Enterprise

July 31, 2023

Ms. Debra Fuller,
Principal Financial Engineer - Economist
Office of Multifamily Analytics and Policy
400 7th Street, S.W., Washington, D.C. 20219

RE: The Federal Housing Finance Agency's Request for Input (RFI) on Tenant Protections at Multifamily Properties with Mortgages Backed by Fannie Mae and Freddie Mac

Dear Ms. Fuller,

Enterprise Community Partners (Enterprise) appreciates the opportunity to provide input, feedback, and information regarding tenant protections at multifamily properties with mortgages backed by Fannie Mae and Freddie Mac (collectively known as the Government-Sponsored Enterprises, or GSEs).

Enterprise is a national nonprofit on a mission to make home and community places of pride, power and belonging for all. To make that possible, we operate the only organization designed to address America's affordable housing crisis from every angle: we develop and deploy programs and support community organizations on the ground; we advocate for policy on a nonpartisan basis at every level of government; we invest capital to build and preserve rental homes people can afford; and we own, operate, and provide resident services for affordable communities. All so that people not only make rent, they build futures.

Enterprise is organized around three central goals: to increase housing supply, advance racial equity and build resilience and upward mobility. To achieve these goals, we operate across three divisions – Solutions, Capital, and Communities – that unify and leverage a family of companies together to execute our work. With our end-to-end approach, over 40 years of experience and thousands of local partners, Enterprise has built and preserved 951,000 homes, invested $64 billion in communities, and changed millions of lives.

As a developer, owner, and manager of affordable housing, Enterprise Community Development has decades of experience in engaging with and providing services to residents and their families to help them live their best lives. Enterprise provides services and solutions designed to deliver the strongest impact to the 23,000 residents in 13,000 homes across the Mid-Atlantic. Our Resident Services team actively engages with and listens to residents to connect them with programs and resources focused on their social, economic, and physical wellbeing. We prioritize opportunities for all residents to grow and thrive, and we do this through extensive outreach and communications and the adoption of evidence-based best practices across the industry, which we have leveraged to inform our responses below.

Enterprise brings together public and private resources to create neighborhoods of opportunity for low- and moderate-income people and strive to make home and community places of pride, power and belonging, and platforms for resilience and upward mobility for all. As part of our end-to-end approach, we have an ownership stake in Bellwether Enterprise, through which we also provide access to conventional mortgage products. Bellwether Enterprise is a Fannie Mae Delegated Underwriting and Servicing (DUS) Lender and Multifamily Affordable Housing Lender, a Freddie Mac Program Plus Seller Servicer and Targeted Affordable Housing Lender.

We commend FHFA's efforts to address challenges faced by tenants and property owners in the multifamily housing market. Enterprise is deeply invested in promoting tenant stability[1] and supporting promising policies and practices that can help guide owners and operators as they seek financial stability, while also limiting the occurrence and enduring negative impact of tenant instability, including evictions.[2] Before turning to the specific set of questions posed in the RFI, we encourage FHFA to expand existing and adopt additional initiatives that are intended to require and/or incentivize that adoption of the following tenant protections in multifamily properties with GSE-backed mortgages:

- **Source of income protections**:
  Source of income discrimination occurs when a landlord refuses to rent to someone because of their form of income, such as a housing voucher. Unfortunately, renters who rely on government assistance to pay their rent are not considered a protected class under the Fair Housing Act of 1968, spurring state and local governments to enact their own laws to protect renters from discrimination based on the source of their income. Nationwide, only 20 states and dozens of localities have source of income protection laws. When landlords refuse to accept government assistance as a form of payment, it becomes very difficult for voucher holders to find affordable housing.

  Enterprise supports federal protections that ban this form of housing discrimination, as proposed in the Fair Housing Improvement Act of 2023. Federal protections are necessary to ensure that all households who rely on nonwage sources of income, such as federal

[1] "Home for Good: Strategies to Prevent Eviction and Promote Housing Stability" (Enterprise Community Partners, September 2022), https://www.enterprisecommunity.org/sites/default/files/2022-09/HomeforGoodWhitePaper.pdf.
[2] Andrew Jakabovics et al., "Preventing and Mitigating Evictions after the COVID-19 Crisis — Principles and Practices for Rental Housing Owner" (The Urban Institute, February 1, 2023), https://www.urban.org/research/publication/preventing-and-mitigating-evictions-after-covid-19-crisis.

Enterprise

Housing Choice Vouchers, have choice and agency in where they live. While we would also urge all federal agencies who subsidize or insure multi-family housing to require source of income protections in their projects, we recognize that property owners have many sources of private capital to choose from and that the process of onboarding owners and units into the voucher system can carry financial and time costs. Therefore, until federal law is amended to prohibit this pervasive source of housing discrimination, we recommend that Fannie Mae expand the Expanded Housing Choice initiative's geographic scope, especially in jurisdictions that lack state or local source of income protections. We also encourage Freddie Mac to adopt a similar program to incentivize multifamily property owners with Freddie Mac-backed loans to accept HUD's Housing Choice Vouchers, while focusing on jurisdictions that lack state or local source of income protections. Pilot efforts to address other barriers to acceptance should also be considered. FHFA should support and encourage the expansion of efforts to make it easier for voucher holders to access stable, affordable homes, and when GSE pilots have a demonstrated record of impact, the process for making them nationally available permanent product offerings should be expedited.

