NATIONAL LOW INCOME HOUSING COALITION

April 15, 2015

The Honorable Dean Heller
Committee on Finance
U.S. Senate
324 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Michael Bennet
Committee on Finance
U.S. Senate
261 Russell Senate Office Building
Washington, D.C. 20510

Dear Senators Heller and Bennet:

On behalf of the National Low Income Housing Coalition (NLIHC), its more than 800 members, and tens of thousands of activists, I respectfully submit comments on proposed changes to the federal tax code that fall under the purview of the Finance Committee's Community Development and Infrastructure Working Group. Our comments are focused on reforms to the Low Income Housing Tax Credit (LIHTC) program to better align federal housing resources with the needs of extremely low income households who face a critical shortage in affordable and available rental units.

NLIHC is a non-profit policy advocacy and research organization dedicated solely to achieving socially just public policy that assures people with the lowest incomes in the United States have affordable and decent homes. Our members include nonprofit housing providers, homeless service providers, fair housing organizations, state and local housing coalitions, public housing agencies, private developers and property owners, housing researchers, local and state government agencies, faith-based organizations, residents of public and assisted housing and their organizations, and concerned citizens. NLIHC does not represent any segment of the housing sector, but rather works only on behalf of and with low income people who need safe, decent, and affordable housing, especially those with the most serious housing problems, including people who are homeless.

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Affordable Rental Need

The number of renters in the United States has increased since 2006 and will continue to rise as new households form in the post-recession economy. In 2013, one out of four renter households had incomes at or below 30% of the area median income (AMI) for a total of 10.3 million households categorized as extremely low income (ELI). In the same year there were just 3.4 million units affordable and available to ELI households, creating a shortage of 7.1 million rental units affordable to these households. On a nationwide basis, for every 100 ELI renter households there were only 31 homes available and renting at prices they could afford. As a result, 75% of ELI households spent at least half of their income for housing.[1]

Despite this evidence of a substantial need for deeply affordable rental housing, the low income housing resources that are provided by the federal government are only able to reach 23% of the eligible population.

The consequences of failing to address this housing shortage have serious implications for numerous other spheres of family and community life. The shortage leads to housing instability, with poor families forced to make frequent moves, disrupting children's educational achievement and parents' ability to be good employees. Poor people faced with excessively high housing costs must skimp on other necessities and are one car repair or illness without sick leave away from eviction. They often live "doubled-up" in overcrowded and substandard conditions. An investment in affordable housing for the extremely low income population is an investment that will lead to increased educational outcomes, better health outcomes, and greatly improved family and community well-being.

What is the LIHTC Program?

The LIHTC program is the largest federal program for the production and preservation of affordable rental housing, having contributed to the financing of nearly 2.4 million rental units. LIHTC is designed to encourage private individuals and corporations to invest in affordable housing by providing a tax credit over a 10-year period: a dollar-for-dollar reduction in federal taxes owed on other income. The Internal Revenue Service (IRS) allocates housing tax credits to each state's designated agency, usually a state housing finance agency, which in turn allocates credits to developers through a competitive process. The developers sell the tax credits to investors who provide funding for an eligible rental housing project and use the LIHTC to reduce their federal tax liability. The infusion of equity reduces the amount of money a developer has to borrow and pay interest on, thereby reducing the level of rent that needs to be charged.

Each state must produce a Qualified Allocation Plan (QAP) that outlines how these tax credits will be distributed. Federal law requires that the QAP include preferences for developments that serve the lowest income households and are structured to remain

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[1] See *Housing Spotlight* at http://nlihc.org/article/housing-spotlight-volume-5-issue-1.

affordable for the longest amount of time. Developers can choose to either set aside 20% of the units for households with income at or below 50% of area median income (AMI) (20-50 rule), or 40% of the units for households with income at or below 60% of AMI (40-60 rule).

The rents in LIHTC units are not based on 30% of tenant income as they are in traditional HUD programs. Rather, rents are set at 30% of either 50% or 60% of AMI, whichever income limit was selected for the development when the credits were allocated. Thus it is likely that households with incomes below 50% or 60% of AMI will pay more than 30% of their income on rent and utility costs, which means they will have a housing cost burden. These cost burdens can be mitigated only if the tenants have some type of rental assistance or if the development includes some units set aside at lower rent levels.

Reforming the LIHTC Program to Better Align Federal Housing Resources with Need

NLIHC undertook the Alignment Project in 2012 to gain a better understanding of how existing federal housing resources are being used and to learn how those resources might be better aligned with the need for housing among ELI households. Within this study, NLIHC examined to what degree housing subsidized by the LIHTC program serves ELI households. The central finding of the study is that the LIHTC program does serve ELI households, but rarely on its own. In most cases, ELI households are only able to afford LIHTC units if they are also tenant-based voucher recipients or if there are project-based vouchers attached to LIHTC-assisted units.

NLIHC examined a random sample of LIHTC developments in five states. The sample included 104 properties with a combined 8,758 units. More than one-third (36%) of LIHTC units were occupied by extremely low income (ELI) households, and another 35% of units were occupied by very low income households (VLI).[2] However, the majority (69%) of ELI households in LIHTC units received additional rental subsidies, including housing choice vouchers (HVCs). Furthermore, among ELI households without additional rental subsidy, 83% faced a housing cost burden. Only 17% of ELI households in LIHTC homes were neither cost burdened nor in receipt of additional housing assistance.[3] A 2012 policy brief from New York University's Furman Center for Real Estate and Urban Policy[4] and a recent HUD report supports these findings.[5]

The Alignment Project study also found that cross-subsidization is an important strategy used by many developers committed to mixed income properties that serve ELI households. This strategy incorporates units affordable to ELI households into projects

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[2] Very Low Income (VLI): Households with incomes between 30 and 50% of area median income.
[3] To read the Alignment Project report go to http://nlihc.org/sites/default/files/Alignment_Report_1214_1.pdf.
[4] To read the Furman Center policy brief go to http://furmancenter.org/files/publications/LIHTC_Final_Policy_Brief_v2.pdf.
[5] To read the HUD report go to http://www.huduser.org/portal/publications/pdf/2012-LIHTC-Tenant-Data-Report-508.pdf.

containing other units occupied by households with a broader mix of incomes. The rents paid by higher income households supplement the overall operating expenses of the project, compensating for the lower rents that ELI households can afford.

Based on the findings from the Alignment Project study, NLIHC makes the following policy recommendations:

- **Income Averaging in LIHTC**. NLIHC proposes changing the federal LIHTC statute to provide for a third income targeting criterion to allow developers to better utilize cross subsidization. This option would require that at least 40% of the units in a project would have to be occupied by residents with incomes that average no more than 60% of AMI, with at least 30% of the units rent restricted and occupied by tenants with incomes at or below 30% AMI. No rent-restricted units would include households with incomes above 80% of AMI. For purposes of computing the average, any unit with an income limit that is less than 20% of AMI would be treated as having a 20% limit. Rents would be based on 30% of the income limit in that unit, i.e., the rent in a 20% AMI unit would be 30% of 20% of AMI.

- **Basis Boost in LIHTC.** NLIHC has also adopted a second policy position regarding LIHTC to change the federal LIHTC statute to provide a 50% basis boost for properties that use NLIHC's proposed new third criterion of income averaging.

Thank you for the opportunity to comment. Please do not hesitate to contact me if you have any questions or would like to discuss NLIHC's proposal further.

Sincerely,

Sheila Crowley

Sheila Crowley
President and CEO
National Low Income Housing Coalition