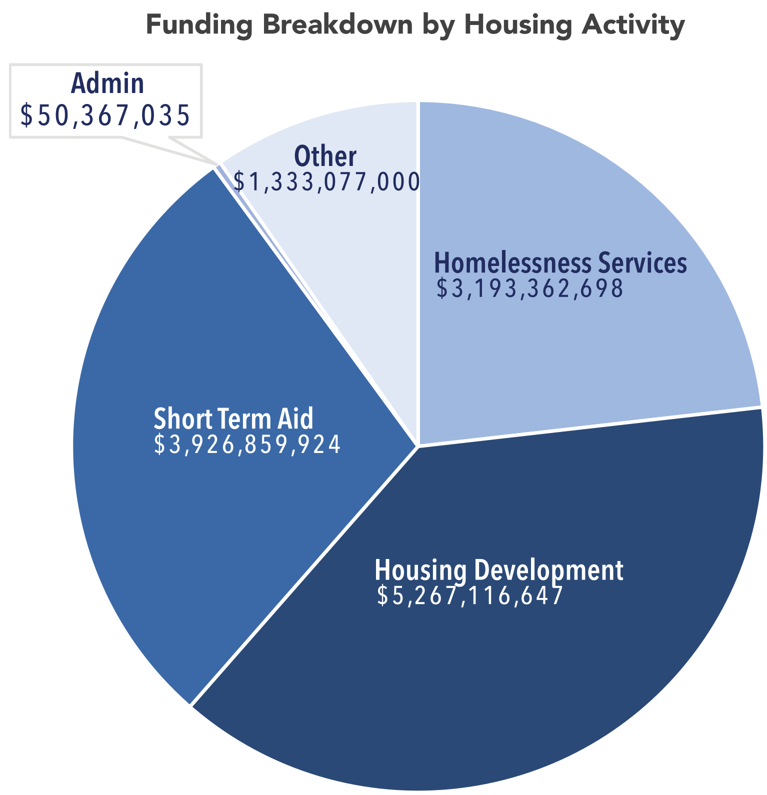
State Housing Investments with Fiscal Recovery Funds



The sizes of housing investments also vary greatly among the 25 localities using SLFRF for housing. Investments range from $2.9 million to $530 million, with a majority of localities (64%) allocating between $15 million and $60 million for housing. Los Angeles County and New York City have allocated more than $450 million and $530 million, respectively, while three other localities – San Diego County, CA; Clark County, NV; and the City of Baltimore, MD – have each allocated over $100 million.



States and localities have allocated these funds towards various housing activities, with the most funds going towards affordable housing development. Thirty-six jurisdictions have allocated over $5.2 billion in SLFRF to acquire, construct, and preserve affordable housing units. Most commonly, states and localities have invested in short-term aid to households. Thirty-nine jurisdictions have allocated over $3.9 billion for services such as rental and utility assistance, legal aid, housing navigators, housing counselors, case management, and other household assistance. Approximately $3.2 billion of SLFRF has been allocated for homelessness services, with 34 jurisdictions investing in emergency shelters, street outreach, rapid rehousing, permanent supportive housing, and hotel/motel conversions. An additional $1.3 billion of SLFRF has been allocated for energy efficiency and weatherization, home repairs, lead paint remediation, and other community development and infrastructure programs. Finally, 15 jurisdictions are allocating over $50 million to increase housing administration and internal capacity, improve data or technology infrastructure, and ensure systematic data collection and impact evaluation.



PROJECT HIGHLIGHTS AND EXAMPLES

HOUSING DEVELOPMENT

SLFRF can be used to fund affordable housing development, rehabilitation, and preservation. Any project that would be eligible for funding under the national Housing Trust Fund (HTF) or the Home Investment Partnerships Program (HOME) is presumed to be eligible for SLFRF.

Grantees can use SLFRF for grants, loans, or short-term assistance. While grant-based programs align well with the structure of SLFRF expenditure timelines (SLFRF must be obligated by December 31, 2024, and expended by December 31, 2026), federal grants for Low-Income Housing Tax Credit- (LIHTC) funded developments are less advantageous, as they reduce the eligible basis (that is, the development costs eligible for LIHTC). For this reason, long-term loans typically serve as gap financing for LIHTC projects.

Treasury's final rule and Frequently Asked Questions (FAQ #4.9) both explain how grantees can structure SLFRF funds via long-term loans that mature or are forgiven after December 31, 2026. Grantees may use SLFRF only to cover the projected cost of the loan and will likely have to braid SLFRF with non-SLFRF funding to cover the full loan amount required for development.

