



Washington Report

September 18, 2024



Meet the Presenters

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Agenda

- ❑ Introduction
- ❑ Public Housing Budget
- ❑ HOTMA
- ❑ BABA
- ❑ Regulations
- ❑ Congressional Update

Fiscal Year 2025 Appropriations Timeline

President's Budget (March)

House THUD Subcommittee (June)

House Appropriations Committee (July)

Senate Appropriations Committee (July)

FY25 Begins on **October 1, 2024**

Budget Caps on Capitol Hill



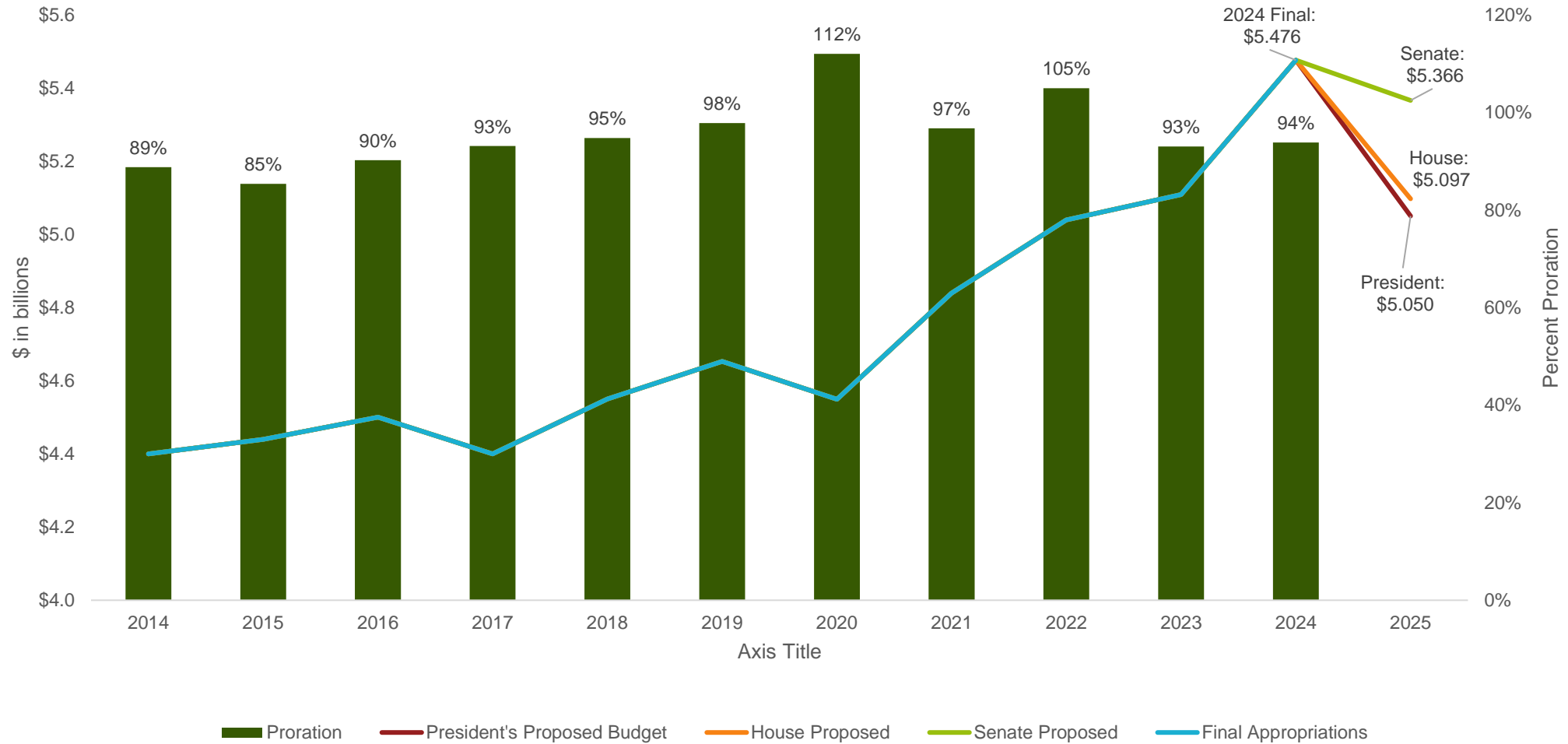
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- **Fiscal Responsibility Act of 2023**
 - ❑ Limits how much the budget can increase in FY24 and FY25
 - ❑ “Side deals” – Supported funding in FY24, House rejecting these for FY25
- **House Appropriations Committee proposing cuts to several key HUD programs**