Because GSE multifamily underwriting includes property inspections, FHFA should also work with HUD to explore establishing a presumption of compliance with HUD housing quality standards for properties with newly issued GSE-backed mortgages. This would allow potential tenants seeking to use a voucher to quickly access the unit and begin making rent payments. This would eliminate the extended period of time in which a unit is rented out but not generating income – cited by landlords as a major barrier to voucher acceptance.

- **Just-cause requirements:**
  Just Cause is the requirement that landlords may only evict renters for specific reasons, such as failure to pay rent, in order to protect tenants from arbitrary, retaliatory or discriminatory evictions. Just-cause requirements provide clarity and create standard processes when a tenant can be removed from a property. Due to the lack of a federal just-cause requirement, only some multifamily properties are covered by state and local just-cause measures in jurisdictions that have adopted such legislation. Enterprise recommends that FHFA requires just-cause for evictions at multifamily properties with GSE-backed loans. Clearly documenting lease violations is already considered to be an industry best practice.

- **Notice of rent increase:**
  Sufficient and written notice of upcoming rent increases provides tenants with clarity and the opportunity to search for new housing ahead of their lease expiration if they do not wish to renew their leases under the new rent price. While some state and local governments have adopted a range of notice of rent increase requirements, others lack such measures. Both Freddie Mac and Fannie Mae have adopted recent policy changes that require owners of

manufactured home communities with GSE-backed loans to provide tenants a minimum of 30 days written notice prior to any rent increases.

Freddie Mac-published research found there are currently minimum notice requirements in 20 states for multifamily housing, and at least 19 states specifically require at least 60 days' notice for residents of manufactured housing. As many large-scale owners already operate in multiple environments with such requirements, expanding their footprint should not pose a significant burden to GSE borrowers. Enterprise recommends that Freddie Mac and Fannie Mae extend its requirement to 60 days advance notice and apply the requirement to all multifamily properties with GSE-backed loans. Where current law requires longer notice than the 60 days proposed, should FHFA adopt this requirement for the GSEs to include in their loan documents, the longer notice period would be the operative protection period.

- **Fair access to rental housing:**
  It is essential to ensure that the rental application process is fair, transparent and does not induce unnecessary barriers, especially for low-income renters. This could be accomplished by ensuring applicants are not charged fees that exceed what it actually costs housing providers to process the received rental applications and providing applicants with clarity on why their applications have been rejected and the opportunity to appeal rejections.

  While some state and local governments have adopted varying measures that are intended to address unnecessary barriers to accessing rental housing, there are persistent challenges in the rental application process. Enterprise recommends that FHFA incentivize practices that ensure fair access to rental housing at multifamily properties with GSE-backed loans such as eliminating "junk fees," prohibiting landlords from charging tenants more than the actual cost of background checks and reasonable limits on security deposits.

Attached please find our responses to the questions posed by the FHFA in the agency's RFI on tenant protections at multifamily properties with GSE-backed mortgages. If you have any questions, please do not hesitate to contact Andrew Jakabovics, vice president for Policy Development, at ajakabovics@enterprisecommunity.org.

Sincerely,

Lori Chatman

Lori Chatman
Interim co-CEO
Enterprise Community Partners

A. General Questions on Tenant Protections

Question A-1: How should the Enterprises protect tenants in multifamily rental housing? What role should the Enterprises play in providing tenant protections at Enterprise-backed multifamily properties?

As discussed above, we believe the areas where GSEs' policies and product terms can protect tenants are in eliminating source of income discrimination, establishing just cause eviction practices, providing advance notice of rent increases, and facilitating fair access to rental homes. While the GSEs are not directly operators of rental properties, their requirements, as enshrined in loan documents, impact how properties are managed.

The GSEs have historically used a mixture of baseline lending product features and targeted incentives to achieve outcomes related to their charters and mission to support the availability of safe, affordable housing, as well as FHFA-regulated obligations, such as their Duty to Serve obligations to support three underserved lending markets: manufactured housing, affordable housing preservation, and rural housing markets. These practices can serve as a guide for FHFA in facilitating the GSEs' incorporating tenant protections into their lending offerings in the rental housing market. While the scope of this RFI is focused on GSE-backed loans for multifamily rental housing, given the share of rental housing covered by single-family channels (including the relatively more affordable 2-4 unit stock), we believe tenant protections should be extended to loans to investors in those homes as well.

