

# Underscoring the Importance of Competitive Contracting at HUD:

Why Performance-Based  
Contract Administrators  
are Critical

**Dennis Shea**

Principal, Shea Public Strategies LLC

Prepared for

**Navigate Affordable Housing Partners**

April 2017



## Key Terms

### **Annual Contributions Contract (ACC)**

The written contract between HUD and a Public Housing Agency (PHA) under which HUD agrees to make payments to the PHA to cover 1) rental subsidy payments to property owners participating in the Project-Based Rental Assistance (PBRA) program and 2) an administrative fee. Under the ACC, the PHA agrees to perform certain tasks and administer the program in accordance with U.S. Department of Housing Urban Development (HUD) regulations.

### **Housing Assistance Payment (HAP) Contract**

The written agreement between a PHA and the owner of a rental unit occupied by a PBRA program participant. Under the HAP contract, the PHA agrees to make housing assistance payments to the owner on behalf of the program participant. The PHA determines the amount of the HAP in accordance with HUD regulations. The HAP is due to the owner on the first day of each month.

### **Improper Payments Elimination and Recovery Act of 2010 (IPERA)**

Legislation enacted to reduce improper payments by federal government agencies by enhancing agency auditing and reporting requirements. IPERA requires each agency's Inspector General to perform an annual review of the agency's compliance with IPERA.

### **Management and Occupancy Review (MOR)**

The on-site assessment of whether a property owner participating in HUD's multifamily housing programs is complying with HUD requirements. MORs conducted by Performance-Based Contract Administrators help prevent and reduce improper subsidy payments and are essential to HUD's efforts to comply with IPERA.

### **Performance-Based Contract Administrator (PBCA)**

A PHA that has been selected to administer the Project-Based Rental Assistance program in a specific jurisdiction. Currently, there are 54 PBCA jurisdictions: one in each state (except for California, which has two), plus Washington D.C., Puerto Rico, and the U.S. Virgin Islands.

### **Project-Based Rental Assistance (PBRA) Program**

The HUD program, authorized by the Housing and Community Development Act of 1974, that provides rental assistance on behalf of eligible tenants residing in specific multifamily rental properties. The PBRA currently serves approximately 1.2 million low-income households.

### **Public Housing Agency (PHA)**

Any state, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities (including private non-profits) that is authorized to engage or assist in the development or operation of low-income housing under the U.S. Housing Act of 1937.

# Table of Contents

Top-Line Takeaways .....	4
Introduction .....	5
The Origins of the PBCA Model .....	6
The Benefits of the PBCA Model .....	8
a. PBCAs Help HUD Accomplish its Affordable Housing Mission .....	10
b. PBCAs Support Property Owners and Help Maintain the Affordable Housing Stock .....	12
c. PBCAs Help Meet the Housing Needs of Low-Income Families .....	13
The Integration of Tasks: A Critical Feature of the PBCA Model .....	14
The PBCA Model: More Important than Ever .....	16

