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Rural Housing in Modern America

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I. Introduction

When Donald Trump was elected President of the United States in the 2016 Election, his victory was largely credited to the turn out of the rural voter. In fact, while Trump lost in urban areas, he won 60 percent of the vote in the 2,332 counties that comprise rural America.[1] Rural communities have higher rates of poverty and slower economies when compared to their urban counterparts. For the hardworking families living in these communities, capital investments, in the form of direct loan and grant programs for housing and community development, play an essential role in improving their quality of life.

This article will discuss the challenges facing modern rural America and provide suggestions for how the Administration and policy makers can work with existing programs to support the people living in these communities. First, it will discuss what "rural" means and identify economic challenges facing rural communities in the modern era. Next it will discuss federal rural development programs, specifically within the U.S. Department of Agriculture (USDA) and the Low-Income Housing Tax Credit (LIHTC), which are essential to financing improved housing and community facilities in rural communities. This article will then discuss how the Administration has addressed the rural need thus far, and also explore how Congress has responded to the Administration's initial reaction. Finally, this article will provide several recommendations for the Administration going forward.

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[1] Dan Blaz, *Rural America lifted Trump to the presidency. Support is strong, but not monolithic*, THE WASHINGTON POST, June 17, 2017, *available at* https://www.washingtonpost.com/politics/rural-america-lifted-trump-to-the-presidency-support-is-strong-but-not-monolithic/2017/06/16/df4f9156-4ac9-11e7-9669-250d0b15f83b_story.html?utm_term=.c05c5198d9fc.

II. Identifying Modern Rural America

The first step in a discussion about addressing the challenges facing rural America is to identify what "rural" America is. This section will begin with a discussion of the different definitions of "rural," followed by an overview of the economic and housing issues that rural communities face in the modern era.

A. Defining "Rural"

A challenge when examining issues facing rural America is identifying what is meant by "rural." Typically, the meaning of rural is "defined in contrast to urbanicity," based on an area's population and its distance from a metropolitan area.[2] Rural does not simply mean residing in a nonmetropolitan county. In fact, according to the 2011-2015 American Community Survey, 54.4 percent of people living in rural areas also live within a Metropolitan Statistical Area (MSA).[3]

Complicating matters, almost every federal agency uses a different definition to define "rural."[4] The U.S. Bureau of Census defines rural as "all population, housing, and territory not included with an urban area."[5] Urban areas are defined based on their population, and generally

[2] *The Impact of Definitions on Rural Homelessness Research*, OFFICE OF THE ASSISTANT SECRETARY FOR PLAN. AND EVALUATION, https://aspe.hhs.gov/report/toward-understanding-homelessness-2007-national-symposium-homelessness-research-rural-homelessness/impact-definitions-rural-homelessness-research (last visited Aug. 14, 2017).

[3] Alison Fields, Kelly Ann Holder, and Charlynn Burd, *Life Off the Highway: A Snapshot of Rural America*, U.S. CENSUS BUREAU (Dec. 8, 2016), https://www.census.gov/newsroom/blogs/random-samplings/2016/12/life_off_the_highway.html.

[4] *See The Federal Definition of 'rural' – times 15*, THE WASHINGTON POST, June 8, 2013, *available at* https://www.washingtonpost.com/politics/the-federal-definition-of-rural--times-15/2013/06/08/a39e46a8-cd4a-11e2-ac03-178510c9cc0a_story.html?utm_term=.40a87f321392. "U.S. government has at least 15 different official definitions of the word "rural," including 11 at the Agriculture Department alone. These definitions apply to different programs, often determining which local governments are eligible for rural-aid money." *Id.*

[5] *2010 Census Urban Area FAQs*, U.S. CENSUS BUREAU, https://www.census.gov/geo/reference/ua/uafaq.html (last visited Jul. 12, 2017). The Census Bureau defines urban areas as "Urbanized Areas (UAs) of 50,000 or more people; Urban Clusters (UCs) of at least 2,500 and less than 50,000." *Id.* For a territory identified as an UC, at least 1,500 people must reside outside of institutional group quarters. *Id.* Thus, under the Census Bureau's definition, rural areas are only those areas with 2,499 or fewer people.

any area with a population of at least 2,500 is considered to be some type of urban area.[6] The Office of Management and Budget (OMB) defines rural by contrasting metropolitan counties with nonmetropolitan counties.[7] Metropolitan counties are defined as having populations exceeding 50,000 with a core urban area.[8]

The U.S. Department of Agriculture (USDA) rural housing definition for rural is provided in Title V of the Housing Act of 1949, as amended. The Agriculture Act of 2014 (H.R. 2642) amended the definition of rural areas at Section 520 of the Housing Act of 1949.[9] "Rural" is defined as:

> "[A]ny open country, or any place, town, village, or city which is not … part of or associated with an urban area and which (1) has a population not in excess of 2,500 inhabitants, or (2) has a population in excess of 2,500 but not in excess of 10,000 if it is rural in character, or (3) has a population in excess of 10,000 but not in excess of 20,000, and (A) is not contained within a standard metropolitan statistical area, and (B) has a serious lack of mortgage credit for lower and moderate-income families, as determined by the Secretary and the Secretary of Housing and Urban Development."[10]

Areas that were classified as "rural" before October 1, 1990 are also considered rural through the decennial census, provided that these areas have populations of less than 35,000 and "are rural in character."[11]

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[6] *Rural America*, U.S. CENSUS BUREAU, https://storymaps.geo.census.gov/arcgis/apps/MapSeries/index.html?appid=9e459da9327b4c7e9a1248cb65ad942a&cid=16O104 (last visited Aug. 14, 2017).
[7] Zachary Cloud, *The Problem of Low Crime: Constitutionally Inadequate Criminal Defense in Rural America*, 22 B.U. Pub. Int. L. J. 403, 424 (2013).
[8] *Id.*
[9] The Housing Act of 1949, 42 U.S.C. § 1490 (2014).
[10] *Id.*
[11] *Id.*

This paper will use several different definitions for rural, based on the topic under discussion. As a general matter, most national statistics on rural America come from the Census Bureau. However, the USDA Rural Housing Service programs are governed by the definition of Section 520 of the Housing Act of 1949, as amended.

