Federal Barriers to Local Housing and Transportation Coordination

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Introduction

This report includes a synopsis of the history of barriers to local coordination of housing and transportation resulting from HUD and DOT statutes and regulations, a summary of efforts to date to identify barriers within each agency's programs, and a description of efforts underway to address these barriers. We conclude the report with a list of provisions in HUD and DOT statutes and regulations, grouped into four categories. These categories correspond to key areas where improved coordination would better support local strategies to plan and implement sustainable communities:

- Location-efficient, Mixed-use Development
- Affordability and Access to High-Opportunity Locations
- Local Planning Coordination
- Streamlined Access to Federal Funding

Congress is uniquely positioned to address these barriers and identify solutions needed to eliminate many of the barriers given its jurisdiction over DOT and HUD appropriations and authorizations. Doing so will allow the agencies to continue to support local and regional innovation and continue to advance the six livability principles adopted by DOT, HUD and the U.S. Environmental Protection Agency as the federal Partnership for Sustainable Communities.

Background

Interagency Context

On June 16, 2009, the U.S. Department of Housing and Urban Development (HUD), U.S. Department of Transportation (DOT), and the U.S. Environmental Protection Agency (EPA) joined together in the Partnership for Sustainable Communities (also known as "the Partnership") to ensure federal funds and policies work together to support environmentally healthy communities that create a strong foundation for economic growth benefitting all members of the community. This approach recognizes that the significant investments the federal government makes in transportation, housing, and environmental protection will be more efficient and cost effective if they are better coordinated and aligned, not only with each other but with communities' needs.

Since 2009, the Partnership agencies have worked together to provide grants and other assistance to communities working to improve local and regional integrated planning. The Partnership agencies are working to incorporate six principles of livability into federal funding programs, policies, and future legislative proposals. Through this work and on-going efforts to collaborate, the Partnership agencies have identified federal barriers to local and regional coordination. Part of the context for these barriers is recognizing the differences between the agencies and how histories and missions affect the implementation of federal policies and programs on the ground.

Historically, HUD and DOT have had very different strategic direction and missions. This resulted from different Congressional and historical contexts that continue to influence each agency's day-to-day functioning. One such example is the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act 1989) (Public Law 101–235; 103 Stat. 1987) which places considerable statutory requirements on how HUD develops and administers its funding programs and review process for discretionary grants.

Further, HUD and DOT each have different historical relationships with the authorizing and appropriations processes. Generally, DOT's major surface transportation programs are authorized in six-year increments, which provides Congress an opportunity to comprehensively review program structure and funding changes, while also providing funding certainty to States, which is important for long-term infrastructure planning and project execution. HUD, in contrast, does not have a similar authorization but rather various statutes authorizing its programs (e.g., Community Development Block Grants, Title I of the Housing and Community Development Act of 1974; HOME Investment Partnerships, Title II of the Cranston-Gonzalez National Affordable Housing Act; Multifamily Rental Housing for Moderate-Income Families, Sec. 221 of the National Housing Act). Additionally, some HUD programs have evolved through annual appropriations acts. As a result, a number of different statues would need to be changed to address HUD barriers , whereas for DOT, most barriers would be addressed in surface transportation authorization.

Structural differences between the agencies are reflected in the organization and operation of agency programs and reflect some of the distinct provisions created. These differences are reinforced by the congressional committee structure. While the Senate Authorizing Committee structure allows for housing and transit issues to be considered in a coordinated fashion through the Senate Banking Committee, highway issues fall under the jurisdiction of Senate Environment and Public Works Committee. In the House of Representatives, housing and transportation issues have separate jurisdiction in the Financial Services and Transportation and Infrastructure Committees making the coordination of housing and transportation a greater challenge. The Appropriations Committees offer one opportunity within Congress where these issues do have shared jurisdiction through the Transportation, Housing and Urban Development (THUD) Subcommittees in both the House and the Senate.

And finally, the agencies have different relationships with local governments in terms of grants and funding. While a greater percentage of HUD's funding is distributed directly to municipalities, a significant portion of each agency's annual appropriations flows to states, either through block grants or formula funds. Given this structure, there are limitations on the ability of either agency to direct, and in some instances track, the use of these funds by state agencies or their sub-allocation to smaller jurisdictions within the state. As such, states are an essential player in achieving greater coordination between federal housing and transportation investments. States and local governments, however, may also experience challenges similar to those at the federal level given the historic lack of coordination at the state level between housing and transportation agencies, and other state agencies that address environmental, economic development, or health issues.

Taken together, these institutional barriers have manifested themselves in on-going and long-standing barriers to interagency coordination at the federal level, and challenges for local governments implementing HUD and DOT programs and projects at the local and regional level.

Efforts to Date to Identify Barriers to Sustainability

To begin to address these barriers, HUD and the Federal Transit Administration (FTA) entered into a June 2005 Interagency Agreement to help communities build transit-oriented residential development. A study completed in April 2007 entitled *Realizing the Potential: Expanding Housing Opportunities Near Transit,* included a number of recommendations for improved coordination between FTA and HUD, as well as strategies at the state, regional, and local levels. In August 2008, HUD and FTA jointly published a report to Congress on *Better Coordination of Transportation and Housing Programs to Promote Affordable Housing Near Transit*. The report outlined strategies developed by FTA and HUD for the planning and implementation of improved coordination of housing and transportation investments, and identified statutory barriers for the agencies to work to address.

DOT and HUD, and now EPA, continue to refine and further develop an understanding of how federal policies and programs affect local communities through the Partnership, and with input from regional and field office staff. In its first year, the Partnership held a listening tour in cities around the country and HUD posted a notice of public comment to elicit suggestions for how the three agencies could better coordinate efforts to promote sustainable communities. Numerous outside organizations responded to this federal invitation by providing recommendations to HUD and DOT on existing administrative, regulatory and statutory barriers. Partnership agencies are working to identify barriers to sustainable development and investment within their respective programs and to think about ways to reduce or eliminate them. In June 2010, the Partnership submitted a list of barriers it identified in a report to Congress as required by the FY2010 Appropriations Act.

One proposal to reduce barriers identified through this process was allowing communities to align HUD and DOT funding by using CDBG funds as a local match for highway transportation projects. Though the CDBG program explicitly allows these funds for such use in reality other federal requirements prevented their use as local match for transportation projects. Specifically, , HUD and DOT criteria for hiring construction contractors were in conflict with each other and had the effect of preventing CDBG funds from being used a source of funding in a transportation project.. Accordingly, on June 25, 2010, DOT implemented a Special Experimental Projects No 14 (SEP-14) waiver through the Federal Highway Administration (FHWA). This groundbreaking waiver allows transportation officials to accept HUD's local hiring preference rules for transportation-related projects.

Efforts to Address Barriers to Sustainability at HUD

The Consolidated Appropriations Act, 2010 (Public Law 111-117, approved December 16, 2009) provided a total of $150 million to HUD for a Sustainable Communities Initiative. HUD established grant programs to improve regional planning efforts that integrate housing and transportation decisions, and to increase the capacity of municipal, regional, and state government to change land use and zoning practices. Of that total, $100 million was made available for the Sustainable Communities Regional Planning Grant program, $40 million for Challenge Planning Grants, $8.5 million for a joint HUD and DOT research and evaluation effort, and up to $1.5 million for HUD's Transformation Initiative.

With Congressional support, HUD created a new office to realize this new federal role. The Office of Sustainable Housing and Communities (OSHC), under the direct supervision of the Deputy Secretary of HUD, ensures that the funds allocated in the FY2010 Appropriations Act are used wisely and effectively, maintains strong working relationships with other federal agencies; integrates sustainability principles into a wide array of HUD programs and policies; and builds the capacity within the urban planning and community development field to plan for and implement strategies that achieve sustainable communities. OSHC is organized into two major focus areas: Sustainable Housing and Sustainable Communities. Each division is responsible for working within HUD, with other federal partners and with stakeholders to implement an aggressive strategy for education and capacity-building, policy reform, and grant-making on sustainability.

HUD also created teams of staff in its regional and field offices to serve as partners and points of contact with sustainability stakeholders, listening to local ideas and delivering HUD's solutions in real time. More than 70 staff from HUD's program and field offices are participating in Sustainability Teams geographically distributed across its 10 regions. Staff on these teams are current HUD employees who are trained with additional skills and equipped to work with colleagues from DOT, EPA, and other agencies based in local communities.

There are many ways in which the Federal Government has promoted unsustainable development and limited local efforts to leverage and align federal funding for sustainable initiatives. As a member of the Partnership for Sustainable Communities, HUD has made it one of its top priorities to promote integrated community-based solutions. Specifically, HUD Secretary Shaun Donovan has said that HUD should not get in the way of communities that want to become more sustainable and that "first, doing no harm" shall be a key principle for the Department. The three Partnership agencies have received many recommendations for actions they could take, both administratively and legislatively, to help sustainability become business as usual. The agencies have been sorting through these recommendations, identifying actions that can be made quickly and easily and which ones will need legislative remedies to accomplish.

