Congressional Research Service
Informing the legislative debate since 1914

IN FOCUS

December 11, 2023

The Section 8 Project-Based Rental Assistance Program

The Section 8 Project-Based Rental Assistance (PBRA) program subsidizes the rents of low-income individuals and families through rental assistance contracts between the Department of Housing and Urban Development (HUD) and private property owners. Named for Section 8 of the Housing Act of 1937 (42 U.S.C. §1437f), it was created in 1974 and HUD actively entered into new contracts with owners through the early 1980s. Today, the program serves roughly 1 million households. This number has been growing—following a long period of decline as old contracts ended—since the 2012 Rental Assistance Demonstration (RAD) authorized public housing and other HUD-assisted properties to convert to the PBRA program.

Program Administration and Basics

The Section 8 PBRA program features rental assistance contracts between private owners (for-profit and nonprofit) and HUD. Under the terms of those contracts, owners agree to manage their assisted units subject to federal rules—including periodic physical quality inspection—and HUD agrees to pay subsidies to make up the difference between the low, income-based rents charged to tenants and previously agreed upon contract rents. PBRA contracts typically have 20-year terms and they may be renewed.

In order to be eligible to live in PBRA housing, individuals and families (hereinafter, *households*) generally must be very low-income (income at or below 50% of local Area Median Income [AMI]), although in some cases, families may be low-income (income at or below 80% of AMI). At least 40% of units made available each year must be occupied by families who are extremely low-income (income at or below the greater of 30% of AMI or the federal poverty guidelines). Households that wish to live in a PBRA unit apply directly to the property. In addition to evaluating tenant income eligibility, owners may adopt additional discretionary screening criteria related to, for example, criminal background, credit, or rental history.

Households who live in PBRA properties pay the greater of 30% of their adjusted incomes or 10% of their gross incomes towards their rent and utilities. If a tenant's income increases to the point that they no longer qualify for a subsidy, they may generally pay market rent to remain in their unit. There is no time limit on assistance, but tenants may be evicted for lease violations. If an owner chooses not to renew an expiring PBRA contract with HUD, or if HUD terminates the contract for cause, tenants receive Housing Choice Vouchers that may allow them to stay in the unit or move to another property.

Demand for PBRA housing generally exceeds the supply, so there are waiting lists to live in most properties. Owners may set preferences for applicants with certain characteristics on their waiting lists. While the program serves all types of families, owners may designate certain properties as available only for persons who are elderly or have disabilities.

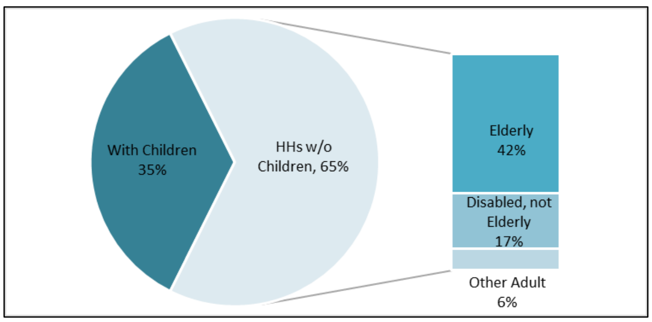
Property Characteristics

The PBRA program includes over 17,500 properties comprising nearly 1.3 million assisted units. More than a third (37%) were built before 1980 and 84% were built before 1990. The vast majority of assisted units (86%) and properties (76%) are located in metro areas (as opposed to non-metro areas).

Household Characteristics

The PBRA program serves all types of households, ranging from single adults to families with children. Waiting list preferences and property designations set by owners can affect the characteristics of their residents. As shown in **Figure 1**, in 2023 roughly 35% of PBRA households include children; 65% are households without children. Of the latter, the majority are headed by persons age 62 or older.

Figure 1. Head of Household Characteristics, 2023



Source: Prepared by CRS based on Tenant Rental Assistance Certification System (TRACS) data, June 30, 2023, published by HUD, https://www.hud.gov/sites/dfiles/Housing/documents/Tenant_Characteristics_Rpt06302023.pdf.

Funding

The Section 8 PBRA program is primarily funded via annual discretionary appropriations provided to the project-based rental assistance account. (A shrinking number of contracts are supported with funding from prior years.) That account funds the monthly rental subsidies paid to owners as well as the administrative fees paid to performance-based contract administrators (PBCAs) contracted by HUD. Additionally, Section 514 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRAA) authorizes HUD to set aside and spend up to $10 million annually from the PBRA account for tenant organizing, training, and capacity-building activities, although HUD does not utilize this set-aside or issue grants for this purpose every year.

Table 1. PBRA Appropriations, FY2019-FY2023
(nominal dollars in billions)

FY2019	FY2020	FY2021	FY2022	FY2023	*Change*
$11.75	$12.57	$13.47	$13.94	$14.91	+27%

Source: Table prepared by CRS. Figures do not include COVID-19 emergency supplemental appropriations but do include emergency funding for regular program operations provided in FY2023.