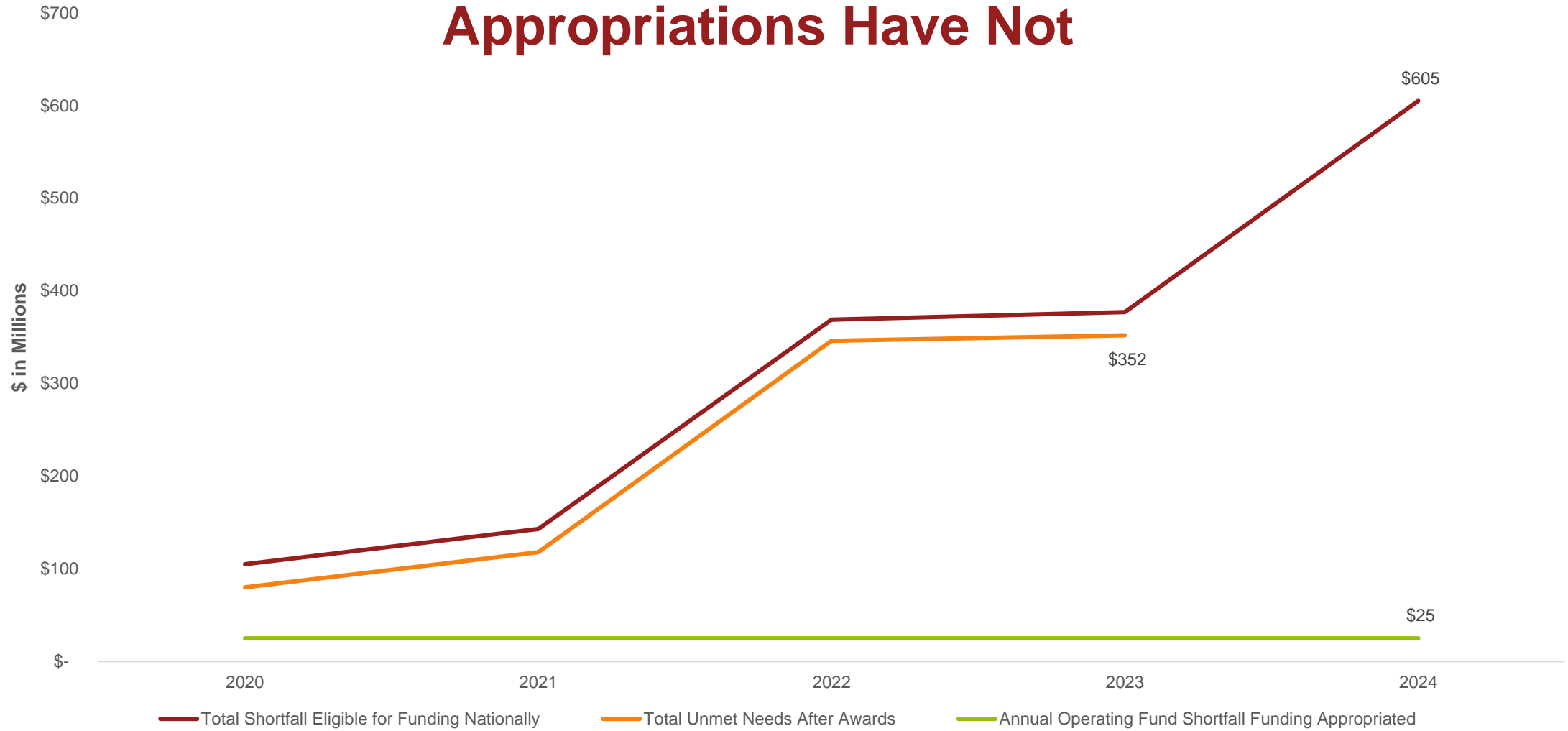
Public Housing



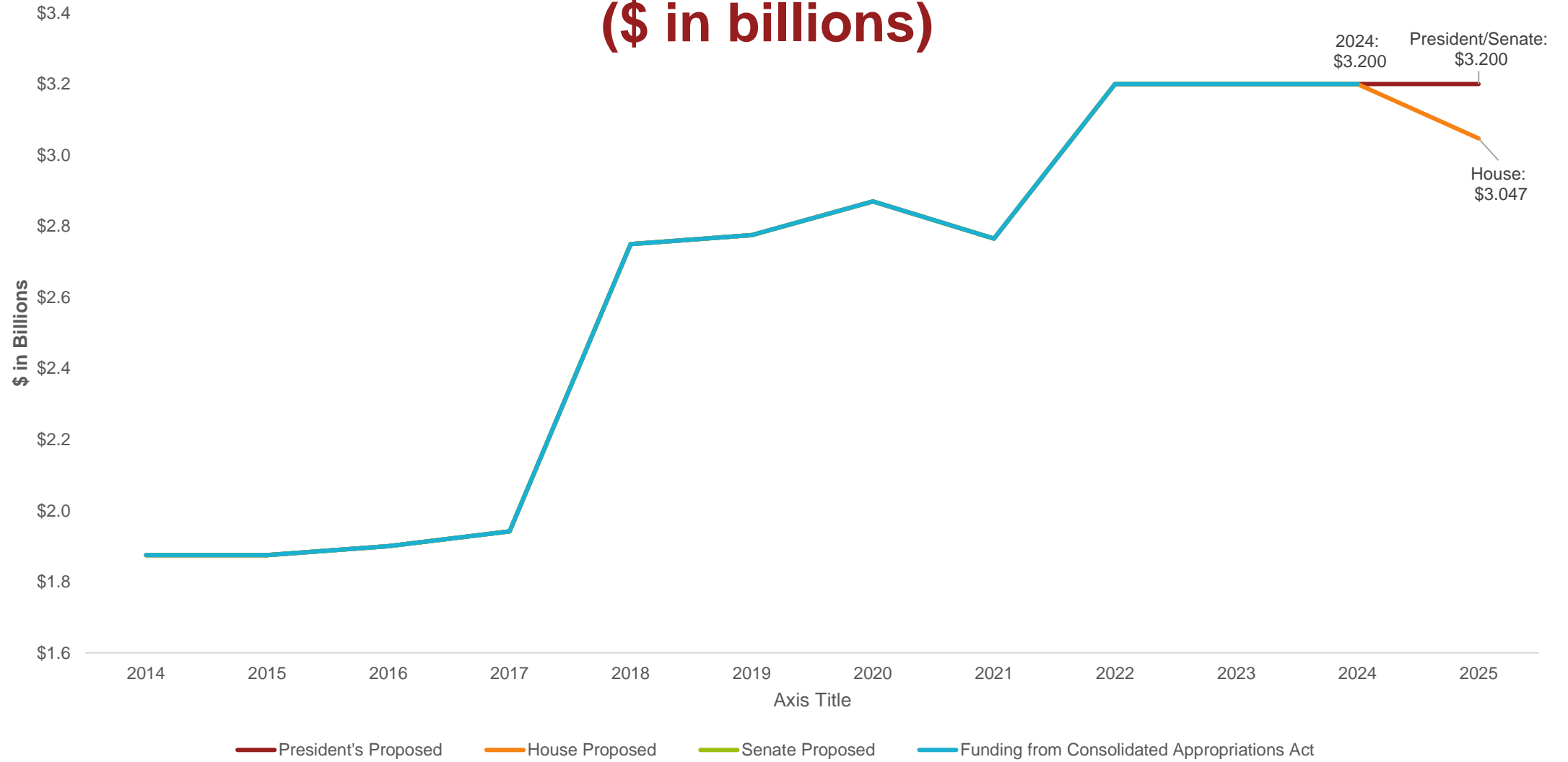
Public Housing Operating Fund (\$ in billions)



Total Operating Fund Shortfall Has Risen Since 2020 but Appropriations Have Not



Public Housing Capital Fund (\$ in billions)



FY 2025 Public Housing Program

House Bill

- \$50 million for department-wide inspections and risk assessments
- Proposed elimination of Choice Neighborhoods Initiative
- No changes to RAD sunset date
- Proposed elimination of CARES Act requirement to provide a 30-day notice to vacate