One example of the way the Partnership has worked together to remove key policy barriers to sustainability is the joint effort to respond to the President's Executive Order 13514 on Federal Leadership in Environmental, Energy, and Economic Performance. DOT, HUD, and EPA, along with a number of other federal agencies, including GSA and Homeland Security, were tasked with preparing guidance for siting new federal facilities or leasing space for federal offices that result in lower carbon and greenhouse gas emissions. The guidance consisted of ten sustainability criteria to be considered as part of all federal siting decisions. Among other considerations, the criteria stressed the importance of accessibility to transit and affordable housing. The recommendations have been forwarded to the White House Council on Environmental Quality for review and distribution to Federal agencies.

While each of the partner agencies continues to identify and prioritize removal of key barriers to sustainable and livable communities, HUD has begun to address the following policy and funding barriers:

- **Expediting the Use of Recycled Land for Housing**: In September 2009, the HUD Secretary Shaun Donovan announced changes to HUD's Multifamily Accelerated Processing (MAP) Guide to facilitate the use of HUD funds for construction of housing on cleaned-up brownfield sites. This new guidance rewards cities and property owners who seek to reuse brownfield sites for new housing.

- **Greening HUD-Assisted Housing**: When HUD received many more qualified applications to the Greening Public Housing program than could be funded with American Recovery and Reinvestment Act (ARRA) monies, HUD worked with the Department of Energy (DOE) to reduce the procedural burdens to determine whether such properties would meet the income eligibility requirements for DOE's weatherization funds. Now, when a property owner has a certificate from HUD confirming resident income levels, DOE will allow that property to move through their program with no further documentation related to income eligibility. This simply means that the building is income-eligible for the weatherization assistance program – not that the building automatically qualifies for weatherization assistance. The property must still meet all other applicable eligibility criteria. In addition, funding for individual projects will be a function of state or local weatherization priorities, and funding availability.

- **Rental Policy Working Group:** In early 2010, the White House Domestic Policy Council established an interagency working group, consisting of representatives from the Department of Treasury, the Department of Agriculture, and HUD, to respond to the need for better coordination of federal rental policy. The subsidy sources relied upon by developers and owners of affordable rental housing are administered by state, local, and federal agencies under authorities provided by Congress to at least three federal agencies. Through the efforts of the working group, the White House is implementing two pilot initiatives in a select number of states as part of a broader effort to better coordinate federal rental policy. The goal of these pilots is scalable policy reforms that may be implemented across the federal government. The pilots aim to reduce duplicative annual physical inspections on individual affordable housing properties and to streamline underwriting and subsidy layering practices for affordable housing.

- **HUD Sustainable Communities Initiative:** Finally, HUD is using the 87 grants that it awarded in FY2010 and future FY11 Sustainable Communities Planning Grant recipients as opportunities to uncover barriers to the implementation of plans for sustainable and livable communities at the regional and local levels. Throughout the execution of the FY2010 grants, barriers to coordinating housing and transportation efforts have been encountered at all levels. HUD is working with grantees and other federal agencies to identify these barriers as they emerge and to devise solutions, where existing authority allows, in a timely fashion.

Efforts to Address Barriers to Sustainability at DOT

Over the past two years, DOT has worked with HUD and EPA to seek opportunities to work more closely with local and regional governments and transit agencies primarily responsible for implementing livability projects that build sustainable communities. In the past, the majority of these efforts were accomplished without federal assistance because few programs administered by DOT were targeted at livability projects directly. To begin to directly fund local jurisdictions doing this work and to incentivize states and local governments to better integrate housing and transportation, DOT is using its existing authorities and funding differently.

Through the $1.5 billion Transportation Investment Generating Economic Recovery (TIGER) Grants, the $600 million TIGER II Grant Program, the $280 million for Urban Circulator and Bus Facility Grants Program, and the $35 million Regional Planning Grant Program, the Department used a competitive, merit-based evaluation process to fund some of the best projects from around the country. These discretionary grant programs in 2010 were instrumental in increasing the capacity of cities, counties, and regions, in addition to state governments, to plan and build projects that address housing and transportation challenges. While DOT formula programs are primarily administered at the state level, these discretionary programs recognized that capacity and resource levels are different across the country and allowed many innovative local projects to move forward.

In addition to building more livable communities directly, these discretionary grant programs are also building capacity at the local level. By joining together with HUD and EPA to review and award grants for localized planning activities, the grants will ultimately lead to projects that integrate transportation, housing and urban development. Approximately 800 applicants sought up to $35 million available in TIGER II planning grants and $40 million available in HUD Sustainable Community Challenge Grants.

DOT is also pursuing significant changes to the Transit New Starts Program. DOT is currently undertaking a rulemaking and seeking public comment on the development of measures to better capture all project-specific benefits, including non-mobility benefits in the cost-effectiveness calculation, and environmental and economic development benefits.

FTA has developed a *National Transit-Oriented Development (TOD) Database* that reflects important demographic and employment data for areas surrounding existing and planned fixed-guideway transit stations and intermodal terminals. By measuring and projecting transit demand, existing and potential TOD markets can be identified, thus allowing community development practitioners to evaluate change in communities near transit over time. FTA and HUD have also developed an action guide to help planners implement mixed-income, transit-oriented development. Both of these tools enable metropolitan planning organizations and regional councils to identify priority development areas in preparing consolidated land use and transportation plans.

In March 2010, the DOT issued a *Policy Statement on Bicycle and Pedestrian Accommodation Regulations and Recommendations*. The policy statement emphasizes the importance of addressing the needs of bicyclists and pedestrians in federally-funded road projects, discourages transportation investments that negatively affect cyclists and pedestrians, and encourages investments that go beyond the minimum requirements and provide facilities for bicyclists and pedestrians of all ages and abilities. Additionally, FTA has clarified the eligibility of bicycle and pedestrian facilities for federal transit funding, thus increasing bicycle and pedestrian accessibility by expanding the catchment area of transit stations.

Surface Transportation Authorization

Over the past year, DOT has worked with HUD and EPA as well as other federal agencies to address barriers to local coordination by developing administration-wide policies for surface transportation reauthorization that clearly articulate national goals for America's communities and reorients policies and programs to ensure the safety of travelers, the repair of the system, national economic competitiveness, and environmental sustainability. Core elements will significantly expand the level of integration between housing and transportation policies and provisions at the local level by empowering regions through changes to the suballocation of transportation funding to metropolitan planning organizations, expanding and integrating planning requirements, and creating incentives for local innovation.

The DOT policy proposal for surface transportation reauthorization builds on previous DOT successes to identify barriers to local sustainability by institutionalizing the successes and lessons learned by working with HUD and EPA as part of the Partnership for Sustainable Communities, thereby fundamentally reforming federal transportation programs to better serve local communities.

Institutional Reform

America's cities and metropolitan areas are home to the majority of Americans, and vary widely in terms of regional development, local economies, and government capacity. Recognizing communities of different sizes and capacities have different transportation challenges, DOT's proposal emphasizes policies and programs that provide cities with greater flexibility while ensuring accountability for results. The policy proposal changes the metropolitan planning organization requirements to apply to only those regions over 200,000 in population. The proposal also creates two tiers of MPOs, with MPOs of urban areas with populations of over 1 million and greater technical capacity (Tier I) to be given greater authority over project selection but also to be held to higher performance standards and planning requirements. Finally, the proposal features a new pilot program to allow up to three cities in the U.S. that have metropolitan FHWA offices to receive their share of highway formula funds directly from the Federal Highway Administration after certain administrative and legal requirements are established.

Planning Changes

The DOT proposal places greater authority – and greater responsibility – on the States and local governments that deliver transportation results. Improving the scope of the transportation planning process by State and metropolitan planning organizations will ensure that federal funds are used to complete thoughtful investments that improve the economic and social well-being of communities. Through innovative grant programs, program consolidation, and institutional reforms, the proposal seeks to change the way local governments plan, design, and build transportation projects to better meet the needs of local constituents. For instance, integrating transportation planning with housing and community development planning will not only improve connectivity and create new travel choices, but will also enable communities to consider the design of transportation and land use simultaneously.

Central to DOT's planning proposal is the transition to a performance-based, outcome-driven planning process in which States and MPOs are charged with considering a broad range of objectives, including housing, as part of the transportation planning process. Further, States and MPOs are required to coordinate their planning processes with other Federal, State, Tribal, and local entities responsible for related planning activities, including local governments, housing authorities, and community development agencies. Similarly, the DOT proposal significantly strengthens public participation guidelines to improve public transparency and input in the planning process.

Transportation Leadership Awards

Finally, to transition the transportation sector towards greater innovation and regional cooperation, the DOT envisions a new ‘Transportation Leadership Awards’ program to drive reform at the State and local level. Federally-inspired safety reforms such as seatbelt and impaired driving laws, have saved thousands of lives and avoided billions of dollars in property losses. The proposal would create a competitive grant program to provide incentives for State and local partners to adopt critical reforms in a variety of policy and programmatic areas, such as safety, livability, and demand management. This program would allow the Federal government to work with State and localities to set ambitious goals for their communities and work to achieve comprehensive packages of projects to reach them.