Treasury describes two methods that can be used by grantees to estimate the cost of the loan. First, grantees may use a Net Present Value (NPV) analysis to estimate how much of the loan can be covered by SLFRF dollars and the amount of additional non-SLFRF dollars that will be required based on the loan terms, interest rate, and discount rate.[3] Alternatively, grantees can equate the cost of the loan to the expected credit losses over the life of the loan based on the Current Expected Credit Cost (CECL) standard. Grantees may also contribute SLFRF to a revolving loan fund for financing development, provided funds are limited to the projected cost of loans made over the life of the revolving loan fund, and follow Treasury guidance for loans with maturities beyond December 31, 2026. Since SLFRF guidance does not specify affordability periods for funds used for housing development, grantees should allocate funds to long-term (30 years or more) or permanently affordable housing.

Representatives Alma Adams (D-NC) and David Rouzer (R-NC) and Senators Patrick Leahy (D-VT), Susan Collins (R-ME), and Ron Wyden (D-OR) introduced bipartisan and bicameral legislation in the spring of 2022 to remove the statutory barriers restricting grantees from using SLFRF for LIHTC developments. The "LIHTC Financing Enabling Long-term Investment in Neighborhood Excellence (LIFELINE) Act" (H.R. 7078/S. 4181) would increase the flexibility of SLFRF by permitting funds to be used in the form of long-term loans to LIHTC developments.

Final decisions about whether to finance affordable housing development with a grant or a loan-based program will ultimately depend on a grantee's particular market and priorities. Initial analysis indicates that grantees have adopted various methods to finance development, and as of May 2022, 16 states, including the District of Columbia,

As of May 2022, 16 states, including the District of Columbia, have allocated SLFRF to acquire, develop, and preserve affordable housing, with several more planning similar measures.

3 State and local grantees should consult with their tax attorneys to develop their own analysis of the federal regulation and determine the loan term, interest rate, and discount rate that is most appropriate to their case.

have allocated SLFRF to acquire, develop, and preserve affordable housing, with several more planning similar measures.

California has allocated $1.75 billion for affordable housing development. Funds will go towards the California Housing Accelerator program, which will provide gap financing for shovel-ready projects that have received funding under other state programs and have been unable to access LIHTC. Assistance is provided in the form of forgivable loans, with terms of zero percent interest for 20 years and with no residual receipts or periodic payments during the lifetime of the loan.

Illinois has allocated $225 million for its COVID-19 Affordable Housing Grant program to finance the development of affordable multifamily rental housing. Established under House Bill 2621, the program authorizes the Illinois Housing Development Agency (IHDA) to provide gap financing for LIHTC projects. As of May 2022, IHDA has approved $72 million in grants to qualified developments.

Several localities are also making investments in affordable housing development and preservation. **Baltimore, MD**, allocated $56 million for its affordable housing initiative. The program aims to increase capital investments for affordable housing development in formerly redlined areas in the city. **Boston, MA**, allocated $20 million to its Acquisition Opportunity Program. The program provides loans for qualified nonprofit and for-profit developers to purchase units in the private market and create long-term or permanent income restrictions for low-income tenants.

HOMELESSNESS SERVICES

Communities can use SLFRF to provide housing and services for people experiencing homelessness, including targeted street outreach, emergency shelter, and rapid rehousing. Longer-term solutions to address homelessness, such as the development of permanent supportive housing – including operating subsidies – and wraparound services are also eligible uses of SLFRF.

Vermont, for example, allocated $64 million to its Housing Recovery Program, which will provide capital awards for the development of homeless shelters, emergency shelter capacity, and affordable housing for households and areas disproportionately impacted by the pandemic.

California invested $2.2 billion in SLFRF for Project Homekey, a statewide program that partners with local entities to acquire a variety of properties, such as hotels, motels, and vacant apartment buildings, and convert them into interim or permanent long-term housing. Combined with $550 million from California's General Fund, the $2.2 billion SLFRF investment is expected to produce over 10,000 units over the next several years.

> **Longer-term solutions to address homelessness, such as the development of permanent supportive housing, are also eligible for SLFRF.**

Illinois is investing significant resources to address homelessness and provide emergency housing and supportive services to people experiencing homelessness, including $28 million for supportive housing. The state is using $1 million in SLFRF to serve youth who are homeless and investing $10 million to launch the Housing is Recovery Pilot Program, which will provide affordable housing and support services to people with serious mental illness or substance use disorders. The program utilizes a "Housing First" approach, a proven solution to ending homelessness that prioritizes access to safe, stable housing linked to voluntary services when needed to ensure long-term housing stability and effective treatment for underlying health conditions.