Building on the GSE's current lending features and incentives that are intended to either advance mission-related goals or GSE-obligations, the GSEs' role in providing tenant protections at GSE-backed multifamily properties may include:

- Requiring the adoption of specific tenant protections at properties with multifamily GSE-backed loans. For example, Fannie Mae and Freddie Mac require borrowers with GSE-backed loans to implement a set of Tenant Site Lease Protections at manufactured home communities.
- Providing incentives to multifamily owners through GSE-backed multifamily loans, such as lower pricing, closing cost credits, or flexible loan terms. The GSEs can start by launching pilots that incentivize adopting specific tenant protections at multifamily properties with a GSE-backed loan, then require these protections at eligible multifamily properties with GSE-backed loans once the pilot has proven the financial feasibility and effectiveness of requiring such protections. These pilots can also demonstrate the value and feasibility of these tenant protections for the broader housing market. Freddie Mac and Fannie Mae have adopted lending incentives that are intended to encourage certain multifamily development and management practices, including but not limited to:

    - Fannie Mae's Expanded Housing Choice Voucher Pricing Incentive, which offers lower financing costs to incentivize multifamily property owners with Fannie Mae-backed loans to accept HUD's Housing Choice Vouchers (HCVs).
    - Freddie Mac's Multifamily Green Advantage Program offers better loan pricing for multifamily borrowers who commit to making improvements that would reduce whole property energy and water consumption.
- Requiring owners and operators of multifamily properties with GSE-backed loans to report on tenant and property performance in properties where tenant protections are incentivized or required. This step is important to launch efforts on data collection and analyses data on the financial feasibility and effectiveness of such tenant protections.
- The GSEs can play an educational role in the broader multifamily market by educating multifamily owners, operators, lenders, and tenants on the rights and responsibilities of each stakeholder, especially under any incentivized or required tenant protections. At a minimum, the GSEs can play an important role by educating these groups on best practices and effective strategies for tenant and multifamily property stability.
- Maintaining a public database of properties covered by tenant protections. Building off the CARES Act-driven effort to provide tenants with a mechanism to find out whether they were protected by federal eviction moratoria in GSE-backed properties, the GSEs should also support a lookup tool for residents to know their rights under the terms of the loan on their property. The system could also provide a mechanism for tenants to flag possible breaches of mortgage terms for the GSEs, allowing the GSEs to work with their borrowers to ensure compliance (or impose penalties as stipulated in the mortgage contract, as needed).

Question A-2: What minimum tenant protections should FHFA consider at Enterprise-backed multifamily properties? What are the benefits of each tenant protection, and what associated risks or challenges might the Enterprises face during implementation? Please provide specific examples as appropriate.

Housing should be free of discrimination of any kind. Although our laws have sought to address the nation's history of intentional and systemic racism in housing, many forms of discrimination persist even today, such as source of income discrimination, and onerous background checks that limit housing options for people who have had contact with the criminal justice system. At Enterprise, we believe that prospective renters should never face discrimination during their housing search, regardless of whether that housing is government subsidized. On the contrary, all rental housing should contribute to a household's financial stability and overall health and well-being.

As mentioned earlier, we encourage FHFA to support the GSEs expansion of existing initiatives and adoption of new incentives or requirements to ensure source of income protections, just-cause evictions, notices of rent increases and fair access to rental housing. The GSEs are well positioned to ensure these minimal but impactful protections are available to residents of multifamily housing, including multifamily properties with GSE-backed loans. As the protections we are recommending will be implemented through changes to mortgage documents, the GSEs will need to draft the appropriate language and educate their counterparties and other stakeholders on the changes that are being made. Similarly, systems will need to be updated to capture and report out additional data fields related to participation and compliance.

Question A-3: Are there opportunities for improvements to current Enterprise multifamily programs or policies that would benefit tenants directly? What impact might these improvements have on the finances and operations of multifamily rental housing?

The GSEs can adopt improvements to their existing programs and policies that would provide tenants with more fair access to rental multifamily housing with GSE-backed loan and better stability once they access these rental homes. Enterprise supported Fannie Mae in designing the GSE's Expanded Housing Choice and we encourage the GSE to expand the initiative to cover jurisdictions that lack state- or local-level source of income protections. We also encourage Freddie Mac to adopt a similar program to incentivize multifamily property owners with Freddie Mac-backed loans to accept HUD's HCVs. The GSEs can also incentivize practices that ensure fair access to rental housing at multifamily properties with GSE-backed loans, such as prohibiting excessive application fees and providing more transparency in rental application decisions.

While both GSEs have recently adopted a set of tenant protection requirements, known as the Tenant Site Lease Protections, for manufactured home communities with GSE-backed loans, Enterprise believes that there are opportunities to strengthen some of these requirements. We encourage the GSEs to strengthen protections for tenants residing in MHCs with GSE-backed loans, including but not limited to the right to cure rent payment defaults within a specified cure period, rent reasonableness and "just cause" eviction provisions. Enterprise also recommends that the GSEs improve the Tenant Site Lease Protections by retaining the 60-day advanced notice period for a planned sale, while establishing a 180-day notice for planned closures. We also recommend that tenants, nonprofits and public entities have the right to match any MHC purchase offer within 180 days of when an MHC with a GSE-backed loan is being sold.

