

Public Housing

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Administering Agency: HUD's Office of Public and Indian Housing (PIH)

Year Started: 1937

Number of Persons/Households Served: 1,591,468 residents in 777,532 households (HUD's [Resident Characteristics Report](#) as of October 31, 2021). The number of residents and households has decreased from 2020's 1,661,575 residents in 802,805 households.

Population Targeted: All households must have income less than 80% of the area median income (AMI); at least 40% of new admissions in any year must have extremely low income (income less than 30% of AMI or the federal poverty level, whichever is greater.)

Funding: The FY22 spending bill provided \$3.388 billion for the Capital Fund and \$5.064 billion for the Operating Fund. The president proposed \$4.917, the House proposed \$4.922, and the Senate proposed \$5.044 for the Operating Fund. In FY21, \$2.9 billion was appropriated for the Capital Fund and \$4.9 billion was appropriated for the Operating Fund. FY20 funding was \$2.9 billion for the Capital Fund and \$4.5 billion for the Operating Fund.

See Also: For related information, refer to the *Rental Assistance Demonstration*, *Public Housing Repositioning*, and *Public Housing Agency Plan* sections of this guide.

The nation's nearly 1 million units of public housing, serving more than 1.5 million residents (down from nearly 2 million in previous years), are administered by a network of 2,791 local public housing agencies (PHAs), with funding from residents' rents and congressional appropriations to HUD. Additional public housing has not been built in decades. Advocates are focused primarily on preserving the remaining public housing stock.

Public housing encounters many recurring challenges. For instance, PHAs face significant

federal funding shortfalls each year, as they have for decades. In addition, policies such as demolition, disposition, and the former HOPE VI program resulted in the loss of public housing units – approximately 10,000 units each year according to HUD estimates. Congress authorized the expansion of the miss-named Moving to Work (MTW) Demonstration in 2016. MTW is fundamentally a scheme to deregulate public housing that can reduce affordability, deep income targeting, resident participation, and program accountability, all aspects of public housing that make it an essential housing resource for many of the lowest income people (see the *Moving to Work & Expansion* section in Chapter 4 of this *Advocates' Guide*). Also contributing to the reduction of public housing is HUD's Public Housing Repositioning campaign (see the *Repositioning of Public Housing* section of Chapter 4 of this *Advocates' Guide*).

HUD's two tools to address the aging public housing stock are the [Choice Neighborhoods Initiative](#) (CNI) renovation program that addresses both public housing and broader neighborhood improvements, and the [Rental Assistance Demonstration](#) (RAD) designed to leverage private dollars to improve public housing properties while converting them to either Project-Based Vouchers (PBVs) or Project-Based Rental Assistance (PBRA). See the *Rental Assistance Demonstration* section of Chapter 4 of this *Advocates' Guide*.

HISTORY

The "Housing Act of 1937" established the public housing program. President Nixon declared a moratorium on public housing in 1974, shifting the nation's housing assistance mechanism to the then-new Section 8 programs (both new construction and certificate programs) intended to engage the private sector. Federal funds for adding to the public housing stock were last appropriated in 1994, but little public housing has been built since the early 1980s.

In 1995, Congress stopped requiring that demolished public housing units be replaced on a unit-by-unit, one-for-one basis. In 1998, the “Quality Housing and Work Responsibility Act” changed various other aspects of public housing, including public housing’s two main funding streams, the operating and capital subsidies. Federal law capped the number of public housing units at the number each PHA operated as of October 1, 1999 (the Faircloth cap).

Today, units are being lost by the cumulative impact of decades of underfunding and neglect of once-viable public housing units. HUD officials have repeatedly stated that more than 10,000 units of public housing leave the affordable housing inventory each year due to underfunding. As a response HUD has promoted its “[Public Housing Repositioning](#)” policy, which has three components, all of which reduce the stock of public housing: [Section 18 demolition and disposition](#) (sale) of units, [Section 33 mandatory](#) and [Section 22 and voluntary conversion](#) of public housing to voucher assistance, and the [Rental Assistance Demonstration](#) (see the *Repositioning of Public Housing* section of Chapter 4 of this *Advocates’ Guide*).