B. Characteristics of Rural America

In 1900, over 60 percent of the American population was rural.[12] Over the past 117 years, the rural share of the population has steadily decreased, reaching just 30 percent by 1960.[13] According to the 2010 Decennial Census, there are nearly 60 million people living in rural areas, accounting for around 19 percent of the population.[14]

Rural America has faced multiple events that have resulted in a continued history of economic hardship.[15] The early rural economy, which was linked to agriculture markets and dependent on crop harvests, suffered through the unpredictability of crop pricing and natural disasters. This resulted in economic downturns that "threw millions of rural Americans into individual financial turmoil," including the Great Depression of the 1930s and the farm crisis during the 1980s.[16]

Available employment opportunities in rural communities have historically been blue-collar jobs as farmers or in manufacturing. While there have been modest increases in rural employment in recent years (an increase of 1.3 percent between 2013 and 2015), employment in

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[12] *Rural America*, *U.S. CENSUS BUREAU*, https://storymaps.geo.census.gov/arcgis/apps/MapSeries/index.html?appid=9e459da9327b4c7e9a1248cb65ad942a&cid=16O104 (last visited Aug. 14, 2017).
[13] *Id.*
[14] *Id.*
[15] Andrew A. Schwartz, *Rural Crowdfunding*, 13 U.C. Davis Bus. L.J. 283, 285 (2013).
[16] Katherine Porter, *Going Broke the Hard Way: the Economics of Rural Failure*, 2005 Wis. L. Rev. 969, 975 (2005). "The Great Depression is perhaps the most extreme and well-documented example of periodic financial havoc in the agricultural economy." *Id.*

rural areas is today below what it was prior to the Great Recession.[17] In both urban and rural areas, service industries make up the greatest share of jobs and earnings.[18] However, rural communities depend more on the production of goods for their employment opportunities, such as farming, forestry, fishing, and mining, which make up 11 percent of all rural earnings.[19] In urban communities, jobs in these industries make up just two percent of earnings.[20] Fifteen percent of rural earnings come from the manufacturing sector in urban communities, compared to nine percent in rural areas.[21] Further, the *type* of job within these industries is also different in rural versus urban communities. For example, in urban areas, 52 percent of production jobs are managerial and professional, compared to just 39 percent in rural areas.[22]

The median income in rural communities is frequently significantly below the median income in urban communities.[23] For example, in 2012, non-metropolitan median household income ($44,974) was slightly more than 15 percent below the metropolitan median ($52,988). While the cost of living in rural communities is generally lower than in rural areas, rural families typically experience higher rates of poverty compared to their city-dwelling counterparts.[24] The American Community Survey (ACS) found that the national poverty rate was 14.7 percent in 2015.[25] The nonmetropolitan poverty rate that year was 17.2 percent, compared to 14.3 percent in metropolitan areas.[26]

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[17] *Rural America at a Glance 2016*, U.S. DEPARTMENT OF AGRICULTURE, https://www.ers.usda.gov/webdocs/publications/80894/eib-162.pdf?v=42684 (2016).
[18] *Id.*
[19] *Id.*
[20] *Id.*
[21] *Id.*
[22] *Id.*
[23] *Rural America at a Glance 2016*, U.S. DEPARTMENT OF AGRICULTURE, https://www.ers.usda.gov/webdocs/publications/80894/eib-162.pdf?v=42684 (2016).
[24] Lisa R. Pruitt, *Gender, Geography & Rural Justice*, 23 Berkeley J. Gender L. & Just. 338, 349 (2009).
[25] *Poverty Overview*, ECONOMIC RESEARCH SERVICE (Mar. 1, 2017), https://www.ers.usda.gov/topics/rural-economy-population/rural-poverty-well-being/poverty-overview/ The ACS measures poverty based on the family income in the past 12 months. *Id.*
[26] *Id.*

Poverty is a persistent problem in rural areas. The USDA Economic Research Service (ERS) defines counties as being persistently poor when "20 percent or more of their populations were living in poverty over the last 30 years (measured by the 1980, 1990, and 2000 decennial census and 2007-2011 ACS 5-year estimates)."[27] Based on this definition, the ERS has determined that there are currently 353 counties experiencing persistent poverty. Of these counties, 85.3 percent, are nonmetropolitan.[28] In other words, 301 nonmetropolitan counties – 15.2 percent of all nonmetropolitan counties – are persistently poor. And, research shows that persistent poverty is also a regional issue: 84 percent of all persistently poor counties are in the South, accounting for 20 percent of all Southern counties.[29]

In particular, child poverty in rural areas remains a large problem.[30] In 2010, 64 percent of rural counties, compared to 47 of urban counties, had high child poverty, defined as counties where 20 percent or more of the children are in families with incomes below the poverty threshold.[31] Of the 755 counties with persistent child poverty (meaning they have had high rates of child poverty for the past three decades), 77 percent were nonmetropolitan.[32] The detrimental effects of "growing up poor" are well documented, including negative impacts on children's educational opportunities and outcomes as well as their health.[33]

The population in rural areas has continued to decline over the past several years. Between July 2015 and July 2016, the Economic Research Service estimated that the number of

[27] *Geography of Poverty*, ECONOMIC RESEARCH SERVICE (Mar. 1, 2017), https://www.ers.usda.gov/topics/rural-economy-population/rural-poverty-well-being/geography-of-poverty/.
[28] *Id.*
[29] *Id.*
[30] Andrew Schaefer, Marybeth Mattingly, & Kenneth Johnson, *Child Poverty Higher and More Persistent in Rural America*, 97 CARSEY RESEARCH 1 (2016).
[31] *Id.* at 1.
[32] *Id.* at 2.
[33] Richard J. Coley & Bruce Baker, *Poverty and Education: Finding the Way Forward*, THE ETS CENTER FOR RESEARCH ON HUMAN CAPITAL AND EDUCATION (July 2013), *available at* https://www.ets.org/s/research/pdf/poverty_and_education_report.pdf.

people living in nonmetropolitan counties had declined by almost 21,000.[34] Younger residents in rural communities tend to migrate to urban areas to pursue more educational and employment opportunities, as well as for social and cultural reasons.[35]

Rural areas have less economic activity and a harder time attracting outside capital.[36] Low population density means that it is harder for rural communities to achieve economies of scale.[37] Smaller populations mean that rural residents have limited access to important support services, such as education, health care, and employment opportunities.[38] And, smaller populations mean that rural communities have a reduced tax base to fund those services or even provide basic updates to necessary infrastructure.[39]

C. Housing in Rural America

Data from the 2010 Census showed that there were around 25 million occupied housing units located in rural communities.[40] Homeownership has historically been considered a center of the "American Dream," and that is particularly true in rural areas. In rural communities, over 70 percent of homes were owner-occupied in 2010, compared to around 65 percent nationally, demonstrating that homeownership is the most prevalent form of housing for rural residents.[41]

Because rural houses are typically less expensive, the equity that rural Americans accumulate in their homes is generally less than the equity generated from homes in urban areas.

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[34] *Population & Migration*, ECONOMIC RESEARCH SERVICE (Mar. 1, 2017), https://www.ers.usda.gov/topics/rural-economy-population/population-migration/; *see generally* Janet Adamy and Paul Overberg, *Rural America is the New "Inner City"*, THE WALL STREET JOURNAL (May 30, 2017), *available at* https://www.wsj.com/articles/rural-america-is-the-new-inner-city-1495817008.

[35] Gary Paul Green, *Sustainability and Rural Communities*, 23 Kan. J.L. & Pub. Pol'y 421, 422-24 (2014).

[36] *See generally* Andrew A. Schwartz, *Rural Crowdfunding*, 13 U.C. Davis Bus,. L.J. 283, 285-288 (2013).