Additionally, the GSEs can replicate some of the Tenant Site Lease Protections for multifamily housing properties with GSE-backed loans. Enterprise recommends that GSEs extend the notice of rent increase requirement included in the Tenant Site Lease Protections to a 60-day advance notice that covers all multifamily properties with GSE-backed loans. Where current law requires longer notice than the 60 days proposed, should FHFA adopt this requirement for the GSEs to include in their loan documents, the longer notice period would be the operative protection period. We also recommend that the GSEs require just-cause for evictions at multifamily properties with GSE-backed loans to help improve housing stability.

Question A-4: How might requiring tenant protections at Enterprise-backed multifamily properties impact housing supply, including new construction?

We do not anticipate that the protections we are recommending will have a demonstrable impact on housing supply. (As an aside, we note that there is no data available indicating the share of new multifamily construction where permanent financing is provided by the GSEs.)

Question A-5: Describe any gaps in available data that limit the ability to measure and assess the impact of various property management policies, procedures, and practices on tenants and the operations and finances of multifamily rental properties. How could such data gaps be addressed and what role might the Enterprises play?

Generally, there is a lack of sufficient data sets that would enable the multifamily housing industry to analyze the connections between requiring or incentivizing specific tenant protections and the performance of tenants (whether they are paying rent on time or abiding to property rules) and the financial performance of multifamily properties. Collecting and analyzing data on the following factors can help answer some of these questions:

- The connection between certain tenant screening practices, such as requiring specific credit scores, and the performance of tenants.
- Clarity and reasons behind rental application denial to better understand and address barriers to accessing rental homes.
- How application fees are being used to better understand whether these fees are reasonable or excessive and create barriers to accessing rental homes.

The GSEs can require owners and operators of multifamily properties with GSE-backed loans to collect and submit reports with property-level data, which would then enable the GSEs to support data analyses that can help answer some of the listed questions on the connections between requiring or incentivizing specific tenant protections and the performance of tenants and the financial performance of multifamily properties.

Question A-6: Is adequate information available publicly to assess the performance of the overall multifamily rental market in serving tenants? If not, please explain. What are potential solutions?

Generally, the publicly available information on how the overall multifamily rental market serves tenants are focused on the current state and local tenant protections (which often lacks information on implementation and enforcement) and the use of emergency rental assistance. There is an overall lack of publicly available data on the type and scale of tenant protections and services provided voluntarily or according to regulations by housing providers, especially market-rate housing owners and operators. This may include tenant protections that are not required by state and local jurisdictions or go beyond the state and local requirements. Public-private partnerships that are designed to collect property-level data on tenant protections and services provided by multifamily housing owners and providers, including properties that do not have GSE-backed loans, can help create large-scale public data sets that would be eventually analyzed to examine the performance of the overall multifamily rental market in serving tenants.

B. Access to Housing

Question B-1: How might the Enterprises address barriers to multifamily tenants' access to housing?

Renters face many barriers to equitable housing access. Many of them can be addressed by the GSEs through lending and pricing incentives.

- Discrimination: Discrimination poses one of the most pervasive barriers to housing, particularly for low-income households of color. Source-of-income discrimination is a persistent challenge which the GSEs are well-positioned to prohibit.
- History and Background: A history of involvement with the justice system or eviction history should not pose unreasonable barriers to housing. HUD has indicated it will soon be publishing guidelines for owners on best practices in tenant screening for persons with convictions, at which time the GSEs can issue guidance consistent with HUD to ensure that background checks do not violate federal Fair Housing laws. The GSEs can also encourage owners to consider whether eviction filings that show up on an applicant's background check resulted in a positive outcome, such as payment of owed debt.
- Disabilities and Other Needs: Across the country, there is a tremendous shortage of disability-accessible units to support the use of wheelchairs as well as the needs of persons who may be blind, deaf, or have specific sensory needs. The GSEs can promote design standards for these populations, such as those that Enterprise requires in sections 7.11, 7.12 and 7.13 of our 2020 Green Communities Criteria Category 7: Healthy Living Environments.
- Fines and fees: Renters should not be subject to excessive application fees, security deposits, or unreasonable background checks. As we note in our response to Questions A-3, A-5, B-3, B-4, C-1 and C-2, the GSEs should promote transparency in fees and follow HUD's recommendations on the elimination of "junk fees" and other unreasonable costs.

Question B-2: What actions should the Enterprises take, if any, to ensure universal acceptance of sources of income at Enterprise-backed multifamily properties?

In April 2022, Fannie Mae launched the Expanded Housing Choice initiative, a pilot that offers lower financing costs to incentivize multifamily property owners with Fannie Mae-backed loans to accept HUD's Housing Choice Vouchers (HCVs). Enterprise supported Fannie Mae in designing the pilot, which was designed and launched to drive greater acceptance of HCVs in the multifamily market, enabling more voucher holders to use their HCVs before they expire and to access rental housing in higher-opportunity areas. The program covers eligible properties in parts of Texas and North Carolina, providing a new pricing incentive for the states' multifamily property owners who accept HCVs. As part of this initiative, Fannie Mae has partnered with Enterprise to provide resources that help lenders and borrowers understand and get the most out of HUD's HCV program.