According to HUD testimony, between the mid-1990s and 2010, approximately 200,000 public housing units had been demolished, while about only 50,000 units were replaced with new public housing units, and another 57,000 former public housing families were given vouchers instead of a public housing replacement unit. Another nearly 50,000 units of non-public housing were incorporated into these new developments, but they serve households with income higher than those of the displaced households and do not provide deep rental assistance like that provided by the public housing program.

PROGRAM SUMMARY

There were 953,611 public housing units as of October 31, 2021. According to HUD’s [Resident Characteristics Report](#), of the families served by public housing as of October 31 2021, 36% of household heads were elderly, 21% were non-

elderly disabled, and 30% were non-elderly families with children (not counting elderly and disabled households with children). The average annual income of a public housing household was \$15,875. Of all public housing households, 58% were extremely low-income and 22% were very low-income. Fully 76% of public housing households had income less than \$20,000 a year. Fifty-six percent of the households had Supplemental Security Income (SSI), Social Security, or pension income. Thirty percent had wage income, while 29% received some form of welfare assistance.

The demand for public housing far exceeds the supply. In many large cities, households may remain on waiting lists for decades. Like all HUD rental assistance programs, public housing is not an entitlement program; rather, its size is determined by annual appropriations and is not based on the number of households that qualify for assistance.

NLIHC’s report *[Housing Spotlight: The Long Wait for a Home](#)* is about public housing and Housing Choice Voucher (HCV) waiting lists. An NLIHC survey of PHAs indicated that public housing waiting lists had a median wait time of nine months and 25% of them had a wait time of at least 1.5 years. Public housing waiting lists had an average size of 834 households.

Eligibility and Rent

Access to public housing is means tested. All public housing households must be low-income, (have income less than 80% of the area median income, AMI), and at least 40% of new admissions in any year must have extremely low incomes, defined as income less than 30% of AMI or the federal poverty level adjusted for family size, whichever is greater. The FY14 HUD appropriations act expanded the definition of “extremely low-income” for HUD’s rental assistance programs by including families with income less than the poverty level to better serve poor households in rural areas. PHAs can also establish local preferences for certain populations, such as elderly people, people with disabilities, veterans, full-time workers, domestic

violence victims, or people who are homeless or who are at risk of becoming homeless.

As in other federal housing assistance programs, residents of public housing pay the highest of: (1) 30% of their monthly adjusted income; (2) 10% of their monthly gross income; (3) their welfare shelter allowance; or (4) a PHA-established minimum rent of up to \$50. The average public housing household paid \$379 per month toward rent and utilities in 2020. Public housing Operating and Capital Fund subsidies provided by Congress and administered by HUD's Office of Public and Indian Housing (PIH) contribute the balance of what PHAs receive to operate and maintain their public housing units.

With tenant rent payments and HUD subsidies, PHAs are responsible for maintaining the housing, collecting rents, managing waiting lists, and other activities related to the operation and management of public housing. Most PHAs also administer the Housing Choice Voucher Program (see the *Housing Choice Vouchers* section of Chapter 4 of this *Advocates' Guide*).

Most PHAs are required to complete five-year PHA Plans, along with annual updates, which detail many aspects of their housing programs including waiting list preferences, grievance procedures, plans for capital improvements, minimum rent requirements, and community service requirements. These PHA Plans represent a key way for public housing residents, voucher households, and community stakeholders to participate in a PHA's planning process (see the *Public Housing Agency Plan* section of Chapter 7 of this *Advocates' Guide*).

Public Housing Capital Fund and Operating Fund

PHAs receive two annual, formula-based grants from congressional appropriations to HUD, the Operating Fund and the Capital Fund. In FY21, \$2.9 billion was appropriated for the Capital Fund and \$4.9 billion was appropriated for the Operating Fund. FY20 funding was \$2.9 billion for the Capital Fund and \$4.5 billion for the Operating Fund.