Federal Barriers to Local Sustainability

With this background and context, HUD and DOT present a compilation of barriers to local planning coordination that are exacerbated by the two federal agencies. The barriers that follow were compiled from input received from federal program offices, external stakeholder groups[1], and state, regional, and local governmental entities. Discussions with private foundations on leveraging public and private investment also informed this report. The lists below include a brief description of each barrier and an explanation of how the particular provision acts as a barrier to coordination between housing and transportation at the local level. Barriers range from outright prohibitions on coordination to burdens that make coordination more difficult, more time-consuming, or more expensive. Finally, the list identifies opportunities to address the challenge through existing or new legal authorities.

Based on the effect of each barrier, we have grouped the identified barriers into four categories. These categories represent common themes identified in previous HUD and DOT reports on coordinating housing and transportation, and also reflect the four priority areas where improved coordination between DOT and HUD may have the greatest impact on supporting local and regional strategies. The four categories are as follows:

- Location-efficient, Mixed-use Development
- Affordability and Access to High-Opportunity Locations
- Local Planning Coordination
- Streamlined Access to Federal Funding

For each category, we provide a summary of HUD and DOT's related goals and an explanation of why they are important to achieving the mission of sustainability. Additionally, a summary of the types of barriers in the category is provided, as well as a description of the possible benefits from addressing them and/or the liabilities associated with making changes at this juncture.

Location-efficient, Mixed-use Development

Expanding the location- efficiency of housing and transportation choices for people of all ages, incomes, races, and ethnicities will increase mobility and lower the combined costs of housing and transportation. On average, Americans spend 52 percent of their incomes on housing and transportation.[2] Research shows that when households have viable alternatives to driving – walking, biking, and public transit – their average transportation costs are significantly reduced.[3]

The demand for more location-efficient, mixed-use communities is also growing. Among people planning to buy a home in the next three years, 87 percent place a high importance on a shorter commute as their top priority. Asked to choose between two communities, six in ten prospective homebuyers chose a neighborhood that offered a shorter commute, sidewalks and amenities like shops, restaurants, libraries, schools, and public transportation within walking distance over communities with a more automobile-centric development pattern. [4]

This is due in part to America's demographics. The number of people over age 65 is expected to double over the next 30 years, increasing the percentage of Americans 65 and over from 12.4 to 19.7 percent of the total population.[5] Almost 60 percent of baby boomers say they plan to buy a new home when they retire and many are looking for more walkable, connected communities.[6] With this change in demographics, will also come a need for more choices in housing types and homes and apartments affordable and accessible to people of different incomes and abilities.

Approaches to lowering the combined cost of housing and transportation include expanding housing opportunities adjacent to transit, building more mixed-use developments with destinations close to home, and increasing development in existing neighborhoods that are centrally located. Transit-Oriented Development (TOD) presents unique opportunities for those communities with high-quality transit, to create housing in proximity to public transportation, and to address zoning, land use and financing issues that developers typically encounter when developing mixed-income housing projects. A growing number of suburban communities are developing Town Centers which combine retail, office space and housing often near community parks, trails and served by highway networks and public transportation connected to other regional centers. Many rural towns are experiencing a rebirth of Main Streets with shops and housing, and new trail networks that link small towns together and provide increased transportation options, while supporting tourism and local businesses. Collectively, these approaches are referred to as location-efficient development.

However, many local communities are facing difficulties using HUD and DOT programs to help achieve this goal. For example, some HUD programs limit the ability of housing and commercial uses to be developed together in a single property, and DOT programs do not clearly link federal funding for transportation projects to local development policies or joint development plans. To address these barriers, HUD and DOT are pursuing opportunities to encourage location-efficiency as a principle of sustainability and increase the number of mixed-use developments funded with federal dollars through the Sustainable Communities Challenge Grant Planning Program. DOT is also emphasizing the connection between land use, development, and transportation as a consideration in the metropolitan and statewide transportation planning processes. Despite these initial steps, much more could be done to facilitate location-efficient development.

Location-efficient, mixed-use development					
Barrier	Citation	Details	Options	Priority	Difficulty
Lack of federal financing specifically for place making and the development of ancillary infrastructure critical to successful transit-oriented development (HUD and DOT)	None.	While there are transportation, affordable housing, and community development funds, none of these funds are nimble enough to support projects that include a combination of these elements to support private investment for transit-oriented development (TOD). Consequently, very elaborate funding packages for private and non-profit developers are required.	ADMINISTRATIVE ACTION: The Administration has not developed any legislative proposal specific to this issue, but Congress has begun to offer potential strategies. Senators Bennett and Warner introduced an amendment during Committee mark-up of the Livable Communities Act in 2010 that would have authorized a credit enhancement tool to support ancillary investments to support TOD. Discussions within the administration have begun to identify the set of issues associated with the financing elements of TOD. More analysis is required to determine whether and what type of additional federal authority may be needed.	High	High
Barriers to leverage and align DOT and HUD funds to support more comprehensive mixed-use and mixed-income projects in communities with multiple transportation options (DOT and HUD)	49 C.F.R. Part 18.24 and GAO Redbook – Principles of Appropriations Law	The Sustainable Communities Regional Planning Grants were intended to address how federal funding programs do not typically incentivize local governments to undertake integrated planning that includes mixed-use development, transportation investments, affordable housing, retail and public open space to create a more sustainable community. Local project sponsors often face additional complexity in trying to utilize multiple federal resources for a project, each with different reporting requirements. This serves as a disincentive to leveraging federal resources within a project or area.	ADMINISTRATIVE ACTION: In 2011, HUD tied "Preferred Sustainability Status" to those communities that had achieved a qualifying score or grant in its Sustainable Communities Initiative. This status results in additional priority points being awarded to these communities if they compete in other HUD discretionary grant programs to help expedite the implementation of sustainability plans, and incentivize the coordination of other HUD investments with integrated housing, transportation and economic development plans. DOT is also considering opportunities to support livability principles including leveraging federal investments in its discretionary grant programs and adopting Preferred Sustainability Status (PSS).	High	Moderate
Inadequacy of transportation models to accommodate changes in development patterns or the impact of short, non-commute trips on transportation choices (DOT)	None.	Travel demand models used by States and MPOs to inform transportation decision making are not designed to adequately reflect non-auto trips and non-work trips. Accounting for all modes and purposes of travel is needed to examine the full benefits of transportation investments. While better modeling tools exist, the data collection, time, and costs associated with adopting them can be prohibitive and the benefits unclear.	STATUTORY ACTION: Appendix C includes language to authorize a new Transportation Leadership Awards program to incentivize states and MPOs to integrate better models into their decision-making process. Appendix D includes language authorizing a new capacity building program to assist MPOs in developing model improvements.	High	High
High affordable housing thresholds	IRS Revenue	Private foundations are permitted to make low-return investments, or program-related	ADMINISTRATIVE ACTION: HUD and Treasury could initiate	High	Moderate

to achieve a charitable purpose using program-related investments inhibit the development of mixed-income communities (HUD)	Procedure 96-32	investments (PRI), in furtherance of designated charitable purposes. Safe harbor requirements deem these investments to be charitable if the project in which the foundation is investing contains a threshold percentage of affordable housing and houses a designated percentage of low-income residents (75% of units are occupied by low-income residents and either at least 20 percent of the units are occupied by residents that also meet the very low-income limit (50% of AMI) for the area or 40 percent of the units are occupied by residents that also do not exceed 120 percent of the area's very-low income limit). This percentage threshold for affordable housing is typically too high to use PRI to create true mixed-income communities. Instead, PRI is used to develop communities of mostly low-income residents.	conversations to discuss issues surrounding PRI and mixed-income development to identify potential administrative or regulatory actions that may be warranted.		
FHA limitations on commercial uses in insured multifamily housing (HUD)	HUD Handbook 4560.1, 2-1(E) and 4560.3, 2-1(E)	Most of HUD's multi-family mortgage insurance programs currently allow commercial space to be included in residential buildings, with the amount strictly limited to 10% of floor area and 15% of revenue (under sec. 220, the limit is 20% of floor area and 30% of revenue). This requirement may limit the use of HUD mortgage insurance for affordable housing projects in mixed-use, transit-oriented districts.	ADMINISTRATIVE ACTION: HUD could revise its program guidelines to allow for a higher share of floor area and revenue from commercial space in FHA insured residential buildings. However, HUD has not yet determined whether these changes would increase FHA's credit risk. HUD is working to identify financially sound approaches to providing greater flexibility for mixed-use developments in locations that have strong market fundamentals and access to high-frequency transit. In order for this limitation to be relaxed, rigorous study is needed on both alternative approaches and the effects of any changes on the safety and soundness of the FHA GI/SRI Fund. Significant considerations involve commercial space turnover and vacancy losses. Standard residential tenant turnover and vacancy allowance losses are predictably minor and generally easy to recover with new tenant leases. These losses are accounted for in the projected annual residential net income to service the debt. Large commercial space turnover and vacancy loss present different challenges. A vacancy would make a large dent in cash flow and available net income to service debt. Additional analysis is needed to determine whether new requirements, such as maintaining a special commercial reserve account throughout the mortgage term, requiring a standby letter of credit, etc. may be warranted.	Moderate	Moderate