[37] Gary Paul Green, *Sustainability and Rural Communities*, 23 Kan. J.L. & Pub. Pol'y 421, 424-26 (2014)

[38] *Id.* at 424-26.

[39] Specialist in Resources and Environmental Policy, CONG. RESEARCH SERV., 98-64, *Rural Water Supply and Sewer Systems: Background Information* (2016) at 2.

[40] Housing Assistance Council, *Rural Research Brief: Housing Occupancy & Vacancy in Rural America* (2012), available at http://www.ruralhome.org/storage/research_notes/rrn-housing-vacancy-web.pdf.

[41] *Id.* at 34.

For example, between 2010 and 2015 the average home value in urban areas grew 28.4 percent, compared to just 6.25 percent growth in value in rural areas.[42]

Moreover, of the estimated 25 million occupied homes in rural communities, 1.5 million are considered either moderately or severely substandard.[43] "Substandard Housing" means that a home lacks complete plumbing facilities, has inadequate or no heat, has no or inconsistent electricity, has exposed wiring, and/or has ongoing maintenance and upkeep issues. Substandard housing is a prevalent problem for low-income families. In fact, the 2011 American Housing Survey found that families earning less than 30 percent of the Area Median Income (AMI), were more than three times as likely to live in substandard housing.[44] Substandard housing is more common in rural and tribal areas than in urban areas; when compared to metro tracts, tribal census tracts are five times more likely to lack or have incomplete plumbing, and non-metro tracts are more than two times as likely to lack or have incomplete plumbing.[45] Furthermore, indoor plumbing, a household feature most Americans take for granted, is unavailable to four percent of rural occupied units.[46] Slightly more than ten percent of those units also have more than one occupant per room, signifying that inadequate units in rural areas are more likely to be overcrowded.[47]

[42] Cody Fuller, *Rockin' The Suburbs: Home Values and Rents in Urban, Suburban and Rural Areas*, ZILLOW.COM (Jan. 28, 2016), https://www.zillow.com/research/urban-suburban-rural-values-rents-11714/.

[43] Housing Assistance Council, *Rural Research Brief: Housing Occupancy & Vacancy in Rural America* (2012), available at http://www.ruralhome.org/storage/research_notes/rrn-housing-vacancy-web.pdf at 45.

[44] U.S. CENSUS BUREAU, Series H150/11, *American Housing Survey for the United States: 2011* (2013).

[45] Joint Center for Housing Studies of Harvard University, *The State of the Nation's Housing* (2016), available at http://www.jchs.harvard.edu/sites/jchs.harvard.edu/files/jchs_2016_state_of_the_nations_housing_lowres.pdf at 35.

[46] Sonali Mathur, *Are Renters and Homeowners in Rural Areas Cost-Burdened?*, JOINT CENTER FOR HOUSING STUDIES OF HARVARD UNIVERSITY (Aug. 11, 2016), http://housingperspectives.blogspot.com/2016/08/are-renters-and-homeowners-in-rural.html.

[47] *Id.* The 2016 Housing Report from the Joint Center for Housing Studies of Harvard University defines overcrowded as more than two persons per bedroom. *See* Joint Center for Housing Studies of Harvard University, The State of the Nation's Housing (2016), available at http://www.jchs.harvard.edu/sites/jchs.harvard.edu/files/jchs_2016_state_of_the_nations_housing_lowres.pdf at 28.

While the primary form of housing in rural communities is homeownership, around 7.1 million rural residents rent their homes, and rental housing accounts for 28.4 percent of the housing stock in rural areas.[48] Around five million rural rental households, equaling about 41 percent of all rural renters, are cost-burdened, which means they pay more than 30 percent of their income for housing costs. And 21 percent of all rural households that rent pay more than 50 percent of their income for housing.[49]

III. Federal Rural Housing Programs

USDA is the primary federal body engaged in rural community development programs through its Office of Rural Development (Rural Development). This section will discuss Rural Development's mission, including a few key rural housing programs.

A. Brief History of Rural Development

The Federal government began its engagement in rural housing during the Great Depression through the Federal Emergency Relief Administration.[50] Following World War II, Congress enacted the Housing Act of 1949.[51] Title V of the Housing Act authorized the Farmers Home Administration (FmHA), a former agency of USDA, to make loans and grants to farmers for the construction, improvement, or replacement of their homes or other farm buildings. FmHA's authority was later expanded to include loans and grants for other rural residents, not

[48] Housing Assistance Council, *Taking Stock: Rural People, Poverty, and Housing in the 21st Century* (2012), available at http://ruralhome.org/storage/documents/ts2010/ts_full_report.pdf at 36.
[49] Sonali Mathur, *Are Renters and Homeowners in Rural Areas Cost-Burdened?*, JOINT CENTER FOR HOUSING STUDIES OF HARVARD UNIVERSITY (Aug. 11, 2016), http://housingperspectives.blogspot.com/2016/08/are-renters-and-homeowners-in-rural.html.
[50] Tadlock Cowan, CONG. RESEARCH SERV., RL31837, *An Overview of USDA Rural Development Programs* (Feb. 10, 2016) at 1.
[51] The Housing Act of 1949, 42 U.S.C. § 1441 *et seq.*

just farmers, with the Rural Development Act of 1972, Title III of the Consolidated Farmers Home Administration Act of 1961.[52]

In 1994, Congress enacted the Department of Agriculture Reorganization Act, giving the Agriculture Secretary broad authority to reorganize the department and authorizing the creation of an Under Secretary for Rural Economic and Community Development within the department.[53] As a result, USDA eliminated FmHA and divided its programs.[54] The farm loan programs were transferred to the Farm Service Agency and the other programs were transferred to Rural Development.[55]

Today, Rural Development offers loans, grants, and loan guarantees to support essential services, including housing, health care, water and wastewater systems, electronic and broadband infrastructure, and economic development in rural communities.[56] Rural Development has three core mission agencies: the Rural Housing Service (RHS), the Rural Utilities Service (RUS), and the Rural Business-Cooperative Service (RBS).[57] The section that follows will provide greater detail on several key RHS programs.