Enterprise encourages the expansion the Expanded Housing Choice initiative's geographic scope, especially in jurisdictions that lack state or local source of income protections, which prohibit landlords from refusing to rent their units to tenants who use housing vouchers or other forms of nontraditional income to cover part of their monthly rent. Enterprise also encourages Freddie Mac to adopt a similar program to incentivize multifamily property owners with Freddie Mac-backed loans to accept HUD's HCVs, while focusing on jurisdictions that lack state or local source of income protections.

As discussed above, we strongly urge FHFA and HUD to work together to make properties with newly issued GSE-backed mortgages presumptively compliant with HUD housing quality standards. Any property- or unit-level deficiencies identified by a voucher holder should be promptly addressed according to HCV program rules and subject to (re-)inspection as needed. Lowering barriers to landlord participation in the HCV program is a critical component of improving access to affordable housing by HCV holders and reducing the number of vouchers that cannot be used in their allotted timeframes.

Question B-3: What actions should the Enterprises take in support of existing federal fair housing laws, including protections related to familial status, accessibility, and design and construction standards?

While source of income protections are extremely effective in combatting housing discrimination, other policies and practices that can have a disparate impact on protected classes under the Fair Housing Act must also be addressed. From best practices in eviction protocols to the elimination of "junk fees", there are many tools to ensure that protected classes are not disproportionately harmed. To further support federal fair housing laws the GSEs can collect and monitor data on owners' eviction rates, substandard conditions, tenant screening, and violations of tenant organizing rights in order to identify potential fair housing violations.

The GSEs should also continue to provide financing tools - such as Freddie Mac's Green Advantage and Fannie Mae's Green Financing products – that help rehabilitate and create green, resilient housing. Enterprise believes that all homes should be safe, free of contaminants, efficient and able to withstand and respond to our evolving climate. We know that climate events and other disasters have a disproportionate impact on low-income communities of color and promoting resilience in all government-backed properties can increase fair access to quality housing.

Question B-4: Are there areas of the lease application process or tenant documentation requirements that could be streamlined? Would those changes benefit multifamily tenants, landlords, or both? Please explain and include examples of existing best practices, if applicable.

There is ample opportunity to streamline documentation requirements. Federally subsidized programs have varying requirements for qualification and eligibility. Given the scope and breadth of federal programs, balancing the conflicting requirements can pose risks around noncompliance for landlords in particular. This is especially true for small and nonprofits providers with limited resources, as staff must be extensively trained on all federal programs and compliance requirements, particularly for income certification.

There are also opportunities to streamline processes for tenants. The application process can be especially challenging due to background checks on credit and criminal justice involvement which can create barriers to entry. However, when tenants are well-informed of the rules and regulations pertaining to their histories, they can more efficiently navigate the rental market by knowing in advance which federal programs they may or may not qualify for. Given the cost of rental application fees and the competitive nature of affordable units, clear and uniform guidance among federally subsidized programs would reduce the cost burden on low-income residents during their rental housing search.

Lastly, there are opportunities to streamline the costs and fees associated with rental housing searches:

- Background checks: There are a variety of background checks on which landlords rely to make rental decisions. However, those checks should not be an opportunity to profit off a potential applicant. Landlords should be precluded from charging more than they pay for any type of background check.
- Deposits: As Freddie Mac noted in its nationwide inventory of tenant protections earlier this year, most states limits allowable deposits 1 to 2 months of rent. For federally subsidized or backed housing, similar limitations of 1 to 2 months can further streamline the lease signing process.
- "Junk" fees: Consistent with the call to action from HUD Secretary Marcia Fudge, there should be limits to amenity fees and prohibitions on hidden charges. Such protections should be afforded to all residents of federally subsidized or backed housing.

C. Access to Information

Question C-1: What information do multifamily tenants need to make well-informed decisions about applying for and leasing apartments? Do multifamily tenants have access to the information they need to make well-informed decisions? If not, please explain and identify specific gaps. What are potential solutions for increasing access to information? What are the associated challenges? Please include any best practices for providing "all-in" rental costs, utility cost responsibilities, and tenant amenity information.

Identifying available affordable housing, as well as navigating the application lease signing process, can pose significant barriers in securing a rental unit. Ensuring equitable access to information can have a profound impact on the decisions prospective renters make. Paramount is information about a tenant's rights, such as protections afforded under the Fair Housing Act, state or local limits on application fees and deposits, laws that pertain to an applicant's eviction, credit or criminal justice history, basic lease requirements, and a tenant's right to access to a copy of their lease.

Even when tenants are provided with information as required under law, there can be additional language and literacy barriers. Moreover, existing multifamily tenants often do not understand their income reporting requirements or recertification process in order to maintain eligibility in the program. As such, enforcing compliance with Title VI Limited English Proficiency standards can help to address discrimination based on English proficiency levels.

Question C-2: What are the components of a model rental agreement? Please provide sample leases or lease forms that might be considered exemplary.