FHA appraisal practices may negatively affect properties located near fixed-guideway transit or within TODs (HUD)	24 CFR Part 35; HUD Handbooks 4150.1 and 4150.2	FHA regulations prohibit insurance of a mortgage on a property that exceeds designated hazard and noise standards. Among these standards are the noise level produced by proximity to railroad tracks and the hazard posed by overhead power lines. Both of these standards negatively affect TOD properties for being located near fixed-guideway transit.	REGULATORY ACTION: HUD could consider a revision to its environmental noise requirements to permit a trade-off between the benefits of TOD and the noise levels if the noise level exceeds HUD thresholds to better account for current transit and building practices. However, the potential consequences from loosening this standard would require careful consideration.	Moderate	Moderate
Limitations restricting eligible uses of land to only those for public housing (HUD)	U.S. Housing Act of 1937, sec. 9(d)(1) and (e)(1)(A)	Real estate that is acquired through HUD's public housing funds becomes encumbered by a Declaration of Trust (DoT) or Declaration of Restrictive Covenants (DoRC) for mixed-finance projects. The DoT or DoRC requires that the real estate must be used for eligible public housing activities; public housing funds may not be used for commercial uses. This strictly limits the potential for mixed-use developments that incorporate public housing.	ADMINISTRATIVE ACTION: HUD could provide technical assistance to communities on using HUD funds to develop public housing units within mixed-use developments. This can be accomplished by separating residential and commercial uses into adjacent buildings. It can also be accomplished for single structures that include both residential and commercial components by using a condominium regime or a long-term lease structure to create separate tax parcels for each component.	Moderate	Low
Requirement that a noise assessment must be completed on residential developments located within 3,000 feet of urban transit lines (HUD)	HUD Noise Assessment Guidebook, pursuant to 24 CFR 51.101(a)(1)(i)	HUD provides minimum national standards applicable to HUD programs to protect citizens against excessive noise in their communities and places of residence. For residential developments located within 3,000 feet of urban transit lines and railroads, the standards require that a noise assessment be completed. This poses a barrier to developing residential units located in transit-oriented developments in that it creates the burden of an additional analysis to be required for any TOD project.	ADMINISTRATIVE ACTION: Protecting the public from noise pollution is an important objective and many urban transit systems do have some level of noise associated with them. Modern transit technologies being adopted in most urban areas create lower levels of noise values; similar to that experienced on a standard street. HUD's existing guidance was developed in 1991 and does not reflect standard transit or building technologies to reduce noise. HUD could issue new guidance specific to urban transit lines which do not present the same noise concerns as heavy railroads.	Moderate	Low
Absence of alignment among requirements imposed by FHA and transit authorities seeking to develop TOD (HUD)	12 U.S.C. 17151(d)(4)	Through sec. 221(d)(4) and 220, FHA insures mortgage loans to facilitate the new construction or substantial rehabilitation of multifamily rental, cooperative or mixed use housing. One obstacle to the development of TOD using sec. 221(d)(4) or 220 is the conflicts between FHA programmatic requirements and the requirements imposed by the transit authority the owns the property to be developed.	ADMINISTRATIVE ACTION: Over the past year, FHA has successfully resolved these conflicts on a case by case basis and collaborated with transit authorities to develop TODs. FHA is using these experiences to identify best practices for synchronizing FHA requirements with the requirements imposed by transit authorities. Guidance could be provided to clearly communicate these policy priorities.	Moderate	High

Affordability and Access to High-Opportunity Locations

Developing safe, reliable, and economical transportation choices helps to decrease household transportation costs, reduce our nation's dependence on foreign oil, improve air quality, reduce greenhouse gas emissions, and promote public health. A 2004 study commissioned by FTA called *Hidden in Plain Sight* estimates that the demand for housing near transit will increase to 14.6 million households by the year 2030, more than double the six million households that currently reside within a half mile of transit.[7] As demand for walkable, transit-accessible neighborhoods grows, federal housing and transportation funding will increasingly need to be coordinated in order to ensure the benefits of these investments particularly are available to low-income households.

A 2009 study of 20 metropolitan areas found more than 250,000 subsidized affordable rental units located within one half mile of public transportation stops, with nearly 200,000 located within one quarter mile. Yet more than two-thirds of these units have subsidies that are set to expire within the next 5 years.[8] As demand increases for transit-oriented development, the continued affordability of many of these units will be placed in jeopardy, undermining the goal of equitable and affordable access to transit-oriented development. Additionally, many existing suburban and exurban communities lack adequate supply of affordable housing near employment and education centers that have moved outside of central cities.

The Sustainable Communities Initiative is designed to support regional, state, and local strategies that better coordinate transportation, housing, and development policies and investments to ensure not only more investment in affordable housing, but also more equitable distribution of affordable housing, including assisted housing, public housing, and unsubsidized affordable housing – near public transportation stops, job centers, and other essential destinations. Restrictive land use ordinances, policies, and practices can negatively affect individuals' ability to live in high opportunity areas, based upon their race, national origin, familial status or disability and other protected characteristics under the Fair Housing Act. To address these impediments to fair housing choice, coordinated governmental planning at both the regional and local level is essential to achieve both long-term sustainability and enhanced fair housing choice by linking public transportation with enhanced access to affordable housing, excellent public elementary schools, job training, and other essential services.

Due to the substantial costs involved in developing high-density housing near public transportation and in other sustainable contexts, major investments of public funds will be needed to ensure that a portion of these housing units are affordable to low- and moderate-income families. To protect this substantial public investment and ensure that low- and moderate-income families have continued access to sustainable communities, federal incentives for communities that provide covenants and other affordable housing protections for affordability over the longest-possible timeframe should be available.

Providing a number of quality transportation options, ensuring the affordability of housing in these areas, and increasing access to jobs and educational opportunities will increase regions' long-term economic resilience. Creating a range of housing opportunities in proximity to jobs saves households money. In 2008, Washington, DC region households living in the jobs-rich core spent about 30% of their income on housing and transportation, while those in the car-dependent outer suburbs spent over 40%.[9] These benefits insulate sustainable communities from volatile swings in the market. During the recent housing crisis, several studies found that homes located in walkable neighborhoods were statistically less likely to be foreclosed.[10] House values within a 10-mile radius of town or city centers were most stable and generally worsened with each successive radius ring as far as 50 miles from the center of the city.[11]

However, when transportation and housing development decisions are not coordinated, families are left facing difficult choices between high transportation costs or high housing costs. Some communities face barriers to increasing the number of transportation options, while others are unsure of the synergies associated with coordinated investments. Still, others are struggling to encourage affordable housing development near public transportation. HUD and DOT also recognize that different communities have different priorities and contexts for coordinating these investments, and that the needs and capacity of rural, suburban and urban communities varies. Creating opportunities for federal agencies to increase and incentivize this local coordination in collaboration with state and local governments would address many of these barriers

Ensuring affordability and access to high-opportunity locations					
Barrier	Citation	Details	Options	Priority	Difficulty
Absence of transportation costs and location-efficiency measures in the federal definition of affordable housing (DOT and HUD)	42 U.S.C. 1437, et seq.	Research has shown that combined housing and transportation costs can be a substantial burden on low-income families, and federal calculations of affordability and poverty do not take these costs into account.	ADMINISTRATIVE ACTION: HUD and DOT are working together to develop a federally recognized standard for calculating the combined costs of housing and transportation. Appropriate cost-effective programs will be identified for incorporation of the new standard. This standard could be integrated into appropriate federal programs intended to address poverty and location choice.	High	High
Limitations on programs to support neighborhood-level investments for comprehensive community revitalization (HUD)	None.	The *Choice Neighborhoods* program is an innovative approach to preserving the most distressed HUD-assisted and public housing. It does this by supporting local communities to transform distressed neighborhoods into sustainable, mixed-income neighborhoods with the affordable housing, safe streets, and good schools every family needs. Choice Neighborhoods provides local leaders tools to create and sustain quality affordable housing, and improve the lives of residents and their neighborhoods.	STATUTORY ACTION: In the 112th Congress, Senator Robert Menendez has introduced the Choice Neighborhoods Initiative Act of 2011, S. 624, which would authorize HUD's Choice Neighborhoods program.*	High	High
Limited access to rental assistance and affordable rental housing for working families, the elderly, and individuals with disabilities in location-efficient sites (HUD)	United States Housing Act of 1937, 42 U.S.C. 1437, et seq.	HUD administers several programs designed to reform rental assistance and public housing including reforms that can make it easier for communities, voucher holders, or public housing authorities to preserve and invest in transit-rich communities. The *Section Eight Voucher Reform Act*	STATUTORY ACTION: The Section Eight Voucher Reform Act was introduced by Senator Christopher Dodd in the 110th Congress as S. 2684 and again in the 111th Congress as H.R. 3045 by Representative Maxine Waters. Both bills amend the United States Housing Act of 1937 to update the housing voucher, project-based rental	High	High

* Legislation has been introduced in Congress, and thus for brevity has not been included in the appendices.