## Top-Line Takeaways

- Performance-Based Contract Administrators (PBCAs) play an indispensable role in helping the U.S. Department of Housing and Urban Development (HUD) serve the 1.2 million low-income households assisted through the Section 8 Project-Based Rental Assistance (PBRA) program.
- HUD acknowledges that PBCAs are integral to its own efforts to be “more effective and efficient in the oversight and monitoring” of the PBRA program. PBCAs perform critical functions for HUD such as preventing subsidy payment errors, ensuring that all rules and regulations regarding PBRA properties are followed, and providing timely payment of subsidies to property owners. In accomplishing these tasks, PBCAs bring the best practices and flexibilities of the private sector into the administration of the PBRA program.
- The on-site Management and Occupancy Reviews (MORs) performed by PBCAs are critical to preventing improper subsidy payments. According to HUD’s Office of Inspector General (OIG), in fiscal year 2011 (the latest year in which PBCAs were permitted to conduct a sufficient number of MORs), the improper payment rate for the PBRA program was substantially less than the rate for Public Housing and the Section 8 Tenant-Based Voucher program, resulting in significant savings for HUD. In fact, these savings substantially offset administrative fees earned by the PBCAs that year.
- HUD currently lacks the resources and staffing to assume the functions now performed by the PBCAs. HUD is also beset by numerous management challenges, as outlined in recent reports of the U.S. Government Accountability Office and the HUD OIG. Going forward, the MORs conducted by PBCAs will be vital to HUD’s ability to meet its obligations under the Improper Payments Elimination and Recovery Act of 2010 and other federal laws.
- Since 2000, a single PBCA has been responsible for performing the PBRA-related tasks for each jurisdiction it serves. Retaining this holistic model of bundling tasks is essential to minimizing risk across the program and ensuring the program is administered as effectively as possible. Procuring the services of PBCAs through fair and open competition is also the most effective way to ensure taxpayers receive the best return on their investment in affordable housing.
- Over the next 15 years, the demand for affordable rental housing will intensify and, as a result, the need for assistance through programs like PBRA will almost certainly grow. With the federal budget already under stress, the efficiencies that Performance-Based Contract Administrators bring to PBRA program oversight will be more important than ever.

## Introduction

Federal rental assistance programs administered through the U.S. Department of Housing and Urban Development (HUD) serve approximately 5.1 million low-income households, with three programs accounting for nearly 90 percent of all households assisted. See *Figure 1*. Unfortunately, as a result of severe budgetary pressures, funding for HUD rental assistance programs does not match the great need that exists: only one in four households eligible for assistance under these programs actually receives help.

Over the next 20 years, powerful demographic trends, including the formation of new households by millions of young Millennials and the increasing diversity of the U.S. population, will intensify the already-strong demand for affordable rental housing. With demand so great, the need to deploy scarce federal rental assistance resources in the most effective and efficient manner possible will be more important than ever. *Performance-Based Contract Administrators (PBCAs) will continue to play an indispensable role in this effort.*

Today, HUD has certified 54 public housing agencies\* as PBCAs. On behalf of HUD, they are charged with performing the critical function of overseeing and monitoring the physical condition of properties under Project-Based Rental Assistance (PBRA), one of the nation's most important rental assistance programs. With an annual appropriation of approximately \$11 billion, the PBRA program currently serves about 1.2 million low-income households and two million individuals. Those served are overwhelmingly seniors, families with children, and persons with disabilities.

*Figure 1*

### THREE PROGRAMS ACCOUNT FOR NEARLY 90 PERCENT OF ALL HOUSEHOLDS ASSISTED BY HUD

Program	Households Served (approximate)
Tenant-Based Housing Choice Vouchers	2.2 Million
Project-Based Rental Assistance	1.2 Million
Public Housing	1.1 Million
Other HUD Programs	600,000

*Source: U.S. Department of Housing and Urban Development, FY 2017 Congressional Budget Justifications.*

PBCAs assist HUD in the administration of Housing Assistance Payment (HAP) contracts. HUD has executed more than 17,000 HAP contracts with private owners of multifamily rental housing. These owners, who constitute a broad range of for-profit and non-profit organizations, make units available to low-income tenants under the PBRA program.

---

\* A "public housing agency" is any state, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities (including private non-profits) that is authorized to engage or assist in the development or operation of low-income housing under the U.S. Housing Act of 1937.

Through the HAP contracts, HUD provides subsidies to the owners that, in turn, allow residents to live in the properties at affordable rents. Without these subsidies, many PBRA properties would convert to market-rate units or suffer from disinvestment, diminishing even further the limited supply of affordable rental homes. Those properties in weaker rental markets are often a stabilizing force for the communities in which they are located.

Preventing improper payments and controlling program costs is the most important function PBCAs perform for HUD. HUD has repeatedly cited the PBCAs as integral to the Department's own efforts to be more efficient in the oversight and monitoring of the PBRA program.