The City of St. Louis is investing millions of SLFRF dollars to address homelessness, including $8 million for emergency shelter, $1.4 million for Safe Haven, $250,000 for street outreach, and $1.25 million for wraparound services for individuals in need of housing. In addition to meeting emergency needs, St. Louis is investing SLFRF dollars in longer-term solutions for unhoused individuals, including $1.5 million for Bridge Housing, $1.5 million for permanent supportive housing, and $20 million for affordable housing development.

Los Angeles County, California, is investing $400 million in housing and services for people experiencing homelessness, including a $16.7 million investment to provide intensive case management services and move-in assistance for approximately 1,500 federal subsidy recipients who are exiting homelessness and have been matched to permanent housing opportunities. Among other critical investments to reduce homelessness, Los Angeles County is allocating $115 million to Project Homekey, $100 million to create permanent and supportive interim housing, and $113 million to convert existing county-owned interim housing units into permanent housing.

Harris County, Texas, invested $35 million in Local Fiscal Recovery Funds for the Community COVID Housing Program (CCHP), a coordinated effort between Harris County and the City of Houston to permanently house people who are experiencing homelessness. As of March 2022, approximately 8,100 people have been housed through the CCHP. Harris County and the City of Houston joined House America, a federal initiative in which the U.S. Department of Housing and Urban Development (HUD) and the U.S. Interagency Council on Homelessness (USICH) invite state and local leaders to use the historic investments provided through the American Rescue Plan to address the homelessness crisis through a Housing First approach.

SHORT-TERM AID TO HOUSEHOLDS

States and localities have allocated $3.9 billion in SLFRF for short-term aid to renters, including $1.3 billion for rental assistance and arrears, $2.2 billion for utility assistance and arrears, $225 million for legal aid services, and $30 million for housing navigators, housing counseling, and case management services. SLFRF guidance does not include requirements related to applicant eligibility, citizenship, or documentation, nor does it enforce caps on the length of time assistance can be offered, making funds highly flexible for short-term aid to households.

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Rent and Utility Assistance

Due to an inequitable statutory formula, many states with larger renter populations did not receive enough Treasury Emergency Rental Assistance (ERA) funds to serve all eligible applicants. To address these gaps, some states are using SLFRF to cover rent and utilities for tenants not served by Treasury's ERA program. These state-run emergency rental assistance programs are taking advantage of the flexible nature of SLFRF, including by extending the duration of assistance provided to renters beyond Treasury's limit of 18 months, not imposing burdensome documentation requirements, and using more than 15% of funds for administration costs and housing stability services.

New Jersey has committed $750 million of its SLFRF dollars to the Eviction Prevention Program, which provides rental and utility assistance for households affected by the pandemic. The program also provides free legal aid to protect households from eviction due to nonpayment or habitually late payment of rent. The state allocated an additional $5 million for the creation of an Office of Eviction Prevention to help households avoid eviction and increase housing stability. Staff at the Office of Eviction Prevention will identify revenue that can be used to prevent housing displacement and identify gaps in the current housing assistance system.

Minnesota allocated $20 million to Minnesota Housing to provide emergency rental assistance to households that have exhausted the 18 months of benefits for which they are eligible under ERA. Minnesota Housing estimates that 6,000 households will be helped by the additional three months of rental assistance. In most cases, the funds will go directly to the landlord or property owner. The remainder of the $20 million requested by Minnesota Housing will be used for implementation and operating costs.

Washington has allocated $403 million for ERAP 2.0, the main emergency rental assistance program for small- and medium- sized counties in the state. The $403 million investment will provide rent and utility assistance, including internet access, for households with incomes at or below 80% of AMI. ERAP 2.0 is more flexible than the Treasury-funded ERA2 program: there is no cap on the number of months a household can receive assistance, and counties are discouraged from requiring documentation.

Jefferson County, Kentucky, allocated $9 million for its Court Eviction Diversion Program, $5 million for utility assistance, and $1 million for tenants' security deposits and relocation costs to prevent homelessness. The eviction diversion program provided funds to cover rental arrears and future rent for households with incomes below 80% of AMI who faced an eviction and received a forcible detainer. (The program is now closed.) The utility assistance program assisted households facing disconnection of services with up to $1,000 to reduce or deplete arrearages. With these funds, Jefferson County has helped over 9,000 households pay utility expenses and 380 households pay for security deposits and two months' rent to move to a new unit.