		(SEVRA) and the 2012 Budget proposes changes to the housing voucher, project-based rental assistance program and public housing. The revisions will increase access to rental assistance for working poor families, reduce administrative burdens on public housing authorities and private owners and unnecessary burdens placed on the elderly and disabled. The changes include, adding a definition of "extremely low-income" to the U.S. Housing Act, revising the deductions for elderly or disabled families, revising recertification for families on fixed incomes, providing an exception payment standard for individuals with disabilities and enabling HUD to provide more recent data to determine Fair Market Rents. HUD has developed the *Rental Assistance Demonstration* (RAD) program to enable public housing authorities to convert traditional public housing to project-based section 8 contracts or to project-based vouchers in order to leverage outside financing to make repairs and preserve the property. Owners of projects with Housing Assistance Payments (HAP) contracts and project-based vouchers can leverage other sources of financing for upgrades and needed repairs, while public housing has to rely primarily on what Congress appropriates each year.	assistance and public housing programs. Elements of the SEVRA legislation have been included in the FY 2012 Budget. HUD included in the FY2012 Budget elements from RAD to create a demonstration program to test the feasibility of leveraging private capital for public housing purposes. The demonstration would include 155,000 units and thereby encourage private housing authorities to maintain and enhance existing facilities. This will allow housing authorities to use the 20-year federal commitment to leverage additional private capital funding opportunities.*		
Minimum affordability periods may not be long enough to maintain affordability (HUD)	24 CFR 92.254	Section 215 of the National Affordable Housing Act requires HOME-assisted properties to meet affordability requirements for "the remaining useful life of the property, as determined by the Secretary, without regard to the term of the mortgage or to transfer of ownership, or for such other period that the Secretary determines is the longest feasible period of time consistent with sound economics and the purposes of this Act." The affordability periods established in the regulations are 5, 10, 15 or 20 years depending on the activity undertaken and the per-unit HOME subsidy. Under the regulations, these are minimum periods, and communities are permitted to establish longer affordability	ADMINISTRATIVE ACTION: Because the affordability requirements are minimum periods, HUD could provide in any technical guidance that it issues on transportation and housing coordination will indicate that HOME affordability periods can be extended to preserve the affordability of transit-oriented developments, as is currently being done in California,	High	High

* Legislation has been introduced in Congress, and thus for brevity has not been included in the appendices.

		periods. However, some communities do not extend the affordability periods beyond the minimum, even where longer periods are necessary to maintain affordability.			
Absence of provisions addressing housing affordability for major transit investment corridors (DOT)	49 U.S.C. 5309	Transit investments, while spurring economic development in communities, can cause social inequities resulting in population displacement, gentrification, and loss of affordable housing, if such investments are not paired with zoning to increase the supply of housing. Local land use policies should ensure adequate supply of housing to minimize social inequities. Although land use considerations are examined in both transportation planning and major capital transit investment (New Starts) processes, there are no specific requirements or incentives for preservation and/or creation of affordable housing in conjunction with such projects.	STATUTORY ACTION: Congress could enact legislation permitting the DOT Secretary, in the administration of the New Starts program, to consult with HUD, as appropriate, regarding guidance involving the assessment of economic development effects and policies related to affordable housing. REGULATORY ACTION: The Federal Transit Administration is in the process of a proposed rule making for the New Starts program.	High	Moderate
Limited flexibility in federal funds available to purchase and hold properties for long-term development in emerging high-capacity transit corridors for use as mixed-income housing and mixed-use development (HUD)	42 U.S.C. 5305(a)	Land acquisition is an eligible use of CDBG funds under section 105(a) of the Housing and Community Development Act of 1974 ("the Act)". Before acquiring real property in the CDBG program, the grantee must make a preliminary determination of whether the acquisition will meet a CDBG national objective based on the planned use. Acquiring land without a planned use is not allowed. Further, development must happen within a reasonable period of time (e.g. approximately five years after purchase). With land speculation occurring along proposed transit corridors, a growing number of communities are seeking ways to acquire property for future development opportunities but without a specific project identified at the time of purchase. This statutory limitation may be a barrier to mixed-income, transit-oriented development because it limits the ability of the CDBG grantee (or its partners) from acquiring land prior to land speculation, and developing land banking strategies that may require holding land for a period of time before the project is constructed. This is a particular problem for both non- and for-profit affordable housing developers seeking to build	ADMINISTRATIVE ACTION: Since section 105(a) already permits CDBG funds to be used for property acquisition and removal of slums and blight, HUD could issue new guidance to CDBG recipients that explains how property can be acquired and held for the longest permissible period and still comply with CDBG statutory requirements.	Moderate	Low

		housing targeted to low and moderate-income households.			
Communities are not directing their HUD formula funding investments to areas that expand access to high-opportunity locations within the community or region (HUD)	Consolidated Plan: 24 CFR 92.104 and 92.150	HUD formula programs (CDBG, HOME, etc) are administered by states and local jurisdictions who make the determination on where to invest these resources. As a condition for receiving funds, the community must have a HUD-approved Consolidated Plan.	ADMINISTRATIVE ACTION: HUD is designing enhancements to the Consolidated Plan to provide grantees with better data and tools to help them target and leverage their resources to address their greatest needs.	High	Low

Local Planning Coordination

State and local governments plan, design, and build transportation projects. They also are responsible for managing and maintaining affordable housing programs and regulating local land-use decision-making. While integrating transportation, housing, and community development planning is not currently a common approach, it enables communities to consider the design of transportation systems and land-uses simultaneously when looking at future growth, thereby potentially leveraging investments to achieve multiple benefits.

This approach can save communities money and also help households lower their transportation and housing costs. Directing development towards existing communities can reduce infrastructure costs and water use while reducing storm water runoff. Sacramento, California calculated a $9 billion savings in infrastructure from its Blueprint Smart Growth scenario to develop economic and residential centers tied by an efficient transportation system.[12] Similarly, the Envision Utah growth plan for the Salt Lake City region estimated a $4.3 billion savings in avoided infrastructure costs from pursuing a future growth plan that creates more transportation choices and better coordinates development near existing and future infrastructure. These avoided infrastructure costs represent savings to taxpayers.

Most federal funding for capital investments, such as roads, sewer lines, affordable housing, or public transportation are accompanied by federal planning requirements to ensure that the recipient has demonstrated the project's need and connection to other similar investments, to demonstrate local capacity to manage the project, and to provide an opportunity for public comment and government transparency. For the most part, these different federal planning requirements have not been coordinated between the various federal agencies. Plans may vary by geographic scale, jurisdictions, time horizons and required information to be reported.

Federal barriers exist to increasing the comprehensiveness of community planning efforts, including the outreach and public involvement and consistency of various plans. For example, decisions about land-use, housing, and transportation investments are made at different levels of government. HUD and DOT identified this area as an opportunity for additional technical assistance, grant funding, and training to ensure local communities have the tools to better integrate housing and transportation planning. However, this required many communities to begin to work together as state, region, county, city, or neighborhood levels, sometimes for the first time.

DOT, EPA, and HUD also recognize that these multiple planning requirements create costly administrative burdens and are seeking strategies to better align federal requirements and to incentivize regional coordination. The Partnership has created a working group to examine improved federal alignment of planning requirements. HUD's Sustainable Communities Regional Planning Grant program provides funding to local and regional governments to align these different planning elements. For many rural regions, this is the only source of federal funding to support the development of integrated plans that can help these communities develop more transportation options, support rural development plans, and support other local priorities.

