Public Housing

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Administering agency: HUD's Office of Public and Indian Housing

Year program started: 1937

Number of persons/households served: 1.1 million households, 2.6 million residents

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 less than the federal poverty level, whichever is greater.

Funding: FY16 funding was $6.4 billion [not including $125 million for the Choice Neighborhoods Initiative (CNI)]. From the beginning of FY17 through April of 2017, all programs operated under a Continuing Resolution (CR).

Also see: Rental Assistance Demonstration, Public Housing Agency Plan

The nation's 1.1 million units of public housing, serving 2.6 million residents, are administered by a network of 3,128 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. There are persistent calls for deregulation of public housing through the expansion of the Moving to Work demonstration and other efforts 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.

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 project-based rental assistance.

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, known as the Faircloth cap.

Today, units are being lost through demolition and disposition (sale) of units, mandatory and voluntary conversion of public housing to voucher assistance, and the cumulative impact of decades of underfunding and neglect on once-viable public housing units. HUD officials regularly state that more than 10,000 units of public housing leave the affordable housing inventory each year.

According to HUD testimony, between the mid-1990s and 2010, approximately 200,000 public housing units had been demolished; upwards of 50,000 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 almost 50,000 units of non-public housing were incorporated into these new developments, but serve households with incomes higher than those of the displaced households, and with no rental assistance like that provided by the public housing program.

PROGRAM SUMMARY

There are approximately 1.1 million public housing units. According to HUD, of the families served by public housing, 33% of household heads are elderly, 20% are non-elderly disabled, and 39% are families with children. The average annual income of a public housing household is $14,312. Of all public housing households, 66% are extremely low income, 20% are very low income, and 9% are low income. Fully 79% of public housing households have incomes less than $20,000 a year.

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 new report *Housing Spotlight: The Long Wait for a Home* is about public housing and Housing Choice Vouchers (HCVs) 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 income, defined income less than 30% of AMI or less than 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, particularly 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 pays $345 per month toward rent and utilities. Public housing operating and capital subsidies provided by Congress and administered by HUD 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 the housing. Most PHAs also administer the Housing Choice Voucher program.

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 holders, and community stakeholders to participate in the PHA's planning process.

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. If Congress provides the $4.6 billion HUD requests for the public housing operating subsidy in FY17, PHAs will receive 87% of known operating cost needs. If Congress provides the $1.9 billion HUD requests for the public housing capital subsidy in FY17, PHAs will still have a huge capital needs backlog. In 2010, PHAs had a $26 billion capital needs backlog, which is estimated to grow by $3.4 billion each year, meaning nearly a $50 billion capital needs backlog in FY17. From the beginning of FY17 through April of 2017, all programs operated under a Continuing Resolution (CR) at FY16 levels.

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. HUD's operating formula system, called "Asset Management," determines an agency's operating subsidy on a property-by-property basis, 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 makes clear that annual appropriations for the capital fund are woefully insufficient to keep pace with the program's needs.

Demolition and Disposition. Since 1983, HUD has authorized PHAs to apply for permission to demolish or dispose of public housing units. This policy was made 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. Since 2000, there has been a net loss of more than 139,000 public housing units due to demolition or disposition.

In 2012, HUD clarified and strengthened its guidance (Notice PIH 2012-7) regarding demolition and disposition in an effort to curb the decades-long sale and needless destruction of the public housing stock. This guidance clarifies the demolition and disposition process in a number of ways. For example, the guidance unequivocally states 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 reminds PHAs that HUD's Section 3 requirement to provide employment, training and economic opportunities to residents applies to properties in the demolition and disposition process. The review criteria for demolition applications must meet clear HUD standards, and no demolition or disposition is permissible prior to HUD's approval, including any phase of the resident relocation process. Although additional reforms through regulation were hoped for in 2014, a proposed rule never made it to the final regulation stage.

Rental Assistance Demonstration. As part of its FY12 HUD appropriations act, Congress authorized the Rental Assistance Demonstration (RAD), which allows HUD to approve the conversion of up to 185,000 public housing and Moderate Rehabilitation program units into either project-based Section 8 rental assistance contracts (PBRA) or to project-based vouchers (PBV) by September 2018. The authorizing legislation contains several provisions intended to protect public housing residents whose homes are converted to PBRA or PBV through RAD.

HUD and many developer-oriented organizations have urged Congress to allow all 1.1 million public housing units to undergo RAD conversion even though the demonstration is still in its early stages. 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. See the separate RAD article in this *Advocates' Guide* for more information.

Choice Neighborhoods Initiative (CNI). The Choice Neighborhoods Initiative (CNI), created in FY10, was HUD's successor to the HOPE VI program. Like HOPE VI, CNI focused on severely distressed public housing properties, but CNI expanded 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 Availability (NOFA). CNI was funded at $65 million in both FY10 and FY11, $120 million in FY12, $114 million in FY13, $90 million in FY14, $80 million in FY15, and $125 million in FY16.