B. Key Rural Housing Service Programs

Title V of the Housing Act of 1949 gave FmHA authority to make direct loans for the purchase or repair of rural single family housing programs.[58] Today, RHS makes direct loans, grants, and loan guarantees to help low- and very-low income rural families purchase or

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[52] Jasper Womach, CONG. RESEARCH SERV., 97-905, *Agriculture: A Glossary of Terms, Programs, and Laws, 2005 Edition* (Jun. 16, 2005) at 58.
[53] *Id.* at 75.
[54] *Id.*
[55] Charles W. Fluharty, *Why Rural Policy Now Matters to Agriculture: Rural Development, Regional Innovation, and the Next Farm Bill*, 16 Drake J. Agric. L. 31, 34 (2011).
[56] *About RD*, U.S. DEPARTMENT OF AGRICULTURE, https://www.rd.usda.gov/about-rd.
[57] Tadlock Cowan, CONG. RESEARCH SERV., RL31837, *An Overview of USDA Rural Development Programs* (Feb. 10, 2016) at 7-8
[58] *Id.* at 9

rehabilitate their own homes. In addition, it provides loans, grants and guarantees to private, nonprofit and for-profit developers and to local governments for the purchase and rehabilitation of multifamily housing.[59] In Fiscal Year (FY) 2016 alone, RHS assisted around 140,000 families buy, finance, or repair their homes by providing more than $19 billion in financing.[60]

1. Single Family Housing Programs

The Section 502 Direct Loan Program is the only federal program that targets homeownership loan opportunities to low- and very-low-income rural households. For this program, "low-income" is defined as between 50 and 80 percent of area median income (AMI) for low, and "very-low income" is defined as below 50 percent of AMI.[61] Through the Section 502 Direct Loan program, USDA provides direct loans to low- and very-low income families, with interest rates from one percent.[62] Borrowers are able to obtain 100 percent financing and loan terms for up to 33 years.[63]

RHS also offers the Section 502 Guaranteed Loan program. RHS provides private lenders loan guarantees for up to 90 percent of the loan principal for loans to low- and moderate-income families for the purchase of their homes.[64] This program targets families with incomes between 80 percent and 115 percent of the AMI.[65]

Unlike the Section 502 Guaranteed Loan program, the Direct program overwhelmingly serves families with lower incomes. In fact, Section 502 Direct borrowers have an average income of almost half that of the Guaranteed program borrowers - $28,268 to $48,000

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[59] *Id.* at 7-8
[60] *USDA Rural Development 2016 Progress Report*, U.S. DEPARTMENT OF AGRICULTURE (2016), https://www.rd.usda.gov/files/USDARDProgressReport2016.pdf at 4.
[61] Tadlock Cowan, CONG. RESEARCH SERV., RL31837, *An Overview of USDA Rural Development Programs* (Feb. 10, 2016) at 10.
[62] *Id.*
[63] *Id.* For families with incomes below 60 percent of the AMI, the loan can be for up to 38 years. *Id.*
[64] *Id.* at 10-11
[65] *Id.* at 10-11

respectively.[66] Further, by law 40 percent of the households receiving Section 502 Direct loans must be very-low income.[67] In FY 2016, RHS provided 7,113 Section 502 Direct loans, totaling over $960 million.[68]

The Section 523 Mutual Self-Help Housing Technical Assistance Program enables low- and very-low income families to work together to build their own homes under the supervision of qualified nonprofit organizations. Self-Help Housing makes homes affordable by enabling the participating families to use "sweat equity" to reduce the cost of homeownership by 15 percent and learn valuable construction skills.[69] The families work together in groups of 6 to 12 to construct ~~[how many?]~~ their homes, performing approximately 65 percent of the labor. No one moves in until the construction on all of the homes is completed. The participating families often use the Section 502 Direct loan program to finance their mortgages.[70]

Commented [AJ1]: The number depends on the number of families in the group – but one home per family.

Currently there are around 100 organizations in 36 states, Puerto Rico and the Marshall Islands that participate in the Self-Help Housing program. Due to funding for the program either being cut or frozen over the past decade, most organizations receiving grants have not seen an increase in eight years.[71] Since the program's inception, over 50,000 families have completed construction of their homes.[72]

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[66] *2015 Explanatory Notes: Rural Housing Service*, U.S. DEPARTMENT OF AGRICULTURE (2014), https://www.obpa.usda.gov/29rhs2015notes.pdf at 3; Income levels based on FY 2013 program data. *Id.*; For USDA single family program data *see Rural Development Datasets*, U.S. DEPARTMENT OF AGRICULTURE, https://www.sc.egov.usda.gov/data/SFH.html.

[67] *2015 Explanatory Notes: Rural Housing Service*, U.S. DEPARTMENT OF AGRICULTURE (2014), https://www.obpa.usda.gov/29rhs2015notes.pdf at 3.

[68] *USDA Rural Development 2016 Progress Report*, U.S. DEPARTMENT OF AGRICULTURE (2016), https://www.rd.usda.gov/files/USDARDProgressReport2016.pdf at 10

[69] Tadlock Cowan, CONG. RESEARCH SERV., RL31837, *An Overview of USDA Rural Development Programs* (Feb. 10, 2016) at 12.

[70] *Id.*

[71] For example, in FY 2005, Section 523 was funded at $34 million and in FY 2017 it was funded at $30 million.

[72] *USDA Celebrates Self-Help Housing's 50 Years & 50,000 Homes,* U.S. DEPARTMENT OF AGRICULTURE (2015), https://www.rd.usda.gov/newsroom/news-release/usda-celebrates-self-help-housing%E2%80%99s-50-years-50000-homes.

Communities in rural America have a high percentage of low-income homeowners aging in place, making the preservation of existing single family housing stock essential. RHS operates several programs designed to assist rural families seeking to repair or rehabilitate their home. Two RHS programs work to address this need: the Section 504 Loan and Grant program and the Section 533 Housing Preservation Grant program.

The Section 504 Loan and Grant program provides funding for individual home repair and rehabilitation with an emphasis on the elderly.[73] These funds can be used to finance the repair of roofs and toilet facilities and to improve the water supply. Unfortunately, this program's usefulness is limited for two reasons. For over 30 years, the lifetime limit for Section 504 Grants has been $7,500.[74] And, a borrower is required to provide security for Section 504 Loans of $7,500 or more, typically by taking out a mortgage on the home.[75]

The Section 533 Housing Preservation Grant program makes funds available to nonprofits that manage housing rehabilitation programs. These funds can be provided as loans and grants with program delivery costs compensated to the nonprofit.[76] Multifamily property owners in rural areas may receive these grants if they agree to make their rental units available to low- and very-low income occupants.[77]

2. Multifamily Housing Programs

USDA has served as the primary funding source for rural multifamily housing for the past 50 years. The Section 515 Rural Rental Housing Loans have been a critical tool for

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[73] Tadlock Cowan, CONG. RESEARCH SERV., RL31837, *An Overview of USDA Rural Development Programs* (Feb. 10, 2016) at 11

[74] *Single Family Housing Repair Loans & Grants*, U.S. DEPARTMENT OF AGRICULTURE, https://www.rd.usda.gov/programs-services/single-family-housing-repair-loans-grants

[75] *Id.*

[76] Tadlock Cowan, CONG. RESEARCH SERV., RL31837, *An Overview of USDA Rural Development Programs* (Feb. 10, 2016) at 12.