Maryland is allocating $103 million in SLFRF for utility assistance, including $83 million for utility arrearage relief and $20 million to expand the state's Electric Universal Service Program (EUSP). EUSP recipients receive payments to cover a portion of their electric bills and are placed on a budget billing plan that spreads out their annual utility bills into even monthly payments to avoid spikes throughout the year.

Portland, Oregon, committed $2.6 million in SLFRF for its Afloat: Utility Debt Relief program, which helps low-income Portlanders behind on their sewer, stormwater, and water bills.

Legal Aid

Some states are using SLFRF for housing stability services to help households maintain or obtain housing, such as legal aid and eviction diversion programs.

New York City allocated $62.42 million to the Office of Civil Justice (OCJ) to fund free legal representation for households at or below 200% of the Federal Poverty Guidelines who are facing eviction proceedings in Housing Court or administrative proceedings at the New York City Housing Authority. Households earning more than 200% of the Federal Poverty Guidelines are eligible for brief legal assistance.

Maricopa County, Arizona, allocated $2.6 million to the Eviction Prevention Legal Assistance Program to target low- and very low-income persons at risk of eviction due to nonpayment of rent. The program will provide legal counsel to educate tenants about their rights, advise tenants on their cases, assist with landlord mediation, and represent tenants in court.

Housing Navigators, Housing Counseling, and Case Management

SLFRF can be used to provide funding for navigators, housing counseling, and case management – critical services that help tenants and unhoused residents navigate assistance programs, complete applications, and connect with social service programs.

Maine is devoting $1.5 million to a Housing Navigators Pilot Program that will be administered by the Maine State Housing Authority and that will place navigators at public housing authorities and nonprofit organizations in each of Maine's nine regional service hubs.

St. Louis, Missouri, allocated $1.5 million for public benefits navigators and $750,000 for case management.

OTHER HOUSING-RELATED SLFRF PROJECTS

Energy Efficiency and Weatherization

The District of Columbia invested $14 million in energy efficiency to help replace aging systems and improve air flow and insulation, leading to safer and healthier housing in the District.

Washington State allocated $27 million in SLFRF for grants to local governments and public utility districts for utility improvements to new and existing affordable housing projects. Approximately $10.7 million has been awarded to cities or counties with populations of 150,000 or less to support affordable housing developments in rural areas.

Miami-Dade County, Florida, invested $5 million to help struggling households achieve energy security through subsidies for energy-efficient technologies, essential home repairs, and weatherization.

Lead Paint Remediation

New Jersey committed $10 million in SLFRF to identify and remediate lead-based paint hazards to prevent elevated blood lead levels in children and pregnant women. The program targets municipalities with high reported incidences of elevated blood lead levels in children under age six.

Virginia allocated $7.5 million for a dedicated lead rehabilitation program to address childhood lead poisoning in residential properties.

Housing Administration, Data, and Infrastructure

SLFRF can be used for administrative purposes, including to strengthen internal capacity and to invest in data and technology solutions to increase access to housing-related programs and services. SLFRF can also be used to collect data and conduct program evaluations of housing programs, pilot programs, or initiatives.

Colorado committed $5 million to the Planning Grant Program, which provides grants to local governments to help them understand their housing needs and adopt policy and regulatory strategies to qualify for the state's Affordable Housing Development Incentives Grant Program.

New Hampshire allocated $1 million for grants to Regional Planning Commissions (RPC) to complete a Fair Housing Equity Assessment to identify and describe factors that might be barring people from accessing adequate housing in each region served by the nine RPCs.

Additionally, New Hampshire committed $505,000 to the Housing Needs Administration Program to advance the implementation of the Council on Housing Stability's Strategic Plan. The funds will be used to hire a project manager at the New Hampshire Finance Authority who will coordinate work across public and private entities. The remainder of the funds will be administered in the form of a grant to the Community Development Finance Authority to support continued use of consultants to advance Council work and coordinate implementation of the plan.

RECOMMENDATIONS FOR ADVOCATES AND ELECTED OFFICIALS

Local governments and 30 states will be receiving the second tranche of SLFRF in the coming weeks. Decisions about how to allocate the second round of funds are taking place now in many states and localities, making this a critical time for advocates to engage with their elected officials about directing SLFRF to housing.