PBCAs also serve both PBRA residents and property owners by performing a broad array of tasks. PBCAs help ensure tenant safety and the integrity of the housing units in the program by conducting regular on-site visits and management reviews. They support property owners by forming contract renewals; adjusting contract rents; and reviewing, processing, and paying the monthly vouchers that are submitted by the owners. The owners also rely on the PBCAs to ensure their own compliance with HUD requirements, including the obligation to maintain housing that is decent, safe, and sanitary.

Since the introduction of PBCAs in 2000, contract administration under the Project-Based Rental Assistance program has involved combining all tasks under a single entity that is accountable for each jurisdiction served. Retaining this holistic model of bundling tasks is essential to minimizing risk across the program. Procuring the services of PBCAs through fair and open competition is also the most effective way to ensure taxpayers receive the best return on their investment in affordable housing.

In addition, the greater utilization of PBCAs holds the potential to reduce costs, enhance oversight and management, and spread limited resources more broadly to programs beyond Project-Based Rental Assistance. With rental demand poised to soar in the coming years and the need for federal rental assistance expected to expand, tapping the potential of PBCAs should be a priority for our nation's policymakers.

Procuring the services of PBCAs through fair and open competition is the most effective way to ensure taxpayers receive the best return on their investment in affordable housing.

## The Origins of the PBCA Model

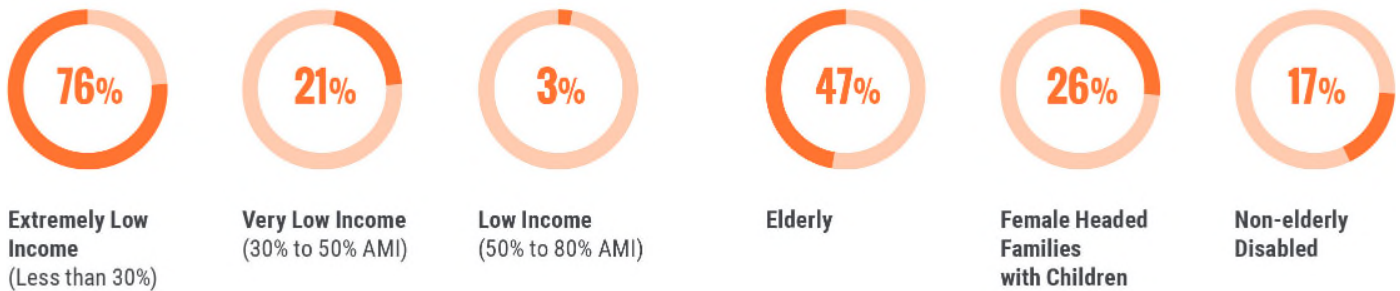
The Housing and Community Development Act of 1974 established the Project-Based Rental Assistance program, which authorizes the payment of rental assistance on behalf of eligible households to the private owners of multifamily housing developments. Unlike the Tenant-Based Section 8 program, where rental assistance moves with the person, the subsidy provided under PBRA remains with the housing development. The amount of subsidy paid to property owners through the HAP contracts is the difference between what a household can afford (generally no more than 30 percent of adjusted household income) and the approved contract rent for the unit. In Fiscal Year 2015, the average monthly contribution to rent by households served under PBRA was \$272, while HUD's average monthly contribution was \$715.<sup>1</sup>

The PBRA program, administered by the Federal Housing Administration's Office of Multifamily Housing, currently serves approximately 1.2 million households and two million individuals.<sup>2</sup> According to HUD, the average gross income of households assisted by the program is \$11,914.<sup>3</sup> Seventy-six (76) percent of these households have incomes that are

considered “extremely low” (below 30 percent of the area median income). Forty-seven (47) percent of PBRA-assisted households are headed by someone who is elderly, while 26 percent are female-headed families with children and 17 percent are considered “non-elderly disabled.”<sup>4</sup> See Figure 2.

Figure 2

**WHO DOES THE PROJECT-BASED RENTAL ASSISTANCE PROGRAM SERVE?**



Source: U.S. Department of Housing and Urban Development, FY 2017 Congressional Justifications, 24-8.