[77] *Id.*

improving the quality of affordable rental housing in rural America. As of June 2016, there are 417,511 Section 515 units of affordable rental housing in 13,877 properties.[78]

Through this program, for-profit and non-profit developers are eligible for low-cost long term direct loans for the construction or rehabilitation of rural rental housing.[79] In return for low-interest loans, tenant rents are set at 30 percent of the family's income. Eligibility is limited to low-income households, with incomes not exceeding 50 percent of the AMI. Section 515 loans are 50 year loans or 30 year loans amortized for up to 50 years and feature interest rates subsidized to as low as one percent. [80]

All rental housing units financed with Section 515 are exclusively targeted to those with the greatest needs, including lower-income families, the elderly and persons with disabilities. Vast majorities (92.25 percent as of 2015) of Section 515 tenants have very-low incomes, earning no more than 50 percent of the AMI. The average Section 515 tenant earns just $12,377 each year.[81] In addition, 62 percent all Section 515 households are elderly or disabled tenants, 31.2 percent are headed by persons of color and 71.1 percent are headed by women.[82] Because the Section 515 Loan Program can be combined with other rental subsidy programs, including the Section 521 Rural Rental Assistance program, rents are more affordable to these at-risk populations. In fact, the average rent for a one-bedroom, Section 515-financed housing unit is just $488 per month.[83] For many Section 515 tenants with limited means, the lower rents under

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[78] Corianne Payton Scally and David Lipsetz, *New Public Data Available on USDA Rural Housing Service's Single-Family and Multifamily Programs*, CITYSCAPE: A JOURNAL OF POLICY DEVELOPMENT AND RESEARCH, VOL. 19 (Nov. 1, 2017), https://www.huduser.gov/portal/periodicals/cityscpe/vol19num1/ch17.pdf.
[79] Tadlock Cowan, CONG. RESEARCH SERV., RL31837, *An Overview of USDA Rural Development Programs* (Feb. 10, 2016) at 14.
[80] *Id.*
[81] *Results for the 2015 Multi-Family Housing Annual Fair Housing Occupancy Report*, U.S. DEPARTMENT OF AGRICULTURE (Jan. 22, 2016), http://www.rd.usda.gov/files/01-22-16%20MFH%20Occupancy%20Report.pdf at 2.
[82] *Id.*
[83] *Id.* This is the average rent for both Section 515 and Section 514 properties. *Id.*

the Section 515 program can mean the difference between being able to afford basic needs, such as nutrition and healthcare, and foregoing those needs to pay for rent.

A 2004 Comprehensive Property Assessment and Portfolio Analysis found that none of the Section 515 properties had the financial reserves to meet their projected capital needs for ongoing maintenance and repairs. At the time, it was estimated that $2.6 billion in additional funding was needed over the next 20 years—in the form of rental assistance or other financing tools—in order to preserve the portfolio.[84]

In response to the findings from the 2004 report, in 2006, Congress established a Multifamily Housing Preservation and Revitalization (MPR) demonstration program, which authorized USDA to employ a variety of financing options in order to preserve the Section 515 and Farmworker housing properties in its portfolio. The goal of the MPR program is to revitalize the properties and extend their affordable use by recapitalizing properties through restructuring USDA multifamily housing loans and leveraging resources for other federal and state programs. This includes both Section 515 and Section 514 mortgages, and is often done in conjunction with grants, private debt guaranteed under Section 538, tax credits and other sources. The MPR has financed an estimated 26,459 units in 1,218 properties between 2006 and 2014.[85] To date, the MPR effectively leverages three times its funds in investments from LIHTC and other sources. However, it remains a demonstration program subject to annual appropriations.

In 2016, USDA released a Comprehensive Property Assessment and Portfolio Analysis, which analyzed USDA's Section 515 properties, its farm labor housing properties, Section 538

[84] Sarah Mickelson, *Rural America's Rental Housing Crisis*, THE NATIONAL RURAL HOUSING COALITION (2014), available at http://ruralhousingcoalition.org/wp-content/uploads/2014/07/NRHC-Rural-America-Rental-Housing-Crisis_FINALV3.compressed.pdf.

[85] *Id.*

financed developments, and projects refinanced under the MPR program.[86] The 2016 report found that the financial need to preserve the portfolio had more than doubled in the past 12 years, and it is now estimated that $5.596 billion will be needed over the next 20 years.[87] Of that amount, $4.7 billion would be needed for Section 515 developments.[88]

More and more Section 515 properties are expected to exit the portfolio due to prepayment or mortgage maturity in the next 20 years. USDA data on the portfolio shows that the rate of maturation and prepayment between 2016 and 2027 averages around 74 properties per year.[89] In 2028, the number of properties exiting the USDA portfolio sky rockets to 407, averaging 556 properties per year between 2028 and 2032.[90] Between 2032 and 2050, an estimated 12,530 properties will mature or be prepaid.[91]

Finally, RHS finances housing for domestic farm laborers through the Section 514 and 516 loan and grant program. Section 514/516 "is the only nationwide program to provide housing for farm laborers."[92] Loans and grants are used to purchase and renovate housing for domestic farm laborers, including retired and disabled farm laborers, and their families.[93] Section 514 loans have an interest rate of just one percent, and can be repaid over 33 years.[94] Section 516

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[86] *USDA Rural Development Multi-Family Housing Comprehensive Property Assessment*, U.S. DEPARTMENT OF AGRICULTURE RURAL DEVELOPMENT (March 1, 2016), https://www.rd.usda.gov/files/reports/USDA-RD-CPAMFH.pdf.
[87] *USDA Rural Development Multi-Family Housing Comprehensive Property Assessment*, U.S. DEPARTMENT OF AGRICULTURE RURAL DEVELOPMENT (March 1, 2016), https://www.rd.usda.gov/files/reports/USDA-RD-CPAMFH.pdf at 2.
[88] *Id.* at 22.
[89] Housing Assistance Council, *Rural Policy Note: Maturing USDA Rural Rental Housing Loans: An Update* (Aug. 29, 2016), http://www.ruralhome.org/storage/documents/policy-notes/rpn_maturing-mortgages-usda-2016.pdf at Appendix A.
[90] *Id.*
[91] *Id.*
[92] Tadlock Cowan, CONG. RESEARCH SERV., RL31837, *An Overview of USDA Rural Development Programs* (Feb. 10, 2016) at 12
[93] *Id.*
[94] *Id.*

grants can be used to cover up to 90 percent of the development cost.[95] USDA has financed some 36,000 farm labor housing units for a cost of $1.27 billion. However, the level of funding for farm labor housing has steadily decreased over the years. Between FY 2009 and FY 2015, RHS awarded just 228 farm labor housing loans and grants totaling $241,343,356.[96]

C. The Low-Income Housing Tax Credit

The Low-Income Housing Tax Credit (LIHTC) was created in 1986, made permanent in 1993, and serves as the primary financing tool for developing and preserving affordable rental housing in communities all over the nation.[97] LIHTC provides investors with a dollar-for-dollar federal tax liability reduction for 10 years, in the form of annual tax credits, in exchange for financing for the development of affordable rental housing. Properties financed by LIHTC must comply with LIHTC eligibility requirements, which include rent restrictions and availability to low-income tenants, for 15 years.[98]

While LIHTC is a federal tax program, it is administered by the states, typically through state housing finance agencies.[99] State housing finance agencies develop Qualified Action Plans (QAPs), which is used to review and award applications from developers. A recipient developer leverages the credit to obtain the financial resources needed for a rental housing project. There are two types of LIHTCs: the nine percent credit and the four percent credit.[100] Nine percent credits subsidize 70 percent of the low-income unit cost without additional federal subsidies,

