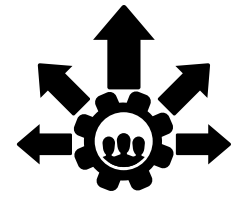


Public Housing



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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, 2.3 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 be extremely low income, income below 30% of AMI or the state poverty level, whichever is greater.

FY15 funding: \$6.3 billion

Also see: *Choice Neighborhood Initiative and HOPE VI, Rental Assistance Demonstration, Moving to Work, 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 more than 3,100 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, generally well-run 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 have resulted in the loss of public housing units. There are persistent calls for deregulation of public housing through the expansion of the Moving to Work (MTW) demonstration and other efforts that can reduce affordability, deep income targeting, resident participation, and programmatic accountability, all aspects of public housing that make it an essential housing resource for many of the lowest income Americans.

HUD's two tools to address the aging public housing stock are the Choice Neighborhoods Initiative 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 rental assistance voucher program in order 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 1996, 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 also capped the number of public housing units at the number each PHA operated as of October 1, 1999.

Today, units are being lost through demolition and disposition (sale) of units, the HOPE VI program, 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, about 200,000 public housing units had been demolished; about 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 1.1 million public housing units in the United States. According to HUD, of the families served by public housing, 34% of household heads are elderly, 31% are non-elderly disabled, and 40% are families with children. The average annual income of a public housing household is \$13,724. Of all public housing households, 72% are extremely low income, 19% are very low income, and 9% are low income. Fully 81% 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 can remain on waiting lists for perhaps 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 who qualify for assistance.

Access to public housing is means-tested. All public housing households must be low income, having income less than 80% of the area median, and at least 40% of new admissions in any year must be extremely low income, defined as having an income below 30% of the area median or the state poverty level adjusted for family size, whichever is greater. The FY14 HUD appropriations act included this expanded definition of “extremely low income” for HUD’s rental assistance programs, including families below 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 \$275 a month toward rent and utilities. Public housing operating and capital subsidies from HUD contribute another \$512 a month per household toward housing costs.

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 Public Housing Agency 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 PHAs planning process.

PHAs receive two annual, formula-based grants from Congressional appropriations to HUD: the operating fund and capital fund.

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. According to HUD budget requests, the federal operating fund pays for about 60% of actual operating expenses; the remainder comes from tenant rent payments. 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, Asset Management, determines an agency’s operating subsidy on a property-by-property basis, rather than the previous PHA-by-PHA basis.

The capital fund can be used for a variety of purposes, including modernization, demolition, replacement housing, and management improvements. In 2011, HUD released a capital needs assessment showing a \$26 billion backlog for capital fund repairs in public housing, plus ongoing new capital needs of \$3.4 billion each year for 20 years. 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 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. Since 2000, more than 100,000 public housing units were demolished or disposed of.

In 2012, HUD clarified and strengthened its guidance on demolition and disposition in an effort to curb the decades-long sale and needless destruction of the public housing stock. While additional reforms through regulation are hoped for in 2014, the early 2012 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, 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.

Rental Assistance Demonstration. As part of its FY12 HUD appropriations act, Congress authorized the RAD. RAD allows HUD to approve the conversion of up to 60,000 public housing and Moderate Rehabilitation program units into either project-based Section 8 rental assistance contracts or project-based vouchers (PBVs) by September 2015. HUD issued a final Notice of Fund Availability on July 26, 2012, detailing requirements for gaining HUD approval to convert units. As of December 31, 2013, the department had received applications for more than 176,000 units, exceeding HUD's 60,000-unit cap. By the end of 2013, HUD's entire RAD authority for public housing and moderate rehab units had been absorbed by high demand for the program. In FY14, HUD asked Congress to raise the 60,000-unit cap to 150,000 units. For FY15, Congress raised the cap to 185,000 units. For FY16, HUD has requested that the cap be removed.

The RAD statute requires residents of RAD-converted public housing properties to have the same rights after conversion that they had before, including rights regarding admissions,

evictions, termination of assistance, and grievance hearings. The notice requires PHAs to continue to provide \$25 per occupied unit annually for resident participation after conversion. The tenant organizing provisions currently only available to residents of private, HUD-assisted housing will be required for all RAD-converted public housing units. Residents cannot be involuntarily displaced or rescreened.

HUD must require 15-20 year renewable use and affordability restrictions for RAD-converted units. When initial contracts expire and at each renewal, HUD must offer and the owner must accept contract renewal.