At a minimum, rental leases should include basic protections that promote housing stability. Consistent with state and local laws, this includes:

- Clauses regarding the lease term, renewal provisions, and termination;
- Security deposit requirements for the lease and what will the landlord do with the deposit;
- A clear explanation of how rent may be paid and a requirement for the landlord to provide a receipt for rent paid;
- Limitations on what late fees may be charged;
- Clear provisions regarding which parties are responsible for utilities and any other expenses incurred;
- Any pet-related provisions;
- Requirements that landlords provide sufficient prior notice before they can enter onto the premises as required under law;
- A process by which tenants may report needed repairs and damages; and
- Both the landlord and tenant's contact information and any additional documentation as required under law, such as information on the unit's lead safety status.

As a best practice, owners and operators of rental housing can implement flexible and reasonable provisions, especially as it pertains to health and safety issues that may arise. For example, victims of domestic violence should be able to break leases without penalty. Households should also be able to utilize emergency response services (i.e. 911) in health or other emergencies without being in violation of their lease.

Question C-3: What role might the Enterprises play to enable multifamily tenants and landlords to be well-informed of their rights, to exercise their rights effectively, and fully meet their responsibilities? How could FHFA support efforts to collect, disseminate, and use this information?

Collective tenant action is often necessary to secure improved conditions when landlords, owners, or responsible agencies fail to comply with their obligations. Tenants often face harassment or retaliation for organizing or standing up for their rights. Most states do not protect tenants from retaliation for organizing their fellow tenants. Where possible, federally funded or backed programs should establish tenants' right to organize and provide funding for tenant outreach, education, and organizing.

Question C-4: How do you, your housing providers/property managers, or those you represent, communicate with current multifamily tenants? What types of notifications are used to communicate with tenants, and how are they delivered (*e.g.*, email, certified letter, postings in public spaces)? Please share examples of any relevant best practices.

As with any effective outreach effort, it is critical to employ as many communication modalities as possible to reach as many people as possible. Enterprise Community Development (ECD) utilizes a range of methods depending on the resident population, building layout and scope of residential services. Our resident portal is available to all our communities and provides an easy one-stop shop for paying rent, submitting work orders, and communicating with property managers. Our properties include "communication stations" were we post important announcements, and we simultaneously push those announcements out through text message, email, portal posting, and even letter mailings and paper flyers. Not all residents have access to a computer, so these traditional approaches continue to be effective and necessary. ECD provides multi-lingual notifications where appropriate and necessary. Together, these approaches ensure that computer access, English proficiency, age and personal preference do not pose barriers to outreach.

Question C-5: Do housing providers or property management companies provide multifamily tenants a point of contact and information about the property management company or housing ownership? Please share any relevant best practices.

Owners and property managers should ensure that renters always know who they can contact and how. In far too many places, renters do not know who owns their property or how to contact their property manager. If the building lacks on-site staffing, it can pose significant barriers and often leave residents with no recourse in the event of an urgently needed repair or other challenges.

ECD provides all of our residents with a point of contact upon lease signing, including a phone line that can be used 24 hours a day, 7 days a week. This is necessary to ensure that, at a minimum, residents have a point of contact for pressing or urgent situations. Each of our properties include a physical presence via a management office, and we provide residents with access to their Regional Manager if their needs are not adequately addressed by their site team.

Question C-6: Should landlords provide a written notice to prospective tenants that their lease application has been rejected, including a description of the reasons for rejection? What are the potential benefits and challenges of delivering such notices? If a written notice is provided, what information should it include?

Notifying prospective renters if their application has been denied should be standard industry practice. Internally, ECD provides individuals with written notice if an application has been denied, and we adhere to HUD guidance on notifications and appeals processes. As research from the Consumer Financial Protection Bureau has demonstrated, background checks can be flawed, incomplete or assigned to the wrong person especially when they have common or similar names. Providing individuals with information on the reasons for their rejection is the appropriate thing to do, so that potential tenants can demonstrate their eligibility if applicable. For example, prospective renters can be rejected for outstanding rental debts. When these debts prove to be inaccurate or reflective of excessive fees and inflated balances, it's critical that owners inform the applicant of the record and the amount of debt owed.

Some local jurisdictions have policies that guarantee an individual's right to appeal if their housing application is rejected, which affords them the opportunity to clarify any concerns that may have disqualified them, such as being misidentified in a credit report. Incentivizing or requiring those rights can ensure that those who qualify for rental housing are able to access it.

D. Tenant Housing Stability

Question D-1: Have any eviction prevention programs or policies (either voluntary or required) improved the housing stability of multifamily tenants? Please describe those programs and policies, how performance was measured, and please share any data or evidence on performance, if possible.

Enterprise has compiled a comprehensive list of eviction prevention and housing stability best practices, complete with examples of successful interventions and case studies in our Eviction Prevention Roadmap. As part of our in-depth report, we have detailed over 100 specific interventions that policy makers, courts, residents, nonprofits and landlords can take to improve resident stability within the four phases of a household's typical path to eviction, and we encourage the GSEs to promote, incentivize or require as many strategies as possible.