HUD states that CNI has three goals:

1. **Housing**: Replace distressed public and HUD-assisted private housing into mixed-income housing that is responsive to the needs of the surrounding neighborhood.
2. **People**: Improve educational outcomes and intergenerational mobility for youth with services and supports.
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. Seventy-three planning grants totaling $28,166,500 have been awarded to date.

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. HUD works closely with the Department of Education to align CNI's educational investments and outcomes with those of the Promise Neighborhoods program. Twenty-two implementation grants totaling $633,020,927 have been awarded to date.

Although each NOFA 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.

Moving to Work. A key public housing issue is the 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 and the long-term health of the PHAs are 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 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, and no more than three can administer between 6,001 and 27,000 combined units. PHAs will be added to the MTW demonstration by cohort, 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 new MTW demonstration Advisory Committee consists of five PHA staff, two former and one current public housing resident, three university-based researchers, two researchers from consulting firms, and two HUD researchers. Selection of the initial PHA cohort is expected to take place in the spring or summer of 2017.

HUD asked the public for recommendations regarding specific policy proposals to be researched for the MTW demonstration expansion. NLIHC offered detailed comments regarding a variety of concerns including work requirements, time limits, and alternative rent-setting methods. NLIHC has long opposed such MTW policies due to potential harm to residents.

2016 STATUTORY AND REGULATORY CHANGES.

On July 29, 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 or 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 (EID) was eliminated, which disregarded certain increases in earned income for residents who had been unemployed or receiving welfare.
- 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 child care deduction is unchanged.
  - 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.
  - Any expenses related to aid and attendance for veterans is excluded from income.
  - Any income of a full-time student who is a dependent is excluded from income, as is any scholarship funds used for tuition and books.
- If a household's income exceeds 120% of AMI for two consecutive years, the PHA must either:
  - Terminate the household's tenancy within six months, or
  - Charge a monthly rent equal to the greater of the FMR or the amount of the monthly operating and capital subsidy provided to the household's unit.
- PHAs 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, as long as the PHA Plan provides for such use of operating funds.

A "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 (COLA) 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 chose to. 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.

A “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 outdoor areas within 25 feet of public housing and administrative office buildings (collectively, referred to as “restricted areas”) in which public housing is located. 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.

FUNDING

The two public housing funds, operating and capital, received $6.4 billion for the two funds in FY16. From the beginning of FY17 through April of 2017, all programs operated under a Continuing Resolution (CR).

FORECAST FOR 2017

Subsidy funding for public housing has been woefully insufficient to meet the need of the nation’s 1.1 million public housing units for many years. Without adequate funds, more units will go into irretrievable disrepair, potentially leading to greater homelessness. In 2017, funding will continue to be a major issue.

In 2011, Congress passed the Budget Control Act, which set in motion very low spending caps. Since then, Congress and the White House have reached short-term agreements to provide limited budgetary relief—with parity for both defense and nondefense programs, which includes federal affordable housing programs. In FY18, the low spending caps will return with potentially devastating impacts on affordable housing programs.

President Trump has indicated that he wants to lift the spending caps on defense programs, putting the full weight of the budget cuts on non-defense programs. Moreover, President Trump’s proposed Penny Plan would cut nondefense spending by an additional 1% each year for 10 years. Together, these cuts would dramatically reduce funding for federal affordable housing programs, putting public housing at risk.

This year, we may also see efforts to enact Speaker Paul Ryan’s A Better Way anti-poverty agenda, including imposing time limits and work requirements on “work-capable” people receiving federal housing assistance. The average stay of a family with housing assistance is approximately eight years, not significantly longer than the five-year limit proposed in A Better Way; those who stay longer tend to be households with seniors and/or people with disabilities. In fact, the majority of voucher and public housing households are either elderly, have a disability, or include someone who works. Of the remaining households, almost half include a preschool child or a family member with a disability who needs the supervision of a caregiver.

NLIHC believes that establishing burdensome and costly monitoring and enforcement systems in order to apply work requirements for the remaining 6% of households is neither cost effective nor a solution to the very real issue of poverty impacting millions of families living in subsidized housing or in need.

WHAT TO SAY TO LEGISLATORS

Advocates should ask Members of Congress to:

- Lift the spending caps with parity for defense and non-defense programs.
- Maintain funding for the public housing operating and capital funds.
- Support public housing as one way to end all types of homelessness.
- Oppose burdensome and costly time limits and work requirements for people receiving federal housing assistance.

FOR MORE INFORMATION

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

NLIHC’s *Housing Spotlight: The Long Wait for a Home*, http://bit.ly/2dGp2CU

National Housing Law Project, 415 546 7000, www.nhlp.org

Center for Budget and Policy Priorities, 202-408-1080, http://www.cbpp.org/topics/housing

HUD’s Public Housing homepage, http://bit.ly/2hULSJy

The Rental Assistance Demonstration homepage, http://bit.ly/2ht2w2C

The Moving to Work demonstration homepage, http://bit.ly/2i0tmwC

The Choice Neighborhoods homepage, http://bit.ly/2hURgwh