HUD must require converted properties to be owned or controlled by a public or nonprofit entity, except if the property is threatened by foreclosure, bankruptcy, or termination of assistance for material violation. Then, ownership of the property must first be available to a public entity, and if one is not willing then to a private entity. According to the statute, ownership can be by a for-profit only if necessary for Low Income Housing Tax Credit financing, and in such cases, the PHA must maintain its interest in the property.

There are a number of concerns regarding RAD. For instance, RAD limits to 50%, the number of units in a public housing development that can be converted to PBVs. However, the 50% cap can be exceeded if the other units are "exception units," those occupied by an elderly head of household or spouse, a disabled head of household or spouse, or a household with at least one member participating in a supportive service program. Yet, a public housing household whose development is converted cannot be involuntarily displaced as a result of this cap. Therefore, if a family in an "exception unit" does not want to participate in a supportive service, the household cannot be terminated from PBV. However, once an original household leaves a converted exception unit, that unit can only be rented using PBV to a household that meets one of the three exception categories (supportive services, elderly, or disabled). What this means is that some PHAs might urge half of the households to move to other developments, if available – but, a resident's decision to relocate must be voluntary. It could also mean that, for a development to be able to continue to use PBVs after current residents leave exception units,

some developments might change in character. For example, a development mostly occupied by families might become 100% elderly.

MTW. A key public housing issue is the 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, there is 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 expires in 2018 and HUD is working with these MTW agencies to extend these contracts.

Whether and how to expand the MTW demonstration was a consistent stumbling block for broad housing assistance reform legislation. In its FY16 budget request, HUD is seeking an expansion of the MTW program to another 150,000 combined units of public housing and housing choice vouchers (for no more than 15 PHAs). In HUD's request to expand MTW to another 150,000 units there is no evaluation component beyond whatever the HUD Secretary devises at a later date. This is a disappointing omission from HUD's request, given the fact that the one of the most oft-cited issues with MTW is the lack of understanding, regarding its flexibility, and o MTW really impacts residents as well as the financial and physical health of the PHA. These issues are due to the current MTW program's lack of an evaluation component.

In HUD's proposed expansion, PHAs with voucher utilization rates of above 90% would be eligible for inclusion into the expansion. A 90% voucher utilization rate is a very low bar for "high capacity," the type of PHAs that will be eligible for inclusion into HUD's MTW expansion

Along the lines of the low voucher utilization threshold, HUD's MTW expansion request does not define "assistance." MTW sites must assist substantially the same number of households: How "assistance" gets defined has become a very hot-button issue. Many PHAs would prefer to define assistance as a very broad range of activities, including resident services, having 5% public housing funds in a low income housing tax credit

property, a very shallow voucher subsidy, etc. Finally, 150,000 units is a very large expansion. Today, there are about 440,000 public housing and voucher units in the MTW program. Bringing in another 150,000 units would be a 34% expansion.

FUNDING

The two public housing funds, operating and capital, together received \$6.3 billion in FY15, and the president has requested \$6.5 billion for them in FY15. The president's FY16 request for the operating fund would restore funding to FY11 levels, but still only provide 86% of what HUD and Congress know is needed for PHAs to adequately operate the nation's public housing stock. The president's request for the capital fund in FY15 increased, but still would provide far less than what is needed to even meet capital needs that accrue each year, not to mention addressing the \$26 billion capital repair needs backlog.

FORECAST FOR 2015

Two issues could dominate Congressional consideration of public housing in 2015: funding and deregulation

The FY14 act included HUD's long-sought flat rent proposal, which will require PHAs to set flat rents to at least 80% of Fair Market Rents, while providing a maximum annual rent increase of 35% for residents who face rent increases. Another provision, requested by HUD and included in iterations of rental assistance reform legislation, defines "extremely low income" as the greater of 30% of area median income or incomes up to the state poverty level adjusted for family size. In its FY16 request, HUD is seeking authority to increase the threshold to take an income deduction for medical care costs from 3% to 10% of income. Unlike proposals in previous rental assistance reform bills, however, HUD's request would not also increase simultaneously the standard deduction for elderly households and households for persons with disabilities, potentially exposing these households to harmful rent increases.

WHAT TO SAY TO LEGISLATORS

Advocates should ask Members of Congress to:

- Maintain funding for the public housing operating and capital funds.

- Support public housing as one way to end all types of homelessness in the United States.
- Oppose expansion of the MTW demonstration to additional PHAs unless many reforms and protections are incorporated into the MTW program. ■

FOR MORE INFORMATION

National Low Income Housing Coalition, 202-662-1530, www.nlihc.org

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

Center for Budget and Policy Priorities, 202-408-1080, www.cbpp.org