Senate Bill Proposed Budget

- \$50 million for department-wide inspections and risk assessments
- \$100 million for Choice Neighborhoods Initiative
- No changes to RAD sunset date
- \$65 million for Health Hazard grants

Important Public Housing Notices

PIH 2024-20

- Deals with extreme heat in public housing
- PHAs can and should use their Operating and/or Capital Funds to cool public housing common spaces or units
- Other energy-related notices: PIH 2024-27 (Energy Performance Contracts) and PIH 2024-31: Rate Reduction Incentive

PIH 2024-25

- Public Housing Operating Subsidy Grant Eligibility Calculations
- Includes a provision to remit grant fund interest per 2 CFR Part 200 that has been in effect but not included in previous notices

HOTMA Updates



Housing Information Portal (HIP) Delayed

- HUD is rescinding Notice PIH 2024-12 which detailed a timeline for HIP implementation
- PHAs should continue to use IMS/PIC until additional information is provided by HUD
- HUD notes that it is discussing the feasibility of delaying the implementation of Sections 102 (income reviews) and 104 (asset limitations) of HOTMA

HOTMA Sections 102 and 104

This the latest information we have:

- While this is not yet official, unofficially we have heard that the Jan. 1, 2025 compliance date will not happen.
- HUD is thinking about implementing this in phases.
- They are thinking of this in terms of color coded lists
- **Green** – items that can be done with no impact to PIC, won't be in HIP, and don't require vendor changes
- **Yellow** – Might need smaller adjustments in PIC/HIP and will need adjustments by vendors; vendors have this list and are providing feedback
- **Red** – Can't do right now and require more change

HOTMA Sections 102 and 104

This the latest information we have:

- Green and some yellow items will be implemented in phase 1
- At this time, there are 12 items in phase 1
- The remaining items will be in phase 2
- Some **preliminary** thoughts on timelines are
- Phase 1 – around April
- HIP coming out in summer 2025
- Phase 2 – sometime after that, but before the end of the year

BABA



Build America, Buy America

- Build America, Buy America (BABA) – passed as a part of the Infrastructure Investment and Jobs Act
- BABA requires infrastructure receiving financial assistance from HUD to comply with a “Build America Preference” when purchasing iron or steel, manufactured items, or construction materials
- Different implementation dates for HUD programs



Build America, Buy America (BABA)

- Defines housing as infrastructure
- If using Federal Financial Assistance, purchases modifying housing must comply with a buy America preference for:
 - Iron and steel,
 - Manufactured products, and
 - Construction materials

Build America, Buy America (BABA)

- You have to comply with the Buy America Preference (BAP) unless there's an applicable waiver
- HUD initially created a Public Interest Phased Implementation Waiver
- This controlled when the BAP would become applicable for HUD grantees
- The implementation date would change depending on the program and the covered material

BABA in Effect for All Purchases as of August 23, 2024

Program	FY23 Q1	FY23 Q2	FY23 Q3	FY23 Q4	FY24 Q1	FY24 Q2	FY24 Q3	FY24 Q4	FY25 Q1
CDBG Formula Grants	● 11/15/22 Iron and steel						<i>FY24 Obligation Date (Varies) Construction materials – Specifically-Listed</i>		<i>FY25 Obligation Date (Varies) Construction materials – Not Listed Manufactured products</i>
Healthy Homes*		● 2/22/23 Iron and steel						● 8/23/24 • All construction materials • Manufactured products	
Recovery Housing Program ("RHP") Grants				● 8/23/23 Iron and steel		<i>FY24 Obligation Date (Varies) Construction materials – Specifically-Listed</i>		<i>FY25 Obligation Date (Varies) Construction materials – Not Listed Manufactured products</i>	
All other HUD FFA**						● 2/22/24 Iron and steel		● 8/23/24 • All construction materials • Manufactured products	
HOME***								● 8/23/24 • Iron and steel • All construction materials • Manufactured products	

*Choice Neighborhood, Lead Hazard Reduction, and Healthy Homes Production Grants
 **All other HUD FFA except HOME, Housing Trust Fund, and Public Housing FFA used for maintenance projects
 ***HOME, Housing Trust Fund, and Public Housing FFA used for maintenance projects