By 1999, HUD had entered into approximately 21,000 HAP contracts with the owners of multi-family housing to subsidize the rent of low-income households under the PBRA program. From the early 1970s to the late 1990s, HUD administered the HAP contracts itself using HUD employees.

However, in 1999, a combination of factors – including agency staffing constraints (primarily in HUD’s field offices), internal reform plans, and assertions of mismanagement by the HUD Office of Inspector General – led HUD to decide to outsource certain services related to HAP contract administration. As explained by HUD at the time, the goal was “to release HUD staff for those duties that only government can perform and to increase accountability for subsidy payments.”<sup>5</sup> The entities that HUD eventually hired, all public housing agencies, became known as the Performance-Based Contractor Administrators or PBCAs.

A single PBCA administers HAP contracts within each state, but several PBCAs administer contracts in multiple states. PBCA administrative responsibilities are outlined in an annual contributions contract (ACC) with HUD. Under an ACC, PBCAs are charged with performing specific tasks designed to support the assisted households, the property owners, and HUD itself. These tasks include conducting on-site Management and Occupancy reviews; adjusting contract rents; reviewing, processing, and paying monthly vouchers submitted by owners; renewing HAP contracts with property owners; and responding to health and safety issues at the properties.

As of December 2016, PBCAs administered the overwhelming majority of HAP contracts –15,469 of the 17,048 contracts that HUD has executed, accounting for more than 90 percent of all contracts. These contracts now cover approximately 1.1 million affordable rental units.<sup>6</sup>

Today, PBCAs administer the overwhelming majority of HAP contracts.

In Fiscal Year 2016, Congress appropriated \$215 million to support HAP contract administration by the PBCAs. PBCAs generally receive a fixed price for their services, but this price may be reduced as a result of deficiencies in performance, including the failure to meet deadlines.

### **The Importance of Fair and Open Competition**

For more than a dozen years beginning in 2000, HUD procured its contract administration services for the PBRA program through a competitive process that also allowed bidders to cross state lines. This competitive, market-driven approach increased the number of bidders, enhanced the efficient administration of the PBCA program, and captured economies of scale, which resulted in savings to HUD and more cohesive program administration.

In 2012, HUD suddenly reversed policy when it attempted to re-cast the contracts for PBCA services as cooperative agreements through a Notice of Funding Availability. As cooperative agreements, responsibility for administering HAP contracts could simply be granted to an entity at the discretion of HUD leadership without any competitive bidding. Not only was this proposed approach inconsistent with federal contracting standards; it likely would have led to higher costs and greater program inefficiencies if implemented.

In 2014, the U.S. Court of Appeals for the Federal Circuit rejected the HUD policy switch, concluding that contracts for PBCA services were procurements subject to competitive bidding in accordance with federal law.<sup>7</sup> In reaching its decision, the Federal Circuit Court emphasized that HUD was procuring administrative services, including the delivery of housing subsidies, to help the agency perform its mission of managing the PBRA program in an effective manner. The U.S. Supreme Court subsequently declined to hear HUD's appeal of the Federal Circuit Court's decision, implicitly rejecting the agency's position.<sup>8</sup> In 2014, the U.S. Congress also weighed in, endorsing the Federal Circuit Court's decision in the committee reports accompanying the annual appropriations bill that funds HUD. In these reports, Congress specifically directs HUD to solicit and award procurement contracts for PBCA services "under full and open competition and without geographic limitations."<sup>9</sup>

## **The Benefits of the PBCA Model**

The Project-Based Rental Assistance program is one of HUD's most important programs and lies at the core of its mission to help meet the housing needs of low-income Americans. As the department itself has acknowledged, PBCAs are integral to its own efforts to be "more effective and efficient in the oversight and monitoring" of the program.<sup>10</sup> In communities large and small throughout the country, PBCAs work hand-in-hand with property owners and residents to ensure the fair and consistent administration of the program.

Here's the simple truth: There is no substitute for the PBCAs and the work they perform. HUD currently lacks the staff and funding levels to successfully replicate what the PBCAs do. See *Figure 3*. Bringing the performance of these tasks back "in house" to HUD would diminish the overall effectiveness of the PBRA program. It would also require a substantial injection of additional resources that HUD is unlikely to receive in light of today's outsized federal budget deficit and a \$20 trillion national debt.