Coordinating federal planning requirements					
Barrier	Citation	Details	Options	Priority	Difficulty
Barriers to federal planning support for communities that wish to integrate federally required plans (DOT and HUD)	Consolidated Appropriations Act, 2010 (P.L. 111-117); Department of Defense and Full-Year Continuing Appropriations Act, 2011 (P.L. 112-10)	DOT and HUD both have statutorily required planning requirements for receipt of federal funds. These requirements are not well aligned with one another, having different eligibility, timeframe, content considerations, and approval processes. The FY2010 HUD appropriation included $150 million for a Sustainable Communities Initiative that created two new grant programs to support this kind of planning integration at the regional and local community levels to strengthen community development strategies. These programs were continued in FY2011 and are significant to meeting the tremendous demand for this kind of integrated planning.	STATUTORY ACTION: Substantial reforms to the transportation planning process to heavily emphasize integration of housing and land-use plans and the continued congressional support of integrated federal planning programs are needed to address this barrier.	High	High
Decisions about transportation, land-use, and housing are made at different levels of government (non-federal), by different entities, and within different timelines. There is no requirement for coordination of transportation planning and housing planning programs (DOT and HUD)	Statewide transportation planning regulations: 23 CFR 450.200 (e.g., see 23 CFR 450.208 and 23 CFR 450.210). MPO regulations: 23 CFR 450.300 (e.g., see 23 CFR 450.306 and 23 CFR 450.316) Also see 49 CFR 613.	Planning requirements for long-term investments are not integrated or coordinated across agencies. The lack of planning coordination results in housing investments that do not support transportation choices and transportation projects that do not achieve longer term livability goals.	STATUTORY ACTION: Appendix B includes legislative text to require transportation agencies to consider housing and economic development plans and polices in the development of transportation plans. Appendix C authorizes a new 'Transportation Leadership Awards' program to build local decision-making and institutional capacity; a multimodal discretionary TIGER program to fund local innovative projects, and an infrastructure bank to fund large multimodal efforts. ADMINISTRATIVE ACTION: DOT and HUD are providing training and guidance to communities on opportunities to better integrate planning. The agencies are also working together to survey federally-required local plans and assess opportunities to align planning requirements.	High High	High Moderate
Differing definitions of "low-income" used in HUD and DOT programs (DOT and HUD)	JARC program: 49 U.S.C. 5316(a)(2) United States Housing Act: 42 U.S.C. 1437a	Various HUD and DOT programs target "low-income" individuals and households for funding. HUD and DOT, however, utilize different definitions of "low-income." HUD uses a definition of "low-income" based on household income and DOT uses a definition based on poverty level. This complicates joint grant-making from both agencies.	STATUTORY ACTION: Agencies should be provided discretion to incorporate a commonly defined measure of "low income" into their policies and programs.	Moderate	High

Streamlined Access to Federal Funding

Supporting communities undertaking these efforts and encouraging others to begin the process of coordinating housing and transportation investments requires HUD and DOT to begin to work more closely together to align programs. Joint funding programs – such as the recent Sustainable Communities Challenge and TIGER II Planning Grants– demonstrate to communities the benefits of increased local coordination and leverage agency-specific expertise at HUD and DOT to provide technical assistance and guidance to grantees. Further, the opportunity for awards to be made together demonstrates the federal commitment to working together and reinforces interagency relationships.

DOT and HUD issued a joint Notice of Funding Availability (NOFA) for TIGER II Planning/Community Challenge Grants in order to better align transportation, housing, economic development, land use planning, and to improve linkages between DOT and HUD programs. However, the agencies encountered significant challenges administering the grants agreements, aligning reporting requirements, and clarifying agency-specific financial regulations to ensure auditing requirements could be met. Many of the barriers identified result from implementation of this grant program because agencies are responsible for the obligation and expenditure of their own funds for appropriate purposes. These instances where programmatic requirements, budget and reporting systems, and statutory rules are incompatible are a major challenge to supporting local efforts. In some instances, statutory language governing the use of these funds created barriers, in other instances regulations governing how each agency administers funds and provides oversight created a barrier. In both instances, there are important public policy reasons behind these barriers. However, both agencies believe that steps could be taken to reduce the administrative burden placed on grantees yet still ensure the oversight and reporting requirements are met in future joint funding programs.

Congressional directives are needed to allow federal agencies to jointly administer targeted housing and transportation funds. This authority would need to be granted in a context specific manner, consistent with the "purpose statute," 31 U.S.C. § 1301, which prohibits the obligation or expenditure of funds for a purpose other than for which the funds were appropriated. If grant funds continue to be appropriated separately to be administered by HUD and DOT, significant financial management and fiscal barriers exist which prevent HUD and DOT from obligating funds to local communities that combine housing and transportation purposes. This barrier creates additional levels of bureaucracy and costs to grantees or the federal government.

Addressing the ability of HUD and DOT to fund projects jointly, could be alleviated through such measures as providing greater flexibility to HUD and DOT to obligate funds from joint grant agreements or by providing specific transfer authority to allow funds to be administered under the specific requirements governing that agency's funding. However, with each solution, additional language would be needed to address the statutory and regulatory conflicts to be resolved before administering the funds.

Streamlined Access to Federal Funding					
Barrier	Citation	Details	Options	Priority	Difficulty
Funding from HUD and DOT programs cannot be combined in	None.	DOT and HUD funds are appropriated separately. Despite common program goals, issuance of joint grant awards for combined housing and transportation projects is	STATUTORY ACTION: Congress could provide joint appropriations for HUD-DOT Planning Grants or provide some other specific	High	High

grant awards due to federal appropriation constraints (DOT and HUD)		statutorily prohibited (e.g., DOT TIGER II Planning grants and HUD sustainability grants). Due to the fact that funding is separately appropriated and joint funding of entities is prohibited, statutory and regulatory issues prevented the joint award of TIGER II Planning grants and HUD's sustainability grants and required grantees for jointly funded projects to sign two separate grant agreements, complicating and delaying project implementation.	legal authority permitting the pooling of funds from different agency appropriations. Including statutory transfer authority allowing one agency to administer jointly awarded funds under its rules and requirements would help in the administration of jointly funded programs. Alternatively or additionally, Congress could authorize a demonstration project to allow for a joint funding pilot program to identify areas of administrative streamlining and relief from joint auditing requirements.		
Inability to combine HUD funds (e.g. CDGB funds) with DOT funding due to DOT hiring preferences requirements that conflict with HUD Section 3 requirements (DOT and HUD)	23 U.S.C. 112, 12 U.S.C. 1701u, 24 CFR part 135	Section 3 of the Housing and Urban Development Act of 1968 requires states and localities, for CDBG-funded contracts exceeding a threshold amount and to the greatest extent practicable, to provide training and job opportunities to low-income residents living in a project area, and contracting opportunities for businesses that are owned by or that hire such low-income residents. This statutory requirement creates an obstacle for grantees seeking to use CDBG funds as local match for certain transportation projects. The problem is that while CDBG funds may be used as local matching funds, it is difficult to do so as Section 3 conflicts with DOT requirements. Prior to 2010, the Department of Transportation indicated that such requirements conflicted with Federal Highway Administration (FHWA) rules that discouraged hiring preferences. Consequently, states that undertook infrastructure projects with funding from HUD and DOT were required to award two contracts: one for FHWA-funded roadwork, and another for HUD-funded infrastructure work, such as the relocation of underground sewers, utilities or water pipes serving adjacent HUD-assisted properties. In 2010, DOT issued a notice under its Special Experimental Project No. 14 (SEP-14) authority to permit, on a case-by-case basis, the application of HUD's Section 3 requirements for jointly funded projects that otherwise may have conflicted with Federal-aid Highway Program requirements. Although there was little response to the SEP-14 in FY 2011, interest should increase as communities become aware of this opportunity to improve contracting efficiencies and save local and federal	STATUTORY ACTION: FHWA has implemented a waiver through the Special Experimental Projects No 14 (SEP-14) program which allows transportation officials to accept HUD's local hiring preference rules, on a case-by-case basis, for jointly funded transportation-related projects. DOT proposes to add permanent local hiring flexibilities for both transit and highway programs as part of a multi-year surface transportation authorization.	High	High

		taxpayer funds while enhancing livability and sustainability of communities benefiting from jointly funded projects.			
Numerous and distinct programs for transportation projects (DOT)	None.	The volume of surface transportation programs often require that local community's examine multiple programs in programming for transportation plans by both States and MPOs.	STATUTORY ACTION: DOT is proposing to consolidate 55 highway programs into 5 core programs, eliminating others and increasing flexibility.	High	High
Communities seeking Federal funds to support place-based investments must prepare different applications and go through different Federal grant-making processes (HUD)	None.	State and local governments are required to compete separately for each federal source of discretionary funds. This leads to frustrating and often costly preparation of numerous competition submittals, with little or no return on investment. HUD already offers Preferred Sustainability Status (PSS) to recipients of Sustainable Communities Initiative grants, gives participating governments and private sector applicants "automatic" bonus points on HUD competitions for place-based capital and program funds. PSS reduces the transaction costs associated with applying for HUD competitive funds, and allows local and state governments to leverage their PSS to attract private capital.	ADMINISTRATIVE ACTION: The federal agencies responsible for administering place-based discretionary programs would need to agree on a set of general eligibility requirements that allow transferability to the targeted grant programs and documentation that assures sister federal agencies that the applicant merits recognition. Once a shortlist of competitive grant programs is identified, a standard method for allowing bonus points or PSS recognition would be applied as these competitive opportunities are posted.	High	Moderate
Restrictions on the disclosure of information inhibits cross-agency coordination (HUD)	HUD Reform Act of 1989	The HUD Reform Act places strict limitations on the disclosure of information. HUD is prohibited from releasing information related to a NOFA's contents or its applicants. The contents of the NOFA may not be shared until the NOFA's publication in the Federal Register and the identity and number of applicants may not be disclosed until after the deadline for submitting applications has past. This presents practical obstacles to two future initiatives that HUD intends to pursue: issuing a joint NOFA with DOT for housing and transportation planning funds and implementing the Preferred Sustainability Status across the Partnership agencies.	STATUTORY ACTION: Congress could amend the HUD Reform Act or pass new legislation to permit disclosure of NOFA content and applicant information to DOT and other agencies during the drafting and issuance of a joint NOFA, as well as for purposes of a Preferred Sustainability Status program across agencies.	Moderate	High
Technology and institutional barriers prevent multiple agencies from issuing joint NOFAs (DOT and HUD)	None.	Grants.gov does not allow joint Notices of Funding Availability (NOFAs) online. Additionally, the Federal Register does not permit joint agency billing.	ADMINISTRATIVE ACTION: When more than one agency is involved, the system capability should be built to allow for a more streamlined and secure review process.	Moderate	Moderate

Conclusion

Coordinating housing and transportation investments is increasingly recognized as having the potential to improve the quality of life for American households by creating sustainable communities. These communities are places that have multiple housing and transportation choices, with amenity destinations close to home. As a result they tend to lower household transportation costs, reduce air pollution and stormwater runoff, decrease infrastructure costs, preserve historic properties and sensitive lands, save people time in traffic, increase economic resiliency and address unmet market demand.