Whenever possible, elected officials should use SLFRF to address homelessness, prevent evictions, and increase the supply of affordable housing for people with the lowest incomes. However, there is no universal set of recommendations for making housing-related SLFRF decisions that will be appropriate for every community. Decisions about using SLFRF to address homelessness will depend on a variety of factors, such as the current availability of other resources for short-term housing assistance and a jurisdiction's supply of affordable housing. Some jurisdictions may focus on supply-side investments to increase the supply of affordable rental homes, while others may prioritize expanding rental assistance to help low-income renters bridge the gap between incomes and growing housing costs.

With the caveat that there is no one-size-fits-all approach, the following recommendations are designed to ensure any funds used for affordable housing are targeted to the lowest-income and most impacted communities and advance racial and economic equity.

A data-driven and community-informed approach is essential to ensuring any funds used for affordable housing meet the needs of people with the lowest incomes. Treasury's Compliance and Reporting Guidance requires that SLFRF recipients describe how their use of SLFRF has been informed by feedback from constituents, community-based organizations, and the communities themselves. Jurisdictions across the country, including Nevada and Rhode Island, have formed task forces and steering committees to explore how SLFRF can be used to address the most urgent housing needs in their communities. These task forces gather data and feedback from multiple stakeholders across private and public sectors to identify, analyze, and develop SLFRF housing investment recommendations. Presenting data to elected officials – such as data about the need for affordable housing and cost analyses of potential SLFRF investments – is a powerful advocacy strategy.

With the caveat that there is no one-size-fits-all approach, the following recommendations are designed to ensure any funds used for affordable housing are targeted to the lowest-income and most impacted communities and advance racial and economic equity.

ADDRESS HOMELESSNESS

Prioritize Housing First Programs

The SLFRF program offers states and localities an opportunity to reduce homelessness in their communities through investments in proven solutions, including programs that utilize the Housing First model. Housing First is an evidence-based practice that prioritizes providing permanent housing to people experiencing homelessness without prerequisites or conditions. SLFRF can be used for permanent supportive housing (PSH), which provides long-term rental assistance and supportive services to individuals and families with chronic illnesses, disabilities, and substance use disorders who have experienced long-term or repeated homelessness. Funds can also be used for rapid rehousing, which provides short-term rental assistance and services to a wide variety of individuals and families.

Support Unhoused Individuals from Marginalized Communities

Advocates should urge policymakers to commit SLFRF to addressing the unique needs of unhoused individuals from marginalized communities, such as Black and Indigenous people and other people of color, survivors of domestic violence, members of the LGBTQIA+ community, people with disabilities, veterans, and others.

PREVENT EVICTIONS IN THE SHORT- AND LONG-TERMS

Maintain and Expand Eviction Prevention Infrastructure

Federal interventions like Treasury's Emergency Rental Assistance (ERA) program were impactful but were not meant to address the long-standing need for a robust housing safety net in the U.S. Millions of lower-income renters who already faced a severe shortage of affordable housing before the pandemic continue to struggle with housing insecurity. As of the time of writing, communities have deployed over $28.5 billion in ERA funds, including assistance for households, housing stability services, and administrative costs. However, 5.9 million renter households – disproportionately low-income people and people of color – still report being behind on rent.[4] As emergency funds run out in many communities, state and local policymakers should use SLFRF to supplement existing ERA programs and to continue providing legal aid and other critical housing stability services to tenants facing eviction.

The historic federal investment in rental assistance helped create a nationwide infrastructure for rent relief and encouraged new state and local partnerships with nonprofit organizations and courts administering legal aid, eviction diversion, and other housing stability services. Dwindling ERA funds have forced many programs to pause or shut down, putting states and localities at risk of losing infrastructure and partnerships that took significant time and effort to develop. Advocates and ERA program administrators should urge elected officials to commit SLFRF dollars to maintaining and expanding vital eviction diversion infrastructure to prevent evictions in the long term.

Fund Right-to-Counsel and Other Eviction Diversion Programs

State and local officials should use SLFRF to launch and expand right-to-counsel programs and other eviction diversion efforts. Communities should leverage the significant infusion of federal funds to build their capacities to implement right-to-counsel programs, ensuring tenants have access to legal representation long after pandemic aid is expended.

Eviction prevention efforts, including SLFRF-funded projects, must be paired with robust tenant protections. In 2021 alone, state and local jurisdictions passed or implemented over 130 new

4 These data are based on NLIHC's analysis of U.S. Census Bureau Week 45 Household Pulse Survey, April 27-May 9, 2022, Public Use Files.

laws or policies to protect tenants from eviction and keep them stably housed. In addition to urging lawmakers to commit SLFRF for eviction prevention programs, advocates should urge their policymakers to pass long-term renter protections, such as source-of-income discrimination laws, "just cause" eviction standards, right-to-counsel laws, and sealed eviction legislation.