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[95] *Id.*
[96] *USDA Rural Development: 2015 Progress Report*, U.S. DEPARTMENT OF AGRICULTURE (2016), *available at* http://www.rd.usda.gov/files/USDARDProgressReport2015.pdf.
[97] Mark Keightley, CONG. RESEARCH SERV., RS22389, *An Introduction to the Low-Income Housing Tax Credit* (Feb. 12, 2013) at 1-2.
[98] *Id.*
[99] *See* Jeanne Peterson, *The Low-Income Housing Tax Credit*, 73 Mich. B.J. 1154 (1994).
[100] *Id.* at 1155.

while the four percent credit subsidizes about 30 percent of the low-income unit cost for new construction with additional subsidies.[101]

It is important to note for the subject of this article that between 1987 and 1994, 31 percent of all affordable housing properties financed with LIHTC also leveraged Section 515 Rural Rental Housing Loans. As funding for Section 515 has been reduced, rural communities find it more difficult to attract LIHTC investments. Between 1995 and 2009, only nine percent of LIHTC-financed rental properties leveraged Section 515 funds.[102]

IV. Rural America Under President Trump

As discussed above, rural communities are smaller and have higher rates of poverty, which limits the tax base and results in less public financing for social services and infrastructure investments.[103] In addition, many large nonprofit organizations, which play a gap-filling role in addressing community development needs, are located in metropolitan centers.[104] Federal funding for community development programs has been reduced in recent years, and Rural Development programs have been cut particularly hard. Although it is early in the Trump Administration, it remains to be seen whether the President will enact policies to address the economic and infrastructure issues facing rural communities. This section will discuss the Administration's approach to rural development thus far, as well as how Congress has acted in the first months of the Trump Presidency.

A. The Administration's Initial Response

[101] *Id.*
[102] Jill Khadduri, Carissa Climaco, and Kimberly Burnett, *What Happens to Low-Income Housing Tax Credit Properties at Year 15 and Beyond*, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (August 2012), available at https://www.huduser.gov/publications/pdf/what_happens_lihtc_v2.pdf.
[103] Ann Eisenberg, *Addressing Rural Blight: Lessons from West Virginia and WV LEAP*, 24 J. Affordable Hous. & Cmty. Dev. L. 513, 520 (2016).
[104] *Id.* at 521.

Since taking office, the Administration has indicated an intention to disinvest in Rural Development programs. Starting with the release of the so-called "Skinny Budget" in early May, the Administration proposed to eliminate the Under Secretary for Rural Development and many of the programs that rural families depend on for housing and community services.

1. USDA Reorganization

On May 11, 2017, Sonny Perdue, the Secretary of Agriculture under President Trump, announced plans to reorganize the Department of Agriculture.[105] In an official Secretary's Memorandum, *Advancing U.S. Agricultural Trade and Improving Service to Agricultural Producers*, the Department stated that it would establish an Under Secretary for Trade and Foreign Agricultural Affairs and "elevate the importance of the activities carried out by the Rural Development mission area by" eliminating the Under Secretary for Rural Development and having the three Rural Development agencies report directly to the Secretary.[106]

This reorganization, which came in response to the President's Executive Order 13781, *Comprehensive Plan for Reorganizing the Executive Branch*, was met by widespread concern from those who live and work in rural communities, as well as Members of Congress.[107] The Secretary submitted a Report to Congress on the proposed reorganization, however it was largely

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[105] *Secretary's Memorandum: Advancing U.S. Agricultural Trade and Improving Service to Agricultural Producers*, U.S. Department of Agriculture (May 11, 2017), *available at* https://www.usda.gov/sites/default/files/documents/secretary-memorandum-advancing-ag-trade-improve-service-ag-producers.pdf.

[106] *Id.*

[107] *See* Bob Rapoza, *Nearly 600 Rural Organizations Signify Opposition to White House Proposal for USDA Reorganization and Budget Request in Advance of Congressional Hearing*, PR NEWSWIRE (Jun. 12, 2017) availible at http://www.prnewswire.com/news-releases/nearly-600-rural-organizations-signify-opposition-to-white-house-proposal-for-usda-reorganization-and-budget-request-in-advance-of-congressional-hearing-300472545.html; *See also Stabenow, Merkley Push Back on Trump Administration Plan to Eliminate Key Rural Development Position*, U.S. SENATE COMMITTEE ON AGRICULTURE, NUTRITION, & FORESTRY (Jun. 9, 2017), https://www.agriculture.senate.gov/newsroom/dem/press/release/stabenow-merkley-push-back-on-trump-administration-plan-to-eliminate-key-rural-development-position.

silent on the rationale behind eliminating the Under Secretary for Rural Development.[108] The Administration stated that it would appoint an Assistant to the Secretary for Rural Development to help oversee these programs in place of the Under Secretary, but few details on the Assistant's authority were released.

Rural advocates remained skeptical that eliminating the Under Secretary for Rural Development would in any way elevate the standing of Rural Development programs. The Rural Development portfolio – made up of the programs administered by RHS, RBS, and RUS individually – requires the dedication, authority, and proficiency of an Under Secretary to oversee their administration. The Secretary has many existing responsibilities that would limit his or her time to address the needs of the portfolio. Further, unlike the Under Secretary, the Assistant to the Secretary would not have the same level of authority to address the needs of rural Americans and is not a Senate-confirmed position, making the role less accountable to Congress.

With the release of the FY 2018 budget request, concern over the reorganization grew among those working in rural community development.

2. The Budget Request

On May 23, 2017, the Administration released its Budget Request, *A New Foundation for American Greatness*.[109] It included a $54 billion cut to non-defense programs overall and a $54 billion increase to defense programs. Further, the Budget included deep cuts to – or complete eliminations of – almost all of the programs within the Rural Development mission area. The

[108] *Report to Congress: Report on the Proposed 2017 Reorganization of the Department of Agriculture to Establish an Under Secretary for Trade and Foreign Agricultural Affairs*, U.S. DEPARTMENT OF AGRICULTURE (May 11, 2017), available at https://www.usda.gov/sites/default/files/documents/report-proposed-2017-reorg-usda-under-secretary-trade-foreign-ag-affairs.pdf.

[109] *Budget of the U.S. Government: A New Foundation for American Greatness Fiscal Year 2018,* OFFICE OF MANAGEMENT AND BUDGET (2017), *available at* https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/budget/fy2018/budget.pdf.