HUD and DOT, working together with EPA, are helping communities create more economic opportunities and affordable housing while protecting their air and water and offering additional transportation choices. The need for a mix of housing types that is affordable to a range of family incomes is an important policy concern at all levels of government, including the federal government. Through its policies and investments, the federal government can help shape opportunities at the regional and local level to meet the growing demand for affordable housing near public transportation. Likewise, local desires to link housing with job creation can also be impeded by federal rules and procedures.

In a time of economic challenges and fiscal constraints, limited federal funds can be more effectively applied to projects that support economic revitalization and community development, while improving transportation and housing affordability and quality of life. By increasing access to jobs and the economy in regions large and small, federal investments can enhance the economic competitiveness for towns, regions, and the nation as a whole.

Appendix A. Public Transportation Livability Demonstration Grants Program

To authorize a Public Transportation Livability Demonstration Grants Program, amend Section 5317 to read as follows:

"Sec. 5317. Livability demonstration grants program

"(a) DEFINITION OF SUBRECIPIENT.-- In this section, the term 'subrecipient' means a State or local governmental entity, or a private nonprofit organization.

"(b) IN GENERAL.--The Secretary may make grants under this section to a State or local governmental entity for planning and capital projects that demonstrate--

"(1) the integration of a new or planned public transportation facility or service into a community, including activities that enhance the effectiveness of the public transportation facility or service that are physically or functionally related to the public transportation facility or service; or

"(2) innovative improvements to an existing underdeveloped or planned public transportation facility and surrounding area, provided that the improvements in such area are physically or functionally related to the public transportation facility.

"(c) ELIGIBLE PROJECT ACTIVITES.--For purposes of carrying out this program, eligible activities include--

"(1) transit station area planning;
"(2) real estate acquisition;
"(3) streetscape improvements;
"(4) pedestrian and bicycle access improvements;
"(5) demolition;
"(6) site preparation;
"(7) open space improvement;
"(8) permitting;
"(9) transit facility improvement;
"(10) intermodal facilities;
"(11) land preservation for affordable housing;
"(12) coordination of a public transportation facility or service with other community service facilities;
"(13) increasing ADA accessibility; and
"(14) transit-oriented development activities.

"(d) SELECTION CRITERIA.--The Secretary shall select projects for Federal assistance under this section based on the degree to which the project--

"(1) demonstrates innovative or best practices;
"(2) provides additional transportation choices;
"(3) promotes accessible, equitable, affordable housing;
"(4) enhances economic competitiveness;
"(5) supports existing communities;
"(6) coordinates Federal policies and leverages Federal investment; and

"(7) enhances the characteristics of rural, urban or suburban communities in a manner that includes promoting the planning process under sections 5303 and 5304 of this title.

"(e) PROJECT AND PROGRAM EVALUATION AND TECHNICAL ASSISTANCE.--The Secretary may use up to 2 percent of the amount made available or appropriated to carry out this section for--

"(1) project and program evaluation and analysis; and

"(2) technical assistance with respect to this section, including--

"(A) knowledge sharing;

"(B) peer-to-peer exchange;

"(C) information-sharing; and

"(D) industry-dialogue activities to best relate lessons learned.

"(f) GRANT REQUIREMENTS.--A grant awarded under this section shall be subject to such terms and conditions as the Secretary deems necessary.

"(g) GOVERNMENT'S SHARE OF COSTS.--

"(1) IN GENERAL.--A grant for a planning or capital project under this section shall be, at the option of the recipient, up to 50 percent of the net capital costs of the project, as determined by the Secretary.

"(2) REMAINDER**.**--The remainder of the net project costs--

"(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital; and

"(B) may be derived from amounts appropriated to or made available to a department or agency of the Federal government (other than the Department of Transportation) that are eligible to be expended for transportation.

"(h) COORDINATION WITH OTHER FEDERAL AGENCIES.--In providing financial assistance under this section, the Secretary is encouraged to coordinate--

"(1) investment decisions and development policies made under this section with other Federal transportation programs, as applicable; and

"(2) with the Environmental Protection Agency (EPA) and Department of Housing and Urban Development (HUD) to advance the livable communities demonstration projects to be carried out under this section.".

(b) CONFORMING AMENDMENT.--The item relating to section 5317 in the analysis of chapter 53 is amended to read as follows:

"5317**.** Livability demonstration grants program.".

Appendix B. Transportation Planning Process

To address housing and housing planning in the transportation planning process, amend 23 USC 134 (g)(4) and (5) and 49 USC 5303 (g)(4) and (5) “Metropolitan Transportation Planning” to read as follows:

"(4) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.--The Secretary shall require each MPO to cooperate with Federal, Tribal, State, and local officials and entities responsible for other types of planning activities that are affected by transportation in the area (including planned growth, economic development, telecommunications infrastructure, infrastructure services, housing, health services, public health, human services, energy, environmental protection, airport operations, high-speed and intercity passenger rail, freight rail, port access, transportation system safety, and freight movements) to the maximum extent practicable to ensure that metropolitan transportation plans and TIPs are developed with due consideration of other related planning activities within the metropolitan area, and the process shall provide for the design and delivery of transportation services within the metropolitan area that are provided by--

"(A) recipients of assistance under chapter 53 of title 49;

"(B) recipients of assistance under sections 201, 202, 203 and 204 of this title;

"(C) governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

"(D) sponsors of regionally significant programs, projects, and services that are related to transportation and that are receiving assistance from any public and/or private sources.

"(5) COORDINATION OF OTHER FEDERALLY REQUIRED PLANNING PROGRAMS.--The Secretary shall require each MPO to coordinate, to the maximum extent practicable, the development of metropolitan transportation plans and TIPs with other relevant, Federally required planning programs.

Appendix C. Transportation Leadership Awards

To authorize a Transportation Leadership Awards Program, amend 23 USC Section 134 (s) “Metropolitan Transportation Planning” to read as follows:

"(s) TRANSPORTATION LEADERSHIP AWARDS.--The Secretary shall establish a competitive program to promote the implementation of policies and procedures that support a performance-based transportation system. The program shall be jointly administered by the Office of the Secretary, the Federal Highway Administration, and Federal Transit Administration.

"(1) PURPOSES.--The purpose of this program is to reform the way transportation investments and decisions are made, implemented, and funded to achieve National transportation outcomes, including improved safety, economic competitiveness, livable communities, state of good repair, and environmental sustainability.

"(2) BEST PRACTICES.--Applicants shall be evaluated based on the extent to which each has adopted or implemented best practices, including--

"(A) Commitment to a variety of sustainable and innovative non-Federal sources of transportation funding, including value capture, user fees, and tax increment financing, that provide flexibility to make investments across all modes of transportation and convey the full social cost of travel decisions to users.

"(B) Use of analytical tools in the investment decision-making process, including economic analysis, life-cycle costing, asset management, and value for money and public sector comparator approaches; and use of innovations in design, procurement, purchasing, and other elements of project delivery.

"(C) Use of operating practices that increase the efficient use of system capacity and reduce the need to invest in new highway capacity, including the use of congestion pricing, ramp metering, and market-oriented pricing for parking.

"(D) Deployment of technologies and training to improve the condition and performance of transportation networks, and to address other transportation needs, such as workforce development and on-the-job training.

"(E) Adoption of laws, rules and regulations, and commitment of resources toward practices that have been demonstrated to reduce transportation-related fatalities and injuries.

"(F) Integration of transportation planning and investment decisions with other land-use and economic development decisions to improve connectivity and accessibility, and to focus transportation investments near existing infrastructure.

"(G) Collection and use of data in longitudinal analyses of investment performance and return on investment.

"(H) Adoption of laws, regulations, and practices that have been demonstrated to reduce energy use, improve air and water quality, reduce greenhouse gas emissions, enhance community health and quality of life, and expand transportation choices, including adoption of a complete streets policy that considers the needs of all transportation users and passenger-based level of service standards.