In 2010, a study sponsored by HUD concluded that PHAs had a \$26 billion capital needs backlog,

which was estimated to grow by \$3.4 billion each year. Public housing associations estimate that there was approximately a \$70 billion capital needs backlog in FY20 that continues to grow.

The public housing Operating Fund is designed to make up the balance between what residents pay in rent and what it actually costs to operate public housing. Major operating costs include routine and preventative maintenance, a portion of utilities, management, PHA employee salaries and benefits, supportive services, resident participation support, insurance, and security. Since 2008, HUD's operating formula system, called "Asset Management," has determined an agency's operating subsidy on a property-by-property basis (called Asset Management Project, AMP), rather than on the previous overall PHA basis.

The Capital Fund can be used for a variety of purposes, including modernization, demolition, and replacement housing. Up to 20% can also be used to make management improvements. The annual capital needs accrual amount (estimated in 2010 to be \$3.4 billion each year) makes clear that annual appropriations for the Capital Fund are woefully insufficient to keep pace with the program's needs. A statutory change in 2016 (HOTMA, see "Statutory and Regulatory Changes Made in 2016" below) now allows a PHA to transfer up to 20% of its Operating Fund appropriation for eligible Capital Fund uses.

Demolition and Disposition

Since 1983, HUD has authorized PHAs to apply for permission to demolish or dispose of (sell) public housing units. This policy was made infinitely more damaging in 1995 when Congress suspended the requirement that housing agencies replace, on a one-for-one basis, any public housing lost through demolition or disposition. In 2016, HUD reported a net loss of more than 139,000 public housing units due to demolition or disposition since 2000. Demolition and disposition policy is authorized by Section 18 of the "Housing Act" with regulations at 24 CFR part 970 and various PIH Notices.

Demolition Improvements from 2012 Removed by the Trump Administration

In 2012, after prodding from advocates, PIH under the Obama Administration clarified and strengthened its guidance ([Notice PIH 2012-7](#)) regarding demolition and disposition in an effort to curb the decades-long needless destruction or sale of the public housing stock. This guidance clarified the demolition and disposition process in a number of ways. For example, the guidance unequivocally stated that a proposed demolition or disposition must be identified in the PHA Plan or in a significant amendment to the PHA Plan, and that PHAs must comply with the existing regulations' strict resident consultation requirements for the PHA Plan process, the demolition or disposition application process, and the redevelopment plan. That guidance also reminded PHAs that HUD's Section 3 requirement to provide employment, training and economic opportunities to residents applied to properties in the demolition and disposition process. The review criteria for demolition applications had to meet clear HUD standards, and no demolition or disposition was permissible prior to HUD's approval, including any phase of the resident relocation process.

In 2018, the Trump Administration eliminated the modest improvements to HUD's demolition/disposition guidance that advocates helped HUD draft in 2012 ([Notice PIH 2012-7](#)) and replaced it with [Notice PIH 2018-04](#) in order to make it far easier to demolish public housing, and to do so without resident input and protections. In addition, the Administration withdrew proposed regulation changes drafted in 2014 that would have reinforced those modest improvements. All of this was a part of the Administration's "repositioning" of public housing through demolition and voluntary conversion of public housing to vouchers. Its goal at the time was to reposition 105,000 public housing units in FY19 alone by streamlining the demolition application and approval process. See the *Public Housing Repositioning* section of Chapter 4 of this Advocates' Guide.

The Biden Administration has, as of December 1, 2021, not taken any action to remove [Notice PIH 2018-04](#) and replace it with more robust guidance containing resident protections similar to [Notice PIH 2012-7](#). Nor has the Biden Administration indicated an intent to issue improved demolition/disposition regulations similar to those proposed by the Obama Administration. PIH continues to promote [Public Housing Repositioning](#).