Budget Authority (BA) for programs in the rural development mission area was reduced by a total of $867 million from the FY 2017 level, representing a 31 percent reduction. As for specific programs, the RBS was completely eliminated; RUS programs fell from $8 billion programs to $6.2 billion, principally due to the elimination of the rural water-sewer loans ($1 billion) and grants ($480 million); and BA for housing programs administered by RHS dropped from $1.6 billion to $1.36 billion.[110] Almost every direct loan and grant program, including Section 502 Direct, Section 504, Section 523 Mutual Self-Help Grants, Section 515, and Section 514/516 Farmworker Housing Loans and Grants, were zeroed out in the budget.[111] Thus, while the Section 502 Guaranteed Loan program remained intact, the programs designed to assist the lowest-income rural Americans were slashed.[112]

The budget request also created a new program – Rural Economic Infrastructure Grant program, which was funded at almost $162 million. This program combined grants for low-income housing repair made by RHS (both Section 504 grants and Section 533 grants), grants for rural community facilities, grants for telemedicine distance learning, and grants to finance broadband transmission in rural areas.[113] All four programs are individually zeroed out in the FY 2018 budget request, and grouped together in the Rural Economic Infrastructure Grant program – although a specific funding level for each grant type is not specified. Of the total funding amount, $80 million was set aside for communities in Appalachia through June 30, 2018. The 2018 USDA budget Summary states that in creating a single account, Rural Development will be able to better allocate funds to projects that need them most.[114]

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[110] *Department of Agriculture,* OFFICE OF MANAGEMENT AND BUDGET (2017), *available at* https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/budget/fy2018/agr.pdf.
[111] *Id.*
[112] *Id.*
[113] *Id*.
[114] *Id.*

B. Congress Responds

Rural Development programs are funded through the Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriation bill. By July 2017, both the House and Senate Appropriations Committees had approved of their respective bills and reported them to the floor.

1. House Bill

The House Appropriations Committee reported out a bill that included a $350 million reduction to rural development programs.[115] However, even with that reduction, the House Agriculture Appropriations bill (H.R. 3268) did not approve any of the outright eliminations proposed by the Trump Administration in the Budget Request. For example, H.R. 3268 funded the Section 502 Direct program at $900 million, Section 523 Mutual Self-Help Technical Assistance Grants were funded at $25 million, Section 504 loans are funded at $24 million, and Section 515 was funded at $23.39 million.

However, the House did follow the budget on two points. First it did not fund the Office of the Under Secretary for Rural Development. Instead, it funded the Assistant to the Secretary for Rural Development at about the same level as the Under Secretary was funded in FY 2017.[116]

Second, the House bill included the new grant program from the Budget request, which it called the Rural Economic Infrastructure Account (REIG).[117] The House bill funded this account at $122 million, setting aside $60 million for Appalachian communities. The House bill specifies that each eligible activity under the account must receive at least 15 percent of the total provided

[115] *Appropriations Committee Releases the Fiscal Year 2018 Agriculture Appropriations Bill*, HOUSE OF REPRESENTATIVES COMMITTEE ON APPROPRIATIONS (June 27, 2017), https://appropriations.house.gov/news/documentsingle.aspx?DocumentID=394939.
[116] H.R. 3268, 115th Cong. (2017).
[117] *Id.*

under the Account– around $18.403 million per program. This means these crucial programs are at risk of significant cuts. For instance, in FY 2017 Rural Housing Assistance Grants, which included Section 504 grants and HPG, were funded at $33.701 million. If the Account is included in the final FY 2018 bill, these programs will receive at least a $15 million decrease.[118]

2. Senate Bill

Total funding for the Senate Agriculture Bill (S. 1603) was about $350 million below a freeze at the FY 2017 rate, giving the Committee the flexibility to preserve Rural Development programs. As a result, many of RHS programs were funded at the FY 2017 rate, and several saw increased funding levels.[119] Section 502 Direct Loans were funded at $1 billion, Section 523 Mutual Self-Help Grants were funded at $30 million, and Section 504 Loans were funded at $26.278 million, all level with FY 2017. [120] The bill funds the multifamily programs level with the FY 2017 enacted rates as well: with Section 515 funded at $35 million, Section 514 at $23.855 million and Section 516 at $8.336 million. The MPR program is funded at $41.4 million. Notably, the bill does not include the REIG Account. The Senate bill instead funded the programs separately. [121]

The text of the Senate bill as submitted by the Appropriations Subcommittee on Agriculture was silent on the issue of the Under Secretary, however Senator Tester (D-MT) submitted bill and report language in the manager's package, which was adopted by the Full Committee, to fund the Office of the Under Secretary for Rural Development. Also included in that amendment was language that amends the Department of Agriculture Reorganization Act of 1994 to require that the Agriculture Secretary establish at USDA the position of Under Secretary

[118] *Id.* Consolidated Appropriations Act, 2017 Pub. L. No. 115-31 (2017).
[119] S. 1603, 115th Cong. (2017).
[120] *Id.*
[121] *Id.*

for Rural Development, and that the Under Secretary position is a Senate-confirmed position. In the end, the Senate bill provides funding for the Assistant to the Secretary for Rural Development and for the Office of Under Secretary for Rural Development. [122]

V. Recommendations for Modern Rural America

As shown in Section III, the Administration already has many tools at its disposal to address the housing needs of rural communities. However, in order to improve the effectiveness of these programs, the Administration should ensure that existing programs are adequately funded and review their policies and procedures to identify areas where improvements to existing programs can be made.

A. Adequately Fund Rural Housing Service Programs

In order for rural communities to develop and sustain strong local economies, certain basic services must be in place, including housing, water and wastewater systems, and broadband. Because rural communities are unable to spread the costs of these services on their own through private capital, federal investments and strong appropriations levels for Rural Development programs are essential.[123]

For over 50 years, USDA Rural Development has improved housing, utilities and community facilities, and economic opportunity for rural America. For example, in just FY 2016 alone, Rural Development made available over $29 billion in loans, guarantees, grants, and related assistance to over 157,000 individuals, businesses, non-profit corporations, cooperatives, and governments.[124] Rural Development has a proven track record of success in managing this

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[122] *Id.*

[123] Shiv Rawal, Sarah Edelman, and Gerardo Sanz, *Opportunities for Promoting Credit for Affordable Housing in Rural America*, Center for American Progress (Sept. 13, 2016).

[124] *USDA Rural Development 2016 Progress Report*, U.S. DEPARTMENT OF AGRICULTURE (2016), https://www.rd.usda.gov/files/USDARDProgressReport2016.pdf.

portfolio and protecting the federal government's investment in America's small town and farming communities.

The Administration's budget request is insufficient to support the housing and community development needs of rural Americans.[125] Adequately funded Rural Development programs allow rural communities to address issues that they would otherwise be unable to because of a lack of economies of scale. For example, multifamily housing properties in rural communities average around 30 units per building, significantly smaller than the large apartment buildings present in the rest of America.[126] Without the Section 515 loan program, these communities, and the people living in them, would be unable to afford decent rental housing.

The Administration must support direct loan and grant programs to provide housing and community development services for low- and very-low-income rural families. Funding guaranteed loan programs alone are insufficient to meet the needs of rural communities, due to the low incomes of the residents.[127] Of the active USDA Section 502 Loan portfolio, over 70 percent of Guaranteed loan borrowers are moderate-income and only 21 percent are low-income. Comparatively, Direct loan borrowers are entirely low- or very-low income: slightly more than 60 percent are low-income borrowers and nearly 40 percent (39.1 percent) are very-low-income.