Waivers Overview

Public Interest
Unreasonable Cost
Availability

Waivers can be general or agency-specific

Public Interest Waivers

General Public Interest Waivers—agencies can claim the following two waivers without submitting a waiver application form

Exigent Circumstances

- Situations “necessary to protect life, safety or provide necessary security to residents or community members, or to prevent the destruction of property”
- Defects HUD would require to be remedied within 30 days or less

Public Interest Waivers

General Public Interest Waivers—agencies can claim the following two waivers without submitting a waiver application form

De Minimis

- Project under Simplified Acquisition Threshold (SAT): \$250,000,
- Funding Amount under SAT, or
- 5% of covered amount, up to \$1,000,000

Public Interest Waivers Cont.

Project-Specific Public Interest Waivers:

- Project-specific waivers require a waiver application
- Note: HUD granted Delayed Implementation waivers under the general public interest category

Project-Specific Waivers

- **Public Interest**
 - Complying with the BAP is not in the public interest
 - Limited guidance
- **Unreasonable Cost**
 - Complying with the BAP increases the cost of the total project by 25%
- **Availability Waiver**
 - BAP-compliant goods are not available in sufficient quantities or of sufficient quality

Project-Specific Waiver Form

- Final public interest waiver form published
 - Salesforce online form
- Form link: <https://babawaiver.hud.gov/s/>

PIH Notice 2024-01

- Applies primarily to public housing
- Released by HUD's office of Public and Indian Housing
- Answers multiple pending questions posed by NAHRO—guidance more technical
- Provides grant agreement language

Definitions

- Build America Preference (BAP): “the ‘domestic content procurement preference’ set forth in section 70914 of BABA, which requires the head of each Federal agency to ensure that none of the funds made available for a Federal award for an infrastructure project may be obligated unless all of the iron, steel, manufactured products, and construction materials incorporated into the project are produced in the United States”
- Covered Materials (see guidance for technical specifications):
 1. iron and steel
 2. construction materials
 3. manufactured items (must be 55% American-made)
- Date of Obligation for BABA: “for funds obligated by HUD after the later of November 14, 2022, or the expiration of any applicable waiver of the application of the BAP, the date of obligation of the funds by HUD to a Grantee or Funding Recipient for an Infrastructure Project”

Definitions Cont.

- Federal Financial Assistance (FFA): “all expenditures by a Federal agency to a Non-Federal Entity for an Infrastructure Project, except” for Robert T. Stafford Disaster Relief and Emergency Assistance Act disaster funds and pre- or post- emergency responses
- Infrastructure Project: “any activity related to the construction, alteration, maintenance, or repair of infrastructure in the United States regardless of whether infrastructure is the primary purpose of the project”
- Procurement: “the acquiring by contract of supplies or services through purchase or lease, whether the supplies or services are already in existence or must be created, developed, demonstrated, and evaluated”

Definitions Cont.

- Produced in the United States:
 1. In the case of iron or steel products, all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
 2. In the case of manufactured products:
 - a. The product was manufactured in the United States; and
 - b. The cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard that meets or exceeds this standard has been established under applicable law or regulation for determining the minimum amount of domestic content of the manufactured product. See 2 CFR 184.2(a). The costs of components of a manufactured product are determined according to 2 CFR 184.5.
 3. In the case of construction materials, all manufacturing processes for the construction material occurred in the United States. See 2 CFR 184.6 for more information on the meaning of “all manufacturing processes” for specific construction materials.

Ongoing Projects and Fungibility

- Consider type of funding (FFA/not)
- Consider program funding
- Consider obligation date
- Notice recommends contacting field office when mixing funding

If mixing funds covered by the BAP and non-covered funds, BAP applies to all funding used

Ensuring Partner Compliance with BABA

- Agencies must comply with BAP or secure a waiver
- Should use specific language when working with contractor or partner
- Applies to “procurements, subgrants, cooperative agreements, and interagency agreements” as well as any force account labor

Determining the Scope of Infrastructure Projects

- Applies to “Construction, maintenance, or repair” of public housing
- Applies to “a procurement, a subgrant, a cooperative agreement or inter-agency agreement that will result in the expenditure of funds to construct, alter, maintain, or repair infrastructure”
- Collections of these projects apply