Rental Assistance Demonstration

As part of its FY12 HUD appropriations act, Congress authorized the [Rental Assistance Demonstration](#) (RAD), which allowed HUD to approve the conversion of up to 60,000 public housing and Section 8 Moderate Rehabilitation Program units into either project-based Section 8 rental assistance contracts (PBRA) or project-based vouchers (PBV) by September 2015. Since then, Congress has increased the cap three times, first to 185,000 units, then to 225,000, and now to 455,000 units by September 30, 2024. The Senate FY22 appropriations bill proposed expanding the cap to 500,000 units and extending the time to convert to September 30, 2028, which NLIHC opposes. The authorizing legislation contains several provisions intended to protect public housing residents whose homes are converted to PBRA or PBV through RAD.

The Obama and Trump Administrations, along with many developer-oriented organizations, urged Congress to allow all nearly 1 million public housing units to undergo RAD conversion even though the "demonstration" has yet to adequately demonstrate that the resident protection provisions in the statute are being fully realized. Many residents whose public housing properties have been approved for RAD complain that PHAs, developers, and HUD have not provided adequate information, causing many to doubt that resident protections in the authorizing legislation will be honored by PHAs and developers or monitored by HUD. The National Housing Law Project sent a [letter](#) to HUD Secretary Carson in 2017 listing numerous problems residents had experienced, such as illegal and inadequate resident relocation practices, unlawful resident re-

screening practices, and impediments to resident organizing. See the RAD section of Chapter 4 of this Advocates' Guide for more information.

Choice Neighborhoods Initiative

The Choice Neighborhoods Initiative (CNI), created in FY10, was HUD's successor to the HOPE VI Program. Like HOPE VI, CNI focuses on severely distressed public housing properties, but CNI expands HOPE VI's reach to include HUD-assisted, private housing properties and entire neighborhoods. Although unauthorized, CNI has been funded through annual appropriations bills and administered according to the details of HUD Notices of Fund Opportunity (NOFOs). HUD proposed eliminating CNI in FY19, FY20, and FY21, but Congress has continued to approve funding for CNI, approving \$150 million in FY19, \$175 million in FY20 and \$200 million for FY21. The FY22 spending bill provided \$350 million for CNI.

HUD states that CNI has three goals:

1. **Housing:** Replace distressed public and HUD-assisted private housing with mixed-income housing that is responsive to the needs of the surrounding neighborhood.
2. **People:** Improve employment and income, health, and children's education outcomes; and
3. **Neighborhood:** Create the conditions necessary for public and private reinvestment in distressed neighborhoods to offer the kinds of amenities and assets, including safety, good schools, and commercial activity, that are important to families' choices about their community.

In addition to PHAs, grantees can include HUD-assisted private housing owners, local governments, nonprofits, and for-profit developers. The CNI Program awards both large implementation grants and smaller planning grants. CNI planning grants are to assist communities in developing a comprehensive neighborhood revitalization plan, called a transformation plan, and in building the community-wide support necessary for that plan

to be implemented. Ninety-nine planning grants totaling more than \$48 million were awarded through December 2020.

CNI implementation grants are intended primarily to help transform severely distressed public housing and HUD-assisted private housing developments through rehabilitation, demolition, and new construction. HUD also requires applicants to prepare a more comprehensive plan to address other aspects of neighborhood distress such as violent crime, failing schools, and capital disinvestment. Funds can also be used for supportive services and improvements to the surrounding community, such as developing community facilities and addressing vacant, blighted properties. Forty implementation grants totaling a little nearly \$1.2 million were awarded through May 2021.

Although each NOFO has been different, key constant features include:

- One-for-one replacement of all public and private HUD-assisted units.
- Each resident who wishes to return to the improved development may do so.
- Residents who are relocated during redevelopment must be tracked until the transformed housing is fully occupied.
- Existing residents must have access to the benefits of the improved neighborhood.
- Resident involvement must be continuous, from the beginning of the planning process through implementation and management of the grant.