[125] *See generally 2017 Impact Report: Measuring the Economic and Social Impact of Nonprofit Organizations in Rural America*, THE NATIONAL RURAL HOUSING COALITION (2017), available at http://ruralhousingcoalition.org/wp-content/uploads/2017/04/Impact-Report-FINAL-FOR-Web-1.pdf.

[126] Shiv Rawal, Sarah Edelman, and Gerardo Sanz, *Opportunities for Promoting Credit for Affordable Housing in Rural America*, Center for American Progress (Sept. 13, 2016). According to research from the National Multifamily Housing Council, 43 percent of apartments in America have 100 or more units. -*Quick Facts: Apartment Stock*, NATIONAL MULTIFAMILY HOUSING COUNCIL, (last accessed Sep. 9, 2017) http://www.nmhc.org/Content.aspx?id=11464#Metro_area.

[127] *See generally*, *Rural Housing: Hearing Before the H. Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs*, 101st Cong. 101-107 (1990) statement of Thomas A. Carew).

In other words, without the Direct loan program, the over 200,000 Direct borrowers would not have their homes.[128]

B. Improvements to Single Family Housing

Rural Development has a big impact in rural America through its direct loan and grant programs, but with fewer than 5,000 full time employees, the agency needs support to ensure that rural Americans have access to affordable financing options for their homeownership needs.[129] It is extremely difficult for USDA's Rural Development and RHS to deliver uniform, timely assistance to rural residents and communities. To help address this need, nonprofit organizations increasingly provide technical assistance to households through programs like the Section 502 intermediary packaging program and the Mutual Self-Help Housing Program. The Administration should support these programs and work to improve their policies to make them more efficient.

The Section 502 Direct packaging program was created to addresses the capacity issues that Rural Development faces. Through this program, trained loan packagers and intermediaries help low-income rural families through the Section 502 Direct Loan processing system by collecting and reviewing all of the necessary financial information. Because the loan package is reviewed before it is submitted to USDA, Rural Development staff do not need to spend time working with individual loan applicants to ensure that their applications were properly completed. This allows Rural Development staff to focus their time and resources on the underwriting process and other responsibilities, and speeds up the processing time for loan packages. This program has been successful, and the Administration should use this as a model

[128] *Rural Development Datasets*, U.S. DEPARTMENT OF AGRICULTURE, https://www.sc.egov.usda.gov/data/SFH.html.

[129] *2017 Explanatory Notes: Rural Housing Service*, U.S. DEPARTMENT OF AGRICULTURE (2016), https://www.obpa.usda.gov/29rhs2017notes.pdf.

for other areas where partnership with qualified nonprofit organizations could assist the efficiency of Rural Development.

Finally, as mentioned above, the Section 504 program has not increased its grant or loan limits for over 30 years. Further, this program has been underutilized ~~in parts of~~across the country because of it has overly burdensome application procedures and offers very low reimbursement for packagers.[130] The Administration should review its regulations and procedures regulating the Section 504 program in order to improve its usefulness for rural Americans. The Administration should also look for ways to increase the use of the program through potential partnership with nonprofit organizations.

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Provided additional detail in footnote. It has been underutilized overall.

C. Improvements to Multifamily Housing Programs

For rural multifamily housing, the Administration has numerous resources available to not only improve existing rural rental housing developments, but also to increase the availability of affordable multifamily housing in rural communities.

First, the Administration should immediately begin updating its rules and procedures to adopt the provisions included in the FY 2017 omnibus and the House and Senate Agriculture Appropriations Bills for Fiscal Year 2018.[131] The provisions are designed to provide tools for preserving the existing USDA rental housing portfolio, and would go a long way towards incentivizing nonprofit engagement in the multifamily housing preservation effort.[132] As with single family housing, mission driven organizations are an important resource for preserving and maintaining affordable rental housing is rural America. In recognition of this fact, Rural

[130] *See USDA Rural Development Housing Funding Activity, Fiscal Year 2016 Year-End Report*, Housing Assistance Council (2017), available at http://www.ruralhome.org/storage/documents/rd_obligations/fy2016/usda-fy16-yo-report.pdf, at 19 (showing that in FY 2016 USDA obligated $17.4 million in Section 504 loans, which was just 66.2 percent of the FY 2016 appropriations level for Section 504 loans - $26.2 million).

[131] H.R. 3268, 115th Cong. (2017); Consolidated Appropriations Act, 2017 Pub. L. No. 115-31 (2017); S. 1603, 115th Cong. (2017).

[132] *Id.*

Development should revamp rules to increase participation by nonprofit organizations and public housing agencies, including formularizing procedures that encourage these organizations to use LIHTC financing in the acquisition and preservation of Section 515 and Section 514 developments. Under current regulations, nonprofit agencies cannot include LIHTC proceeds in calculating return on investment.[133]

Affordable housing finance is a complex business, particularly in rural markets where the tenants have such low incomes. Existing property owners, as well as other nonprofit groups interested in participating in this effort, need additional technical assistance to acquire and preserve Section 515 and Section 514 developments. Currently, many of the owners of Sections 515 and Section 514 acquired their properties in the mid-1970's. As a group, they are nearing retirement and may be interested in selling or transferring their properties to get out of the property management business. Technical assistance to help understand the relevant rules and regulations and to identify available resources could help these owners exit the portfolio without degrading the USDA multifamily housing portfolio.

Furthermore, because the availability of rural rental assistance is contingent on a property having a Section 515 or Section 514 mortgage, USDA must address the emerging increase of maturing mortgages. One tool that USDA has to do so is the MPR. The Administration should consider ways to improve the MPR and other tools to extend financing in Section 515 and 514 properties in order to continue rental assistance in those properties.

Finally, while LIHTC is a key ingredient in the preservation process, it is becoming increasingly difficult for rural properties to get the nine percent credits with their deeper subsidy

[133] For a complete discussion on USDA multifamily housing programs, *see NRHC Review of Federal Rural Rental Housing Programs, Policy and Practices*, THE NATIONAL RURAL HOUSING COALITION (2017) available at http://ruralhousingcoalition.org/wp-content/uploads/2017/05/Rental-Housing-Report-FINAL-04.18.17.pdf.

rates. It is particularly difficult for rural properties to obtain the additional subsidy necessary for the use of the four percent credits. Policy makers at the state level should consider providing additional nine percent credits to rural areas. Or, failing that, they should encourage the greater allocation of HOME Investment Partnership Program and Community Development Block Grant funds to facilitate the use of the four percent credit in rural areas.

VI. Conclusion

There is a lot to be done in rural America to address the higher rates of poverty and lower incomes that have prevailed in the region for all of recent history. President Trump has many important issues to tackle on his agenda, but he should make sure to address the needs facing rural communities, which voted heavily in his favor. Existing programs at USDA Rural Development, particularly those administered by RHS are essential tools for assisting hardworking rural families meet their affordable housing needs. Through targeted capital investments, in the form of direct loan and grant programs for housing and community development, and by making improvements to existing USDA programs, the Administration can have a positive impact on the quality of life in these communities.