Documenting Compliance

- Retain documentation for three years following completion of a project
- PHAs must retain the following:
 - records of purchases associated with a project that will allow tracking of the funding stream used
 - documentation for all purchases showing that either PHAs complied with BABA or had a waiver for specific purchases
- Only situations not requiring documentation: those associated with a disaster

Forms of Documentation

1. A certificate from the manufacturer or reseller that the product complies with BABA
2. For products that cost less than \$100 per product, a copy of a label that indicates the product was made in the United States
3. For small purchases of product that are less than the simplified acquisition threshold [...] either a copy of a product specification that provides sufficient detail to conclude that the product complies with BABA or a communication other than a certification from a manufacturer or reseller of a product that confirms that the product is BABA compliant

Requirements Before Submitting a Waiver Application

Continue using standard search processes; if agencies cannot locate materials:

- Minimum due diligence requirements:
 - Insufficient quality or quantity waiver:
 - Screenshots of web searches
 - Records of phone contacts with producers (guidance includes specific requirements)

Requirements Before Submitting a Waiver Application

Continue using standard search processes; if agencies cannot locate materials:

- Minimum due diligence requirements:
 - Micro purchases: **search once** via major engine or website of top home improvement retailers
 - Use “made in America” or “made in USA”
 - Review top 10 results
 - If find American-made product, contact producer
 - Wait for a response for **two** business days
 - Small purchases: **search twice**
 - Review top 20 results
 - Same additional requirements
 - Purchases above Simplified Acquisition Threshold: search three times
 - Review top 30 results
 - If find American-made product, contact producer
 - Wait for a response for **five** business days

Safe Harbors for Procurement

1. Designate BABA compliant products prior to procurement
2. Require bidders to submit both BABA compliant and non-BABA compliant proposals

Implementation Updates and Resources

- HUD BABA Website (OGC)
https://www.hud.gov/program_offices/general_counsel/build_america_buy_america
- HUDEXchange BABA Website
<https://www.hudexchange.info/programs/baba/>
- Final waiver form:
<https://babawaiver.hud.gov/s/>
- CPD Notice 2023-12:
<https://www.hud.gov/sites/dfiles/OCHCO/documents/2023-12cpdn.pdf>
- PIH Notice 2024-01:
<https://www.hud.gov/sites/dfiles/OCHCO/documents/2024-01pihn.pdf>

Regulations



Reducing Barriers to HUD-Assisted Housing

HUD published a *proposed* rule that would make the following changes:

- Establish a “lookback period” of up to three years in considering criminal history (a longer period would be “presumptively unreasonable”)
- Give 15 days to tenants to challenge the accuracy and relevance of information and to provide mitigating information
- Require an individualized assessment considering mitigating circumstances in admission and termination decisions

Reducing Barriers to HUD-Assisted Housing

HUD published a *proposed* rule that would make the following changes:

- Require tenant selection documents to be updated within 6 months of the finalized rule being published
- Define currently engaged in criminal activity as having occurred within the previous 12 months
- Forbid receiving PHAs from rescreening portability voucher households
- Certain other changes.

Reducing Barriers to HUD-Assisted Housing

In its comment letter, NAHRO wrote:

- The rule should not disincentive private landlords from participating in federal housing programs
- The rule should only encourage PBRA (and HCV and PBV) landlords to follow it, but not require them
- There should be additional flexibility in the length of the lookback period (PHAs should be able to make it long or short, but up to 7 years)
- PHAs should have at least a year to implement the rule with HUD having the option of delaying it through a notice in the federal register

NSPIRE

- HUD is working on guidance on cancellations and delays
- Should be coming out “soon”
- Will probably align with the multifamily side
- Will discuss the procedures for when an inspection is scheduled during substantial rehabilitation or an emergency

Congressional Update



Impact of Elections

Congress is almost exclusively focused on elections

- Less time dedicated to legislation and policy change
- August Recess + October Recess
- Some primary elections run through September

How do elections impact NAHRO and our members?