The FY21 NOFO was issued on November 17, 2021, announcing \$218 million available for awards of up to \$50 million each. The Lead Applicant must be a PHA, a local government, or a tribal entity. If there is also a Co-Applicant, it must be a PHA, a local government, a tribal entity, or the owner of the target HUD-assisted housing (e.g. a nonprofit or for-profit developer).

Moving to Work

A key public housing issue is the so-called Moving to Work (MTW) demonstration that

provides a limited number of housing agencies flexibility from most statutory and regulatory requirements. Because this demonstration program has not been evaluated, and the potential for harm to residents is at stake, NLIHC has long held that the MTW demonstration is not ready for expansion or permanent authorization. Various legislative vehicles have sought to maintain and expand the current MTW program. Today, there are 39 PHAs in the MTW demonstration. The MTW contracts for each of these 39 PHAs were set to expire in 2018, but in 2016 HUD extended all of them to 2028.

The three MTW statutory goals are:

1. Reducing costs and increasing cost-effectiveness
2. Providing incentives for resident self-sufficiency
3. Increasing housing choices for low-income households

PHAs granted MTW status (“MTW agencies”) must meet five statutory requirements:

1. Ensure that 75% of the households they assist have income at or below 50% of area median income
2. Establish a reasonable rent policy
3. Assist substantially the same number of low-income households as a PHA would without MTW funding flexibility
4. Assist a mix of households by size comparable to the mix a PHA would have served if it were not in MTW
5. Ensure that assisted units meet housing quality standards

In practice, HUD’s enforcement of these requirements for the original 39 MTW agencies has been highly permissive.

The FY16 funding bill for HUD expanded the MTW demonstration by a total of 100 PHAs over the course of a seven-year period. Of the 100 new PHA MTW sites, no fewer than 50 PHAs must administer up to 1,000 combined public housing and voucher units, no fewer

than 47 must administer between 1,001 and 6,000 combined units, no more than three can administer between 6,001 and 27,000 combined units, and five must be PHAs with portfolio-wide awards under RAD. PHAs will be added to the MTW demonstration by cohort (groups), each of which will be overseen by a research advisory committee to ensure the demonstrations are evaluated with rigorous research protocols. Each year’s cohort of MTW sites will be directed by HUD to test one specific policy change.

The four cohorts were planned as follows:

- “MTW Flexibilities” will involve smaller PHAs that have a combination of 1,000 or fewer public housing units and vouchers. This cohort allows PHAs to use any of the regulatory waivers in the Final MTW Operations Notice (see below) in order to evaluate the overall effects of MTW flexibility on the PHA and its residents. HUD will compare outcomes related to MTW’s three statutory objectives between the MTW PHAs and PHAs assigned to a control group. Applicant PHAs will be assigned by lottery to be MTW PHAs, waitlist PHAs, or control group PHAs. As of the writing of this article 31 PHAs have been selected and PIH has
- “Rent Reform/Stepped and Tiered Rent” will involve 10 PHAs testing “rent reform” ideas of using “stepped rents” or “tiered rents,” which PIH claims is designed to “increase resident self-sufficiency and reduce PHA administrative burdens.” Stepped rent is a form of time limit; it is a scheme that increases a household’s rent on a fixed schedule in both frequency and amount, starting at 35% of adjusted income and growing each year. “Tiered rents” involve a household paying a fixed amount if their income is in a set range, which could result in rent burden. Only PHAs with a combination of at least 1,000 non-elderly and non-disabled public housing residents and voucher households were eligible. NLIHC and other advocates urged PIH not to implement this cohort because of its serious potential to impose cost burdens on residents.

- “[Landlord Incentives](#)” will explore ways to increase and sustain landlord participation in the Housing Choice Voucher program. PIH anticipates 30 PHAs will be in this cohort.
- “[Work Requirements](#)” was rescinded in June 2021. NLIHC and other advocates vehemently opposed this proposed cohort.

As of the drafting of this article, PIH had expressed its intention to establish another MTW Flexibility cohort and is exploring other options for a fifth cohort.

