April 15, 2015

The Honorable Dean Heller
United States Senate
324 Hart Senate Office Building
Washington, DC 20510

The Honorable Michael Bennet
United States Senate
269 Russell Senate Office Building
Washington, DC 20510

Re: Tax Reform Recommendations to Community Development and Infrastructure Working Group

Dear Senators Heller and Bennet:

On behalf of the National Association of Local Housing Finance Agencies (NALHFA), thank you for the opportunity to submit comments and recommendations to the Senate Finance Committee's Community Development and Infrastructure Working Group. As the Committee considers various proposals to overhaul the nation's tax code, we urge preservation of current tax incentives that stimulate private investment in affordable homeownership and rental housing to serve the housing needs of low- and moderate-income families across the nation. These incentives include:

- Tax-exempt Private Activity Bonds (PABs) to facilitate single-family homeownership (known as Mortgage Revenue Bonds (MRBs) or Qualified Mortgage Bonds) and for the construction, preservation, and renovation of affordable multifamily housing (known as multifamily housing bonds).
- Low-Income Housing Tax Credits (LIHTCs) for the construction and rehabilitation of affordable rental housing.
- Tax-exempt municipal bonds issued by state and local governments for the construction of affordable housing that is owned and maintained by governmental agencies.

The National Association of Local Housing Finance Agencies (NALHFA) is the national association of professionals working to finance affordable housing at the local level. NALHFA members include city and county agencies, non-profits, and private firms—such as underwriters, consultants, financial advisers, bond counsels, and rating agencies—which help produce and preserve affordable single-family and multifamily housing. NALHFA is an advocate before Congress and federal agencies on legislative and regulatory issues affecting affordable housing, and provides technical assistance and educational opportunities.

The need for quality affordable housing for low- and moderate-income Americans is a persistent and growing challenge. According to Harvard's Joint Center for Housing Studies, nearly 41 million American households were cost-burdened meaning they pay more than 30 percent of their income on housing. Complicating this is a gap in affordable housing available to lower income families. For roughly 11.5 million extremely low-income families there are only 3.3 million affordable apartments available.

Local housing finance agencies (HFAs) work to identify, harness and facilitate the federal, state and local financing resources needed to build and preserve affordable single-family and multifamily housing. They serve as a vital conduit in financing local government-identified affordable housing priorities. Key financing

2025 M Street, N.W., Suite 800
Washington, DC 20036
Phone: (202) 367-1197 ▪ Fax: (202) 367-2197
www.nalhfa.org

mechanisms utilized by local HFAs include an array of federal tax incentives for construction and preservation of affordable housing for low-income Americans (such as LIHTC, PABs and municipal bonds).

As the Senate Finance Committee considers proposals to reform the nation's tax code, NALHFA requests that these vital incentives for affordable housing be preserved and enhanced. Protecting these important resources will ensure local housing agencies have the tools necessary to provide sorely needed access to affordable housing options for lower income families across the nation.

Low-Income Housing Tax Credits (LIHTC)

Since its creation in 1986, LIHTC has helped produce or preserve more than 90,000 affordable apartment units each year. According to the National Council of State Housing Agencies (NCSHA), between 1987 and 2012 the Housing Credit provided for the development or rehabilitation of 2.7 million homes. Over its history, it has:

- Leveraged nearly $100 billion in equity capital
- Returned $292 billion in local income
- Generated $115 billion in tax revenues

According to the National Association of Home Builders (NAHB), for every 1,000 affordable housing units developed through LIHTC 1,130 jobs are supported, for a year. This equates to nearly 96,000 jobs supported by LIHTC annually and a total of more than three million jobs that have been sustained since the credit has been established.

The LIHTC program was established in the Tax Reform Act of 1986 to generate equity capital for the construction and rehabilitation of affordable rental housing for lower income households. Often used in conjunction with other forms of financing, there are two types of Housing Credits—one for 70 percent of the cost (in present value) of constructing or substantially rehabilitating affordable housing, and the other for 30 percent of the cost (in present value) of acquiring existing property or for properties financed by tax-exempt bonds.

The federal government allocates Housing Credits to states in proportion to their populations. Local HFAs will often acquire an allotment of credits to direct towards locally-determined affordable rental housing projects.

Under current law, investors claim Housing Credits over 10 years. For the 70 percent present value Housing Credit, Congress originally set the rate at 9 percent in the first year and directed the Treasury Department in subsequent years to calculate the credit percentage based on a discount rate that was derived from monthly calculations of federal borrowing costs (known as the floating rate). For the 30 percent present value Housing Credit, Congress originally set the rate at 4 percent and Treasury has since adjusted it using the same formula.

Because federal borrowing rates are at historically low levels, the Housing Credit rates are also at historic lows. As of May 2014, the 70 percent present value Credit rate is 7.6 percent (down from 9 percent) while the 30 percent present value Credit rate is 3.26 percent (down from 4 percent). This translates into roughly 15 – 20 percent less Housing Credit equity that can go into any given property.

The floating rate makes it more difficult to finance affordable housing. The inability to allocate additional Housing Credits to a particular development translates into a loss of project equity, and consequently, more difficult tradeoffs for the affordable housing community.