- NAHRO is *non-partisan*; we work with everyone to support housing
- Policy focus will shift over the next two years
- Relationship building with the newly elected and their appointees

The Opportunity to Inform a New Administration

Recommendations

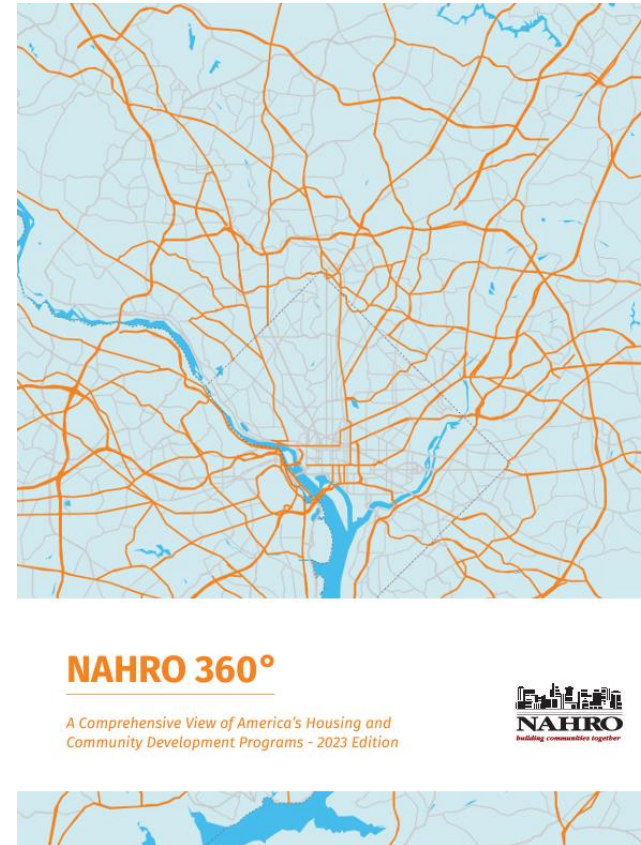
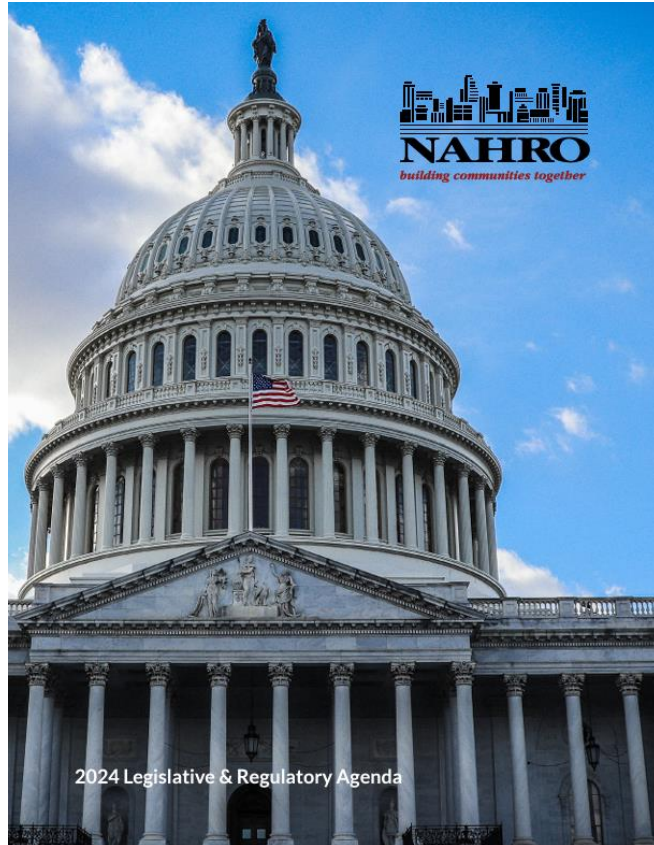
- Strengthen and improve rental assistance programs
- Preserve existing affordable units
- Increase the affordable housing supply
- Build vibrant communities
- End homelessness

The Opportunity to Inform a New Administration

Recommendations Continued

- Promote upward mobility
- Ease the regulatory and reporting process
- Provide necessary resources to American Indian, Alaska Native, and Hawaiian Homeland communities
- Support disaster recovery efforts
- Build a stronger, more efficient HUD

The Opportunity to Inform a New Administration



NAHRO Votes! GOTV Campaign

NAHRO Votes — a *nonpartisan* campaign — provides resources to our PHA members to help every eligible voter in our communities exercise their right to vote, including:

- Do's & Don'ts of Getting Out the Vote
- Guidance from HUD
- Accessibility and Voting



National Voter Registration Day | Tuesday, September 17

AUGUST ADVOCACY



2024



10,709
Advocates

104,386
Letters to
Congress

416/78% contacted!