In January of 2017, HUD issued a draft MTW Operations Notice for public comment. It proposed three categories of statutory and regulatory waivers that MTW agencies could pursue:

1. General waivers available without review by HUD to all MTW expansion agencies.
2. Conditional waivers available if approved by HUD. Conditional waivers were expected to have a greater and more direct impact on households.
3. Cohort-specific waivers available only to MTW agencies implementing a specific cohort policy change.

[NLIHC’s comment letter](#) conveyed strong opposition to the inclusion of work requirements, time limits, and major changes to rent policies among possible conditional waivers. Because such policies have the potential to cause substantial harm to residents in the form of severe cost burden, housing instability, and perhaps homelessness, those policies should only be allowed as cohort-specific waivers subject to the most rigorous evaluation required by the MTW expansion statute.

On October 11, 2018, HUD issued a revised Operations Notice for public comment. It was far worse than the previous draft. The revised proposed Operations Notice would allow a PHA to impose a potentially harmful work requirement, time limit, and burdensome rent “MTW Waiver” without securing HUD approval and without the rigorous evaluation called for by the statute. [NLIHC’s formal comment letter](#) stated that such

waivers should only be allowed as part of a rigorous cohort evaluation.

A [final Operations Notice](#) was published on August 28, 2019. The most important components of the final Operations Notice for advocates to read are the three appendices. Appendix I “MTW Waivers” charts “MTW activities” that MTW agencies may implement without HUD approval, as long as they are implemented with the “safe harbors” tied to the specific allowed MTW activity. Appendix II has instructions for any required written impact analyses and hardship policies. Impact analyses are required for certain activities, such as work requirements, term-limited assistance, and stepped rent. Written financial and other hardship policies must be developed for most MTW activities. Appendix III explains the method for calculating the requirement that MTW agencies house substantially the same number of families as they would have absent MTW.

Four basic categories of waivers are: “MTW Waivers,” “Safe Harbor Waivers,” “Agency-Specific Waivers,” and “Cohort-Specific Waivers.”

MTW Waivers: MTW agencies may conduct any activity/policy in Appendix I without PIH review and approval. However, each specific eligible activity/policy has specific “safe harbor” requirements/limitations that an MTW agency must follow, for example requiring a hardship policy or not applying an activity/policy to elderly people.

Safe Harbor Waivers: MTW agencies may request PIH approval to expand an MTW Waiver activity/policy in Appendix I in a way inconsistent with the safe harbors for that specific MTW Waiver activity/policy. PIH has not yet provide instructions on how PHAs may justify such requests. However, when submitting a Safe Harbor Waiver, an MTW agency must hold a public meeting to specifically discuss the Safe Harbor Waivers. This meeting is in addition to following the PHA Plan public participation process requirements. The MTW agency must consider, in consultation with the Resident Advisory Board (RAB) and any tenant

associations, all of the comments received at the public hearing. The comments received by the public, RABs, and tenant associations must be submitted by the MTW agency, along with the MTW agency's description of how the comments were considered, as a required attachment to the MTW Supplement (see below).

Agency-Specific Waivers: MTW agencies may seek PIH approval for an Agency-Specific Waiver in order to implement additional activities not among those in the Appendix I. The request must have an analysis of the potential impact on residents as well as a hardship policy. A PHA must follow the same public participation process described above for Safe Harbor Waivers.

Cohort-Specific Waivers: MTW agencies may be provided Cohort-Specific Waivers if additional waivers not included in Appendix I are necessary to allow implementation of the required cohort study. Cohort-Specific Waivers will be detailed in the applicable Selection Notice for that cohort study.

MTW agencies will submit an "MTW Supplement" to the Annual PHA Plan. The MTW Supplement must go through a public process along with the Annual PHA Plan, following all of the Annual PHA Plan public participation requirements. So-called "Qualified PHAs," those with fewer than 550 public housing units and vouchers combined will be required to submit an MTW Supplement each year.