Congress temporarily fixed the problem for the 70 percent present value credit in the Housing and Economic Recovery Act of 2008 by setting the annual rate for new construction and substantial rehabilitation at no less than 9 percent. This past December, Congress retroactively extended the fixed 9 percent credit for 2014 but minimum credit rates must again be extended in order to maintain financial feasibility and administrative predictability for projects in 2015 and beyond.

Legislation to enact permanent minimum 9 and 4 percent credit rates, led by Representatives Patrick Tiberi (R-OH) and Richard Neal (D-MA) in the House and Senators Maria Cantwell (D-WA) and Pat Roberts (R-KS) in the Senate, has secured broad bipartisan support.

As the Finance Committee considers tax reform proposals, it is important to recognize LIHTC's proven track record and critical role as a key housing production tool. Without the Housing Credit, it would be economically unfeasible to develop many of the affordable housing units that are available to low-income families. According to Harvard's Joint Center for Housing Studies, to develop affordable multifamily rental housing affordable to full-time minimum wage earners—without a government subsidy—would require construction costs to be reduced by 72 percent of the current average costs.

NALHFA urges the Committee to extend the current law provision setting a minimum 9 percent Housing Credit rate for new construction and substantial rehabilitation and establish a new minimum 4 percent rate for the acquisition of affordable housing. We recommend that the Committee include these provisions in legislation extending expiring tax provisions this year and in any future tax reform legislation.

<u>**Tax Exempt Single- and Multi-Family Bonds**</u>

To expand affordable housing opportunities for low- and moderate-income households, local HFAs and their state agency counterparts utilize the authority provided under the Internal Revenue Code (IRC) to issue several types of tax-exempt bonds. Among these are:

- **Mortgage Revenue Bonds (MRBs):** provide mortgage assistance to first-time homebuyers
- **Mortgage Credit Certificates (MCCs):** entitle qualifying individuals to a federal tax credit for a specified portion of the interest paid on a mortgage to purchase, improve or rehabilitate a single-family home
- **Multifamily Housing Bonds**: to stimulate construction or rehabilitation of affordable rental housing

In most cases, the tax exempt financing utilized by local housing agencies to support affordable housing activity is in the form of Private Activity Bonds (PABs). To be qualified as tax exempt, PABs must be used for a public purpose as defined by the IRC. In order to issue PABs, local HFAs must first secure an allocation of bond issuing authority from a state's private activity volume cap.

Local HFAs issue tax-exempt MRBs to provide mortgage assistance to low- and moderate-income first-time homebuyers, those that are most often underserved by the conventional mortgage market. MRBs are utilized by local (and state) HFAs for a variety of public purposes, including:

- Providing homeownership opportunities for targeted households
- Promoting new affordable home construction through builder set-asides
- Simulating housing rehabilitation and home improvements
- Stabilizing and improving neighborhoods through homeownership
- Attracting and retaining residents in inner city areas

Local HFAs may also exchange or convert a portion of their PAB authority to issue Mortgage Credit Certificates (MCCs). MCCs entitle qualifying individuals to a credit against their federal income tax liability for a specific percentage of the annual interest paid on a mortgage to purchase, improve or rehabilitate a home.

To simulate construction and substantial rehabilitation of rental housing, local HFAs also issue tax-exempt multifamily housing bonds. The bonds, which are often used in conjunction with LIHTC, provide affordable apartments to those whose incomes are below the area median—under IRC guidelines projects must have 20 percent of the units reserved for those whose incomes do not exceed to 50 percent of the area median; or 40 percent of units for those with incomes no greater than 60 percent of the area median.

Mortgage and multifamily housing bonds have proved successful in providing lower income Americans a unique and otherwise unavailable chance to own a decent and affordable home and to access quality rental opportunities. According to the National Council of State Housing Agencies (NCSHA) MRBs have made homeownership possible for more than three million low and moderate income families. They help another approximately 100,000 families buy their first homes with MRB mortgages in a typical year. In 2012, 79 percent of MRB borrowers earned less than the area median income—the median borrower income was $46,444.

HFAs have also provided nearly 175,000 lower and moderate income homeowners with critical tax relief through the MCC program—38 percent of all MCC borrowers in 2012 earned less than 80 percent of the area median income.

State and local HFAs have financed an additional one million affordable rental apartments with multifamily bonds. About 40 percent of all annual LIHTC rental home production includes housing bond financing—this equates to roughly 40,000 apartments each year.

Past proposals by Congress and the Administration to eliminate or cap the tax exemption for municipal bonds, and elimination of PABs would have a significant negative impact on municipal bond investment; directly increasing borrowing costs for local HFAs and undercutting their ability to provide affordable housing to lower income families. The real burden of these proposals would fall on homebuyers and renters who would bear the brunt of higher interest rates demanded by investors.

It is essential for local governments to maintain their ability to expand affordable housing, which is made possible by tax-exempt bonds. As you develop a large-scale and comprehensive tax reform proposal we urge you to maintain the existing tax exemption for housing bonds, which has proven successful in developing and sustaining productive affordable housing development across the nation.

Thank you for your consideration of these requests.

Sincerely,

Jason Boehlert
Executive Director