Cost growth in the program is driven by several factors. One is increases in the rent paid to property owners. PBRA contracts specify how rents will be annually adjusted to reflect inflation or budget needs. As rental inflation and/or budgetary needs increase, especially if they increase faster than tenant incomes, the subsidy cost of each unit increases.

Another factor in the cost growth in the program is an increase in the number of units. Even though HUD has generally not had authority to enter into new PBRA contracts since the mid-1980s, in recent years the number of PBRA contracts has been increasing. This growth is attributable to RAD, a program created in FY2012 that allows certain public housing and other federally assisted housing developments to convert their federal assistance to Section 8 PBRA contracts (or Section 8 project-based vouchers). While RAD conversions are *cost neutral* in the first year—meaning the funding for the contracts is transferred to the PBRA account from the account that previously funded the assistance—after, the annual costs of RAD PBRA contracts are funded by the PBRA account.

Issues and Recent Developments

Preservation: As the stock of PBRA-assisted housing has aged, and as original contracts have come up for renewal, some observers have raised concerns about how best to preserve the properties as affordable housing for current and future residents. Assisted housing preservation legislation was enacted throughout the 1990s, giving HUD tools to incentivize owners to renew their PBRA contracts and recapitalize their properties, as well as to assist tenants facing displacement when contracts end.

While these tools have allowed for the preservation of a number of properties, they have limited reach in some circumstances, such as when an owner has a strong market-based financial incentive to sell their property or convert it to market rate rents; or when the property has fallen into such a state of disrepair that HUD's only recourse is to terminate the contract.

Physical Quality and Inspections: Most PBRA-assisted properties were built in the 1970s and 1980s, and as they have aged, some observers have raised concerns about their physical quality and safety. Congress has held a number of hearings on the topic and included in HUD's annual appropriations additional tools the agency can use to address properties with failing inspection scores and requirements for the agency to take action to address such properties.

In response to concerns raised by some in Congress, the HUD Office of Inspector General (OIG), and the Government Accountability Office (GAO), HUD implemented a new inspection protocol applicable to most HUD-assisted properties. The National Standards for the Physical Inspection of Real Estate (NSPIRE) protocol took effect for PBRA properties in October 2023. HUD developed NSPIRE through a multiyear process to increase the focus of physical inspections on health and safety and create more consistency across programs.

PBCA Contracts: Since the early 2000s, HUD has contracted with public housing authorities—primarily state housing finance agencies—as performance-based contract administrators (PBCAs) to assist in managing PBRA contracts. In 2008, in response to several OIG reports critical of the cost and efficacy of the PBCA initiative, HUD announced its intention to rebid the contracts. HUD made its first selection of new PBCAs in 2011, but withdrew most of those contracts in response to bid protests. HUD initiated another solicitation in 2012, issuing a Notice of Funding Availability to award PBCA cooperative agreements. That action was also challenged, ultimately resulting in a 2015 opinion by the U.S. Court of Appeals for the Federal Circuit holding that PBCAs are procurement contracts that must be solicited and awarded in accordance with federal acquisition laws.

HUD has appealed to Congress for statutory authorization to use cooperative agreements to award PBCA contracts in lieu of the federal procurement process. In the absence of such an authorization, HUD has issued several draft procurement solicitations since 2017; HUD withdrew the first in response to stakeholder concerns and was blocked from implementing the second by a directive in the FY2023 appropriations law. The current PBCAs are continuing under contract extensions until HUD awards new contracts.

HOTMA Implementation: The Housing Opportunity Through Modernization Act of 2016 (HOTMA; P.L. 114-201) made changes to how income and rents are calculated in the PBRA and other rental assistance programs. These included increases to some deductions from income, decreases to other income deductions, and streamlining the calculation of income from assets, among other changes. In February 2023, HUD published a final rule to implement the remaining HOTMA changes; most of the changes affecting income and rent were supposed to take effect in January 2024 but have since been delayed to January 2025.

IRA Funding: P.L. 117-169, commonly known as the Inflation Reduction Act (IRA), included $1 billion for a Green and Resilient Retrofit Program (GRRP) modeled after a similar program that was funded in the American Recovery and Reinvestment Act of 2009 (P.L. 111-5). HUD is to use the funds to award grants and loans for utility efficiency, carbon emission reduction, and climate resiliency upgrades at HUD-assisted multifamily properties, including PBRA properties. HUD is accepting applications on a rolling basis through mid-2024. PBRA properties may also be eligible for assistance from other tax credit and grant programs created by the IRA, including the Homes Energy Rebate programs administered by the Department of Energy.

Maggie McCarty, Specialist in Housing Policy

Disclaimer