An MTW agency must implement one or multiple "reasonable rent policies" during the term of its MTW designation. PIH defines a reasonable rent policy as any change in the regulations on how rent is calculated for a household, such as any Tenant Rent Policies in Appendix I.

MTW PHAs will maintain MTW designation for 20 years, with the MTW waivers expiring at the end of the 20-year term. The previous Operations Notice had a 12-year term.

An MTW agency's MTW program applies to all of the MTW agency's public housing units, tenant-based HCV assistance, project-based HCV assistance (PBV), and homeownership units.

An MTW agency may spend up to 10% of its HCV HAP funding on "local, non-traditional activities," as described in Appendix I, without prior HUD approval. Examples include providing: shallow rent subsidies, rent subsidies to supportive housing programs to help homeless households, services to low-income people who are not public housing or voucher tenants, and gap-financing to develop Low Income Housing Tax Credit (LIHTC) properties. An MTW agency may spend more than 10% by seeking PIH approval through a Safe Harbor Waiver. NLIHC urged PIH to remove this option because it has the effect of reducing the number of HCVs a PHA could use to house residents.

See also, the *Moving to Work and Expansion* article in Chapter 4 of this *Advocate's Guide*.

STATUTORY AND REGULATORY CHANGES MADE SINCE 2016

HOTMA Changes

On July 29, 2016, President Obama signed into law the "Housing Opportunity Through Modernization Act" (HOTMA). This law made some changes to the public housing and voucher programs. The major public housing changes are:

- For residents already assisted, rents must be based on a household's income from the prior year. For applicants for assistance, rent must be based on estimated income for the upcoming year.
- A household may request an income review any time its income or deductions are estimated to decrease by 10%.
- A PHA must review a household's income any time that income with deductions are estimated to increase by 10%, except that any increase in earned income cannot be considered until the next annual recertification.
- The Earned Income Disregard, which disregarded certain increases in earned income for residents who had been unemployed or receiving welfare, was eliminated.

- When determining income:
 - The deduction for elderly and disabled households increased to \$525 (up from \$400) with annual adjustments for inflation.
 - The deduction for elderly and disabled households for medical care, as well as for attendant care and auxiliary aid expenses for disabled members of the household, used to be for such expenses that exceeded 3% of income. HOTMA limits the deduction for such expenses to those that exceed 10% of income.
 - The dependent deduction remains at \$480 but will be indexed to inflation.
 - The deduction of anticipated expenses for the care of children under age 13 is unchanged.
 - childcare deduction is unchanged.
 - Any expenses related to aiding and attending to veterans is excluded from income.
 - Any income of a full-time student who is a dependent is excluded from income, as are any scholarship funds used for tuition and books.
 - HUD must establish hardship exemptions in regulation for households that would not be able to pay rent due to hardship. These regulations must be made in consultation with tenant organizations and industry participants.
- If a household's income exceeds 120% of AMI for two consecutive years, a PHA must either:
 - Terminate the household's tenancy within six months of the household's second income determination, or
 - Charge a monthly rent equal to the greater of the Fair Market Rent (FMR) or the amount of the monthly operating and capital subsidy provided to the household's unit.
- A PHA may transfer up to 20% of its Operating Fund appropriation for eligible Capital Fund uses.

- PHAs may establish replacement reserves using Capital Funds and other sources, including Operating Funds (up to the 20% cap), as long as the PHA Plan provides for such use of Operating Funds.

HUD issued a final rule on July 26, 2018 implementing the 120% over-income limit. HUD issued Notice PIH 2018-19 implementing HOTMA's minimum heating standards. On September 17, 2019, HUD proposed HOTMA implementation regulations basically echoing HOTMA's income examination, income calculation, elderly or disabled deduction, child-care deduction and hardship provisions, and healthcare deduction and hardship provisions. In addition, HUD proposed HOTMA asset limitation provisions, including: making households ineligible if their net household assets are greater than \$100,000 (adjusted for inflation each year) or if the household owns real property suitable for occupancy; allowing a PHA to determine net assets based on a household's certification that their net family assets are less than \$50,000 (adjusted for inflation each year); revising the definition of "net family assets" by eliminating a number of previously included items such as the value of necessary "personal property" (like a car); and allowing a PHA to choose to not enforce the asset limit. NLIHC summarized key provisions of the proposed changes. A final rule was not implemented before *Advocate's Guide* went to publication, but one is anticipated in 2022.