ADDRESS THE SEVERE SHORTAGE OF AFFORDABLE HOMES FOR THE LOWEST-INCOME HOUSEHOLDS

The U.S. has a shortage of 7 million rental homes affordable and available to extremely low-income (ELI) renters, whose household incomes are at or below the Federal Poverty Guidelines or 30% of AMI. The systemic shortage of affordable housing for ELI renters affects every state and nearly every community. The potential for funding affordable housing development through the SLFRF program presents a significant opportunity for communities to address a housing shortage and affordability crisis that disproportionately harms ELI renters and people of color.

Increase the Supply of Homes Affordable to the Lowest-Income Households

States and localities should prioritize using SLFRF for affordable housing projects that serve ELI renters – the only income group facing an absolute shortage of affordable homes. SLFRF dollars should be used for affordable housing projects that are affordable to people with the lowest incomes, ensuring no ELI renter pays more than 30% of their income on rent and utilities every month.

Prioritize Projects that Support Long-Term Affordability

State and local governments should prioritize affordable housing projects that are committed to preserving long-term affordability. Addressing the shortage of affordable and available housing for the lowest-income households requires both increasing the supply of affordable housing and preserving existing affordable housing stock. By 2025, more than 176,000 federally-assisted rental homes with expiring affordability restrictions could be lost from the affordable housing stock.

Projects assisted by SLFRF dollars should prioritize permanent or long-term affordability for ELI households. States and local governments should adopt policies that support long-term affordability periods, including by incentivizing or requiring owners to agree to longer affordability periods (which has already been accomplished by a number of states via their LIHTC programs) and mandating right-of-first-refusal for tenants and mission-driven nonprofits in cases when an owner wishes to sell.

Prioritize Projects Led by Nonprofit Organizations and Mission-Driven Owners

States and localities should prioritize the ownership and management of affordable housing by nonprofit organizations, public housing authorities, community land trusts, cooperatives, and other nonprofit entities. Nonprofit organizations and mission-driven owners may be more interested in protecting and expanding the availability of affordable housing for low-income families than for-profit owners who may be more focused on maximizing the return on their investment.

Affirmatively Further Fair Housing

Systemic racism led to and continues to reinforce significant racial disparities in housing, which contribute to inequities in wealth, education, health, and other areas. Elected officials should use SLFRF to affirmatively further fair housing by undoing residential segregation, equitably distributing investments and resources, and making certain that renters have fair, accessible, and affordable housing options in all communities.

State and local governments and their recipients of SLFRF must comply with the "Fair Housing Act of 1968" and its requirement that all activities relating to housing and urban development be administered in a way that affirmatively furthers fair housing. While affirmatively furthering fair housing (AFFH) has been viewed as a requirement only applying to HUD, the Fair Housing Act requires "all executive departments and agencies [of the U.S. government] to administer their programs and activities relating to housing and urban development in a manner that affirmatively furthers fair housing." NLIHC urges all SLFRF recipients to use as a guide the 2015 Affirmatively Furthering Fair Housing rule, which implemented the Fair Housing Act's AFFH obligation. The rule equipped communities with the tools and guidance they needed to meet their obligations under the Fair Housing Act, giving jurisdictions the flexibility to identify fair housing challenges and develop priorities and methods for addressing them. The Fair Housing Act's protected classes are based on race, color, national origin, disability, sex, family status, and religion.

States and localities should conduct a Fair Housing Assessment, analyzing the factors that cause, increase, contribute to, or maintain fair housing problems, such as segregation, racially or ethnically concentrated areas of poverty, significant disparities in access to opportunity, and disproportionate housing needs. Policymakers should then use the findings from their Fair Housing Assessments to guide their use of SLFRF for affordable housing development and any uses of SLFRF for non-housing activities.

CONCLUSION

State and local governments across the country have dedicated more than $13.77 billion in SLFRF to keep families housed, address the needs of people experiencing homelessness, and invest in longer-term solutions to ensure that people with the lowest incomes and the most marginalized people have affordable places to call home. Continued advocacy at the state and local levels is needed to secure additional housing investments with remaining SLFRF dollars and to ensure that these resources are targeted to people with the greatest needs.

ADDITIONAL INFORMATION AND RESOURCES ON HOUSING INVESTMENTS USING SLFRF CAN BE FOUND HERE.