- Upstream Prevention: Prevention strategies that increase housing stability and reduce or eliminate the prospect of an eviction.
- After Arrears/Pre-Filing: Intervention strategies to provide options, court alternatives, and emergency assistance one a rent payment is missed but before an eviction has been filed. These strategies prevent eviction filings, keep residents in their homes and improve residents' rights in avoiding eviction.
- After an Eviction Filing: Mitigation strategies to assist tenants in navigating the court system after a landlord has filed for eviction, such as diversion programs, legal supports, and data transparency.
- Post Eviction: Harm reduction strategies to provide safe options and prevent homelessness after a court has determined that an eviction can proceed.

Question D-2: How can the owners and managers of Enterprise-backed multifamily properties reduce evictions and improve housing stability of tenants? What role can the

Enterprises play in promoting housing stability of tenants at Enterprise-backed multifamily properties?

Owners and operators play a tremendous role in determining the stability of their residents. The GSEs can require or incentivize owners to voluntarily implement the following best practices in states without corresponding protections:

- Source-of-income protections
- Just-cause eviction
- Right to cure/Pay to Stay
- Relocation assistance
- Eviction diversion
- Protection from retaliation

Additionally, the GSEs can play a key role in educating owners and operators about best practices for resident engagement, such as proactive outreach to tenants with late payments and connecting residents with social supports like food access.

Question D-3: Please provide recommendations on possible requirements that could apply to each of the following, and/or examples of existing policies, including an assessment of the benefits and/or drawbacks:

- **Lease renewals**
- **Timing and amount of rent increases,**
- **Upfront or ongoing fees,**
- **Causes for eviction,**
- **Notification of eviction actions,**
- **Right to cure a cause for eviction, and**
- **Time to vacate following eviction.**

Housing instability and unaffordability are leading causes of homelessness in the U.S. Policies aimed at helping people keep the housing they have is crucial in addressing the housing crisis. As we describe in our report, a shift to upstream prevention policies is necessary in order to address the root causes of these challenges. The report addresses each of these policies and includes best practices, case studies and examples. We recommend that the GSEs convene a workgroup comprised of industry representatives that include residents, owners and operators, investors, advocates, and other stakeholders to determine which best practices can be implemented in federally subsidized or backed housing.

Question D-4: Are tenants provided with resources on emergency rental assistance programs, offered repayment agreements, or offered legal resources? Do housing providers' current practices differ from the legal/regulatory standards that they are required to follow?

Like many other mission-driven affordable housing nonprofits, Enterprise Community Development provides on-site residential services aimed at improving housing stability and creating environments in which residents can thrive. This includes connecting residents with financial supports such as emergency rental assistance, hosting benefits fairs to connect residents with food and medical assistance and making connections to other community-based social supports in alignment with all legal and regulatory requirements.

As pandemic-era resources are quickly depleted, the ability of nonprofit providers to connect residents to critical resources and stabilize their housing has become increasingly difficult. The end of the federal Emergency Rental Assistance Program in particular has greatly limited providers' ability to cure arrearages and put renters on track to maintain their housing. Although we have largely recovered from the pandemic as a country, many low-income households continue to struggle with the impacts of inflation and stagnant wages. While we recommend that the GSEs create incentives for owners to provide critical on-site resident services, it is imperative that the federal government recognize the challenges for low-income households and fund ongoing emergency rental assistance.

Question D-5: Should the Enterprises define housing safety and if so, how?

Safe housing is structurally sound, provides adequate ventilation, and has safe and working heating, cooling, electricity, indoor plumbing, hot water and other basic standards of living. To be considered safe, housing should be maintained in good working order and comply with resilience standards that allow housing to continue to provide safe conditions as our climate changes. Quality inspection programs can ensure that owners prioritize both habitability and preventing displacement.
Using this definition would enable the GSEs to establish guidelines and standards to assess the resilience and vulnerability of homes to hazards including climate hazards such as heat stress, storms, wildfires, and flooding. By establishing a common definition, stakeholders including homeowners, lenders, and insurers would better understand the risks associated with different properties and make informed decisions regarding financing, insurance coverage and long-term investment.

To that end, Enterprise recommends that the GSEs increase awareness of foreseeable risks communities face by working with the White House and federal agencies to provide the best available science and data on climate risk uniformly across the country – at the address level. Address-level data can help identify the risks of climate-related events on properties and mortgages portfolios. The federal government has the true incentive to assess such risks and to protect people, properties, and financial investments from harm with a shared understanding of risk. Enterprise has developed a planning tool, Portfolio Protect, that helps housing owners and operators as well as developers understand their risk to natural hazards.

It is also important to establish safety criteria or metrics that can be used to evaluate the safety of housing including building design, elevation, stormwater management, and adherence to resilient building codes in addition to developing and promoting safety standards for the properties related to structural integrity, fire safety, electrical systems, plumbing, and other essential safety features. The GSEs can then incentivize homeowners and developers to implement retrofitting, upgrades and resilience measures that enhance the safety of existing and new housing stock. FHFA can also coordinate with other federal agencies such as FEMA, DOE, EPA, HUD and Treasury to align efforts across agencies and leverage existing resilience and green building frameworks, standards and certifications.

Question D-6: Should the Enterprises define housing habitability and if so, how?