Streamlining Rule

A final "streamlining rule" was published on March 8, 2016. Key public housing provisions include:

- PHAs have the option of conducting a streamlined income determination for any household member who has a fixed source of income (such as Supplemental Security Income, SSI). If that person or household with a fixed income also has a non-fixed source of income, the non-fixed source of income is still subject to third-party verification. Upon admission to public housing, third-party verification of all income amounts will be

required for all household members. A full income reexamination and redetermination must be performed every three years. In between those three years, a streamlined income determination must be conducted by applying a verified cost of living adjustment or current rate of interest to the previously verified or adjusted income amount.

- PHAs have the option of providing utility reimbursements on a quarterly basis to public housing residents if the amounts due were \$45 or less. PHAs can continue to provide utility reimbursements monthly if they choose. If a PHA opts to make payments on a quarterly basis, the PHA must establish a hardship policy for tenants if less frequent reimbursement will create a financial hardship.
- Public housing households may now self-certify that they are complying with the community service requirement. PHAs are required to review a sample of self-certifications and validate their accuracy with third-party verification procedures currently in place.
- Many of the requirements relating to the process for obtaining a grievance hearing and the procedures governing the hearing were eliminated.

Smoke Free Public Housing

A final “smoke free” rule was published on December 5, 2016. PHAs must design and implement a policy prohibiting the use of prohibited tobacco products in all public housing living units and interior areas (including but not limited to hallways, rental and administrative offices, community centers, daycare centers, laundry centers, and similar structures), as well as at outdoor areas within 25 feet of public housing and administrative office buildings (collectively referred to as “restricted areas”). PHAs may, but are not required to, further limit smoking to outdoor designated smoking areas on the grounds of the public housing or administrative office buildings in order to accommodate residents who smoke. These areas

must be outside of any restricted areas and may include partially enclosed structures. PHAs had until August 2018 to develop and implement their smoke-free policy. HUD has a public housing smoke-free housing [webpage](#).

FUNDING

The FY22 spending bill provided \$3.388 billion for the Capital Fund and \$5.064 billion for the Operating Fund. For FY21, \$2.9 billion was appropriated for the Capital Fund and \$4.9 billion was appropriated for the Operating Fund. In FY20 the Capital Fund received \$2.87 billion and the Operating Fund received \$4.55 billion. In FY19, the Capital Fund received \$2.775 billion and the Operating Fund received \$4.653 billion, a slight increase above \$7.34 in FY18 and a helpful increase above \$6.34 billion from FY16 and FY17.

FORECAST FOR 2022

Subsidy funding for public housing has been woefully insufficient to meet the need of the nation’s nearly 1 million public housing units. Without adequate funds, more units will go into irretrievable disrepair, potentially leading to greater homelessness. In 2022, funding will continue to be a major issue.

WHAT TO SAY TO LEGISLATORS

Advocates should ask Members of Congress to:

- Maintain and increase funding for the public housing Operating and Capital Funds.
- Support public housing as one way to end all types of homelessness.

FOR MORE INFORMATION

NLIHC, 202-662-1530, www.nlihc.org.

NLIHC’s Public Housing webpage, <https://bit.ly/36UfpLU>.

NLIHC’s *Housing Spotlight: The Long Wait for a Home*.

NLIHC’s Summary of September 17, 2019 proposed HOTMA implementation regulations, <https://bit.ly/2kr70dt>.

National Housing Law Project, 415-546-7000,
<http://nhlp.org/resourcecenter?tid=34>.

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