"(I) Use of a performance-based distribution process for the allocation of a significant portion of non-Federal funds and Federal transportation formula funds under the control of the applicant, as developed in accordance with the planning requirements developed under this section, sections 135 of this title, and sections 5303 and 5304 of title 49.

"(3) ELIGIBILITY.--Except as provided in paragraph (7)(C), States, the District of Columbia, Puerto Rico, Tribal governments, and MPOs are eligible applicants for funding under this subsection, provided that--

"(A) States, the District of Columbia, Puerto Rico, and Tribal applicants demonstrate meaningful participation of MPOs and local governments within the applicant's jurisdiction in the development of the application;

"(B) MPOs include, as partners in their applications, State, the District of Columbia, and local governments required to carry out the best practices relied on in their application; and

"(C) the applicant has experience in successfully and independently administering Federal-aid highway or transit programs or projects.

"(4) LIST OF PROJECTS.--Applicants shall submit a program of transportation projects that are related to the best practices identified in paragraph (2) to demonstrate how funds, if awarded, will be spent. The list of projects shall--

"(A) with regard to State applications, be developed with, and include priorities of, MPOs within the applicant's jurisdiction as identified in their TIPs;

"(B) be developed though the use of a multimodal, performance-based, comprehensive transportation planning process that includes linkage to housing, economic development, environmental, land use, and other infrastructure investment planning and investment, and a strong, interactive public input and awareness process;

"(C) demonstrate superior return on investment and competitive value for taxpayer money by means of a benefit-cost analysis of alternatives; and

"(D) further the best practices and reform initiatives identified under paragraph (2) in the areas most aggressively implementing them and relied upon in the application.

"(5) AWARD OF FUNDS.--The Secretary, in conjunction with the Federal Highway Administrator and Federal Transit Administrator, shall make $31,867,000,000 available for this program and shall--

"(A) competitively award funds under this section annually, starting in 2013, which shall include--

"(i) the publishing of detailed criteria for the first round grant awards at least one year before making awards;

"(ii) withholding a reasonable amount of funds under this section for administration of the program, but not to exceed $100,000,000 for each fiscal year;

"(B) devise a methodology for the size of awards under this program based on a State's share of the Federal transportation formula allocation, with awards being no less than $100,000,000 and no more than $1,000,000,000;

"(C) reserve the right to adjust an award amount for a Tribal government as appropriate relative to the applicant's share of Federal transportation formula allocation;

"(D) award funding to applicants that demonstrate the greatest performance, as well as applicants that have made the greatest progress, in implementing the best practices listed in paragraph (2);

"(E) for applicants that are awarded funding under paragraph (7), consider the progress in implementing the grant and the best practices for which the capacity building funding was sought;

"(F) take such measures so as to ensure an appropriate balance in addressing the needs of urban and rural communities; and

"(G) if an awardee applies for a subsequent round of funding under this program, consider the performance under the applicant's earlier grant.

"(6) ELIGIBLE ACTIVITIES.--

"(A) $17,152,000,000 of funds provided under this program will be reserved for projects eligible for funding under title 23 and $14,715,000,000 of funds provided under this program will be reserved for projects eligible for funding under chapter 53 of title 49.

"(B) A portion of the funding awarded under this program, no greater than 25 percent, may be reserved to create a State- or MPO-based competitive grant program to fund projects in a way that supports the implementation of reforms contained in this subsection at the local level and that includes at least an equal amount of non-Federal funds.

"(7) MANAGING PERFORMANCE GRANT PROGRAM.--Three percent of the funds made available under this subsection shall be reserved for a managing performance grant program to build technical and organizational capacity to implement best practices listed in paragraph (2).

"(A) AWARD OF FUNDS.--The Secretary, in conjunction with the Federal Highway Administrator and Federal Transit Administrator, shall conduct three rounds of grant-making under this paragraph in the first three fiscal years following the date of the enactment of the Transportation Jobs Act for the 21st Century, which shall include--

"(i) awards of no less than $1,000,000 and no more than $25,000,000; and

"(ii) ensuring an appropriate balance of the variety of State needs to improve capability and resource capacity.

"(B) ELIGIBILITY.--Entities eligible for funding under this paragraph may include States, the District of Columbia, Puerto Rico, Tribal governments, and MPOs.

"(C) ELIGIBLE ACTIVITIES.--Eligible activities may include improvements in and implementation of--

"(i) data collection, storage, and analysis systems;

"(ii) advanced transportation modeling, simulation, and analysis capable of providing reliable information for such applications as benefit-cost analyses, multimodal investment analyses, operational analyses, environmental assessments, evaluations of a wide range of policy alternatives, toll-facility revenue forecasts, and freight forecasts; and

"(iii) staff training to utilize new, more advanced systems; and departmental reorganization to support implementation of best practices.

"(8) CRITERIA FOR GRANT SELECTION.--In awarding a grant under this subsection, the Secretary shall consider the extent to which the application--

"(A) promotes National transportation priorities, including--

"(i) reducing transportation fatalities;

"(ii) strengthening economic competitiveness, including improvement to goods movement and encouragement of reuse of underutilized developed land;

"(iii) improving the state of repair of the transportation system;

"(iv) improving community livability by increasing access to jobs and necessities, particularly for non-drivers;

"(v) improving asset performance by reducing congestion through demand management strategies, particularly strategies that curb demand for single occupancy vehicle travel; and

"(vi) supporting environmental sustainability by reducing air emissions and water pollution, improving or protecting aquatic resources, and protecting sensitive lands;

"(B) provides for a multi-modal approach to solving transportation needs;

"(C) demonstrates the progress made through earlier grant awards, for applicants that are awarded funding in previous rounds of grant-making under this program; and

"(D) meets such other criteria as the Secretary may require.".

Appendix D. Livability Capacity Building Grant Program

To authorize a Livability Capacity Building Grant Program, enact the following language:

(__) LIVABILITY CAPACITY BUILDING GRANT PROGRAM.--

(1) IN GENERAL.--The Secretary shall establish a livability capacity building grant program in accordance with this subsection.

(2) PURPOSE.--The purpose of the livability capacity building grant program shall be to improve capacity of planners and stakeholders to participate in decision-making processes identifying projects in alignment with livability programs described in subsections (b) and (c) and leveraging other Federal investments.

(3) ELIGIBLE APPLICANTS.--A State department of transportation, tribal government, local government, metropolitan planning organization or rural planning organizations shall be eligible to apply for a grant under this subsection.

(4) ELIGIBLE PROJECTS.--To be eligible for funding under this subsection, a project shall be a project to--

(A) facilitate improved data collection to better incorporate livability into transportation planning through the use of a variety of data collection mechanisms, including household travel surveys, panel surveys, built environment inventories, employment inventories, and travel data collection related to bicyclists and pedestrians, including persons with disabilities;

(B) provide staff training to support livability-related transportation capacity building;

(C) furnish software and computer upgrades to support modeling and data collection as described in subparagraph (A);

(D) reorganize an eligible applicant's institution to better reflect the responsibilities and expertise needed to address livability in transportation plans and related activities;

(E)assist a transportation authority to develop integrated transportation, land use, housing, and environment planning efforts or to carry out a comprehensive transportation plan supported by the community, including those funded by Federal programs outside of the Department; or

(F) develop and implement transportation modeling, simulation, and analysis capabilities, including--

(i) methods for advanced travel models;

(ii) incremental improvements to trip-based models; and

(iii) emerging models for--

(I) providing reliable information for such applications as multimodal investment analyses, operational analyses, environmental assessments, evaluations of a wide range of policy alternatives, toll-facility revenue forecasts, and freight forecasts; and

(II) meeting Federal and State regulatory requirements.

(5) APPLICATIONS AND AWARDS.--

(A) APPLICATIONS.--An eligible applicant seeking a grant for an eligible project under this subsection shall submit an application in such form and in accordance with such requirements as the Secretary shall establish.

(B) CRITERIA FOR GRANTS.--In addition to eligibility requirements under paragraph (5), in awarding a grant under this subsection for a project, the Secretary shall consider--

(i) the extent to which the proposed project will help the applicant address the principles from the interagency partnership for sustainable communities between the Department of Housing and Urban Development, the Environmental Protection Agency, and the Department of Transportation;

(ii) the degree to which the project leverages investment; and

(iii) the extent of coordination and collaboration demonstrated between all relevant transportation entities in connection with the project.

(6) FEDERAL SHARE.--The Federal share of the cost of a project carried out under this subsection shall not exceed 80 percent.

(7) APPLICABILITY OF TITLE 23.--Funds made available to carry out this subsection shall be available for obligation and administered in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

(8) COORDINATION WITH OTHER FEDERAL AGENCIES.--In providing Livability Capacity Building Grants, the Secretary is encouraged to coordinate--

(A) investment decisions and development policies made under this section with other Federal transportation and livability programs, as applicable; and

(B) with the Environmental Protection Agency (EPA) and Department of Housing and Urban Development (HUD) to advance the principles of the Partnership for Sustainable Communities.

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