Habitable housing is housing that does not compromise the health of its tenants. To be habitable, housing should be lead-safe and free of pests, hazards such as asbestos, and contaminants such as mold. It should also be able to withstand and respond to our changing climate, allowing residents to stay rooted and connected to the resources and opportunities in their communities.

It is essential for the GSEs to consider housing habitability within their purview. Defining housing habitability standards can help ensure that the properties financed or supported by Fannie Mae and Freddie Mac meet certain livability criteria. It is important to identify specific factors that affect habitability - such as lead-based paint, asbestos, extreme heat, humidity, and indoor air quality - and establish thresholds or guidelines for each factor to evaluate housing habitability.

In line with this approach, the GSEs should develop a set of criteria or metrics that can be used to evaluate housing habitability including insulation, ventilation, access to clean water, availability of heating or cooling systems, weatherization as well as mitigation measures in place to protect against extreme weather events. The GSEs can then provide guidance on actions properties can take to improve the habitability of properties and incentivize property owners to maintain their properties to meet habitability standards per the proposed definition above. Incentives can include offering favorable financing terms or providing resources and guidance on property maintenance, repairs or upgrades.

Adherence to such clear habitability guidance would help ensure that housing is suitable for human occupancy, taking into account climate hazards, and bolster tenant protection in the short and long-term. Monitoring compliance and enforcement through periodic inspections and tenant feedback is key to maintaining the habitability of the properties in the GSEs’ portfolios over time.

E. Risk Management

Question E-1: What are the potential short-term and long-term financial benefits and risks associated with requiring certain tenant protections at Enterprise-backed multifamily properties, and how might such benefits and risks change over time? How might such risks, now or in the future, affect the ability of each regulated entity to operate in a safe and sound manner, fulfill its statutory mission, transfer credit risk and foster liquid,

efficient, competitive, and resilient national housing finance markets?

Incentivizing or requiring specific tenant protections at multifamily properties with GSE-backed loans can lead to an improved overall property stability, with lower tenant turnover and costs related to vacancy and preparing the vacated units for new tenants. Additionally, when the GSEs universally require or incentivize tenant protections at multifamily properties with GSE-backed loans, this step removes any confusion or uncertainty regarding whether a specific multifamily property is covered by certain tenant protection requirements. This policy can improve the certainty and efficiency of the underwriting process for GSE-back multifamily loans as well as address any confusion and uncertainty among investors choosing multifamily properties with GSE-backed loans to invest in.

On the other hand, under certain circumstances, incentivizing or requiring certain tenant protections at multifamily properties with GSE-backed loans may significantly limit the ability of property owners and providers to cure repetitive lease violations, which could hurt the overall financial performance of the property. For example, non-rent of payment issues can accumulate and reduce the property's cash flow, potentially causing delayed or deferred property maintenance that can lead to deterioration. If this challenge occurs at scale, then it could negatively impact the financial health of multifamily loans purchased or pooled in mortgage-backed securities by the GSEs. We do not believe the protections we are recommending would have negative consequences for the GSEs' safety and soundness, however.

Question E-2: What potential benefits or risks to the Enterprises' lenders, servicers, and multifamily borrowers/property owners should the Enterprises consider when assessing each Enterprise's role in addressing tenant protections?

Potential risks for lenders and servicers that are related to incentivizing or requiring specific tenant protections at multifamily properties with GSE-backed loans may include confusion and uncertainty, which could be induced by the lack of clear guidance and uniformity of required or incentivized tenant protections at multifamily properties with GSE-backed loans. Potential risks among borrowers and owners of multifamily properties with GSE-backed loans may include significantly limiting their ability to cure repetitive lease violations, which could hurt the overall financial performance of the property. Potential benefits for these stakeholders may include achieving an improved overall property stability, with lower tenant turnover and costs related to vacancy and preparing the vacated units for new tenants.

Question E-3: How could the quality of housing units be assessed and how could the Enterprises support the ongoing monitoring of such efforts?

As discussed above, the underwriting standards for the GSEs include a focus on housing quality, and physical disrepair can be cause for placing a property on a watch list when servicers make property inspections. Properties participating in the voucher program (which we would like to see increased) are subject to housing quality inspections as well. In addition, where local governments require rental housing licenses, the licenses typically require routing inspections to confirm housing quality. All property inspections should be reported to the GSEs, with written confirmation of inspection results used to track compliance and quality. The GSEs could regularly report out on properties' housing quality (individually or in the aggregate), with a specific focus on properties with units at or below HUD fair market rent levels.

Question E-4: How should the Enterprises evaluate the impacts of multifamily tenant protections on their portfolios, on the supply of housing, and on renters?

Once baseline tenant protections are established for GSE-backed mortgages, the GSEs should regularly survey borrowers to identify how the protections are being implemented and what additional policies, procedures, or services are in place that are intended to further enhance resident stability. These survey results should be publicly reported and serve as a guide to other GSE borrowers to identify the suite of activities that are cost effective and impactful. The surveys should also capture data on rents, arrearages, resident turnover, and evictions.