140,223
Total
Letters

1. Fully Fund FY25 HUD Programs

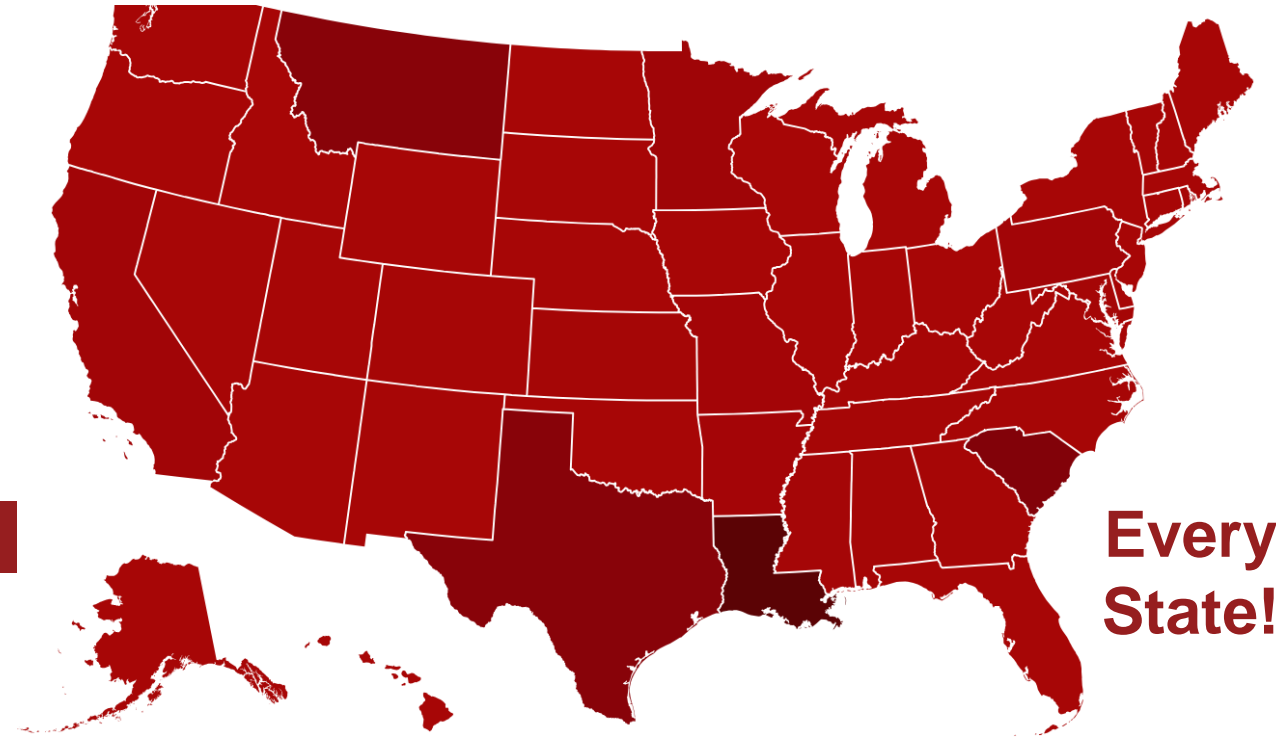
2. Fully Fund & Improve Voucher Effectiveness

3. Support and Preserve Public Housing

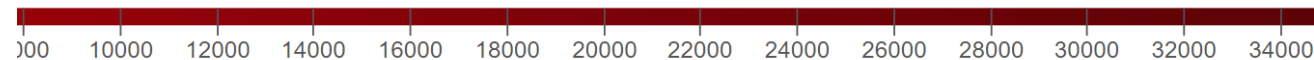
4. Invest in Community Development & Housing Supply

5. Address Increases in Homelessness

6. Expand Housing Tax Credits



**Every
State!**



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