PBCAs are integral to HUD's efforts to be more effective and efficient in the oversight and monitoring of the PBRA program.



Figure 3

### KEY TASKS PERFORMED BY THE PBCAs

- 1 Conducting on-site Management and Occupancy Reviews for each property in their portfolio<sup>11</sup>
- 2 Adjusting contract rents
- 3 Reviewing, processing, and paying monthly vouchers submitted by property owners
- 4 Renewing HAP contracts with property owners
- 5 Responding to owner claims for property damage, unpaid rent, or extended vacancies
- 6 Navigating PBRA rules and regulations for owners and residents to ensure compliance
- 7 Responding to health and safety issues at the property

With its ongoing *Multifamily for Tomorrow* Transformation Initiative, HUD is making organizational changes to “do more with less” within the Office of Multifamily Housing. A key feature of the Initiative is a streamlined organizational model at both the headquarters level and in the field. The Office of Multifamily Housing has consolidated 17 of its hubs into five regions. Each region has a Regional Center (located in New York, Atlanta, Chicago, Fort Worth, and San Francisco) with one or two Regional Satellite Offices and several smaller Asset Management Offices.<sup>12</sup>

While potentially improving the overall efficiency of HUD operations, by HUD’s own admission, the geographic footprint of the Office of Multifamily Housing has been considerably reduced.<sup>13</sup> The consolidation effort therefore elevates the importance of the PBCAs that work directly with property owners and residents. It is very difficult, if not impossible, to replace the daily interactions that occur between PBCA employees and residents and owners with those of HUD staff who are now even more geographically removed from the location of PBRA properties.<sup>14</sup>

PBCAs inject many of the best practices and flexibilities of the private sector into the administration of HAPs.

PBCAs, including those that are not-for-profit entities, inject many of the best practices and flexibilities of the private sector into the administration of HAPs. Like many private-sector organizations, they tend to focus on the skill sets of individual employees rather than positions and titles. As a result, PBCAs are readily able to pull together employees with different roles in their respective organizations and collectively harness their skills to accomplish specific tasks. Because their business’ viability is on the line, PBCAs have a strong incentive to have a deep understanding of the skills and abilities of their employees and to deploy them in the most effective manner possible.

For most PBCAs, there are generally few barriers to filling a position or restructuring the position of an employee who has the needed skill set for a specific task. This flexibility is not only critical for solving problems as they arise but also for the organization's ability to plan ahead to meet anticipated challenges.

Many PBCAs also aspire to meet the highest standards for quality management. For example, in 2014, one PBCA – Navigate Affordable Housing Partners – earned the prestigious International Standards Organization (ISO) 9001:2008 certification for its quality management systems. By contrast, HUD continues to struggle with key management functions. In 2007, the U.S. Government Accountability Office (GAO) found that “[housing assistance] payments on HUD-administered contracts were more likely to be delayed than those on contracts administered by the PBCAs....”<sup>15</sup> A more recent GAO report found that HUD continues to suffer deficiencies in key areas such as performance planning and reporting, information technology management, human capital management, financial management, and acquisition management.<sup>16</sup>

## PBCAs Help HUD Accomplish its Affordable Housing Mission

A critical function of PBCAs is to prevent subsidy payment errors, thereby ensuring that scarce federal affordable-housing dollars are used as efficiently as possible and for their intended purpose. PBCAs achieve this goal by actively working with property owners and residents to determine whether the rents being requested are accurate and renewed at appropriate levels and whether the correct entities are receiving voucher payments. PBCAs also help certify that residents meet the eligibility requirements to receive federal rental assistance.

### GETTING THE NUMBERS RIGHT: PREVENTING PAYMENT ERRORS

Preventing subsidy payment errors is the primary function of PBCAs. Here are some real-life examples provided by one PBCA, Navigate Affordable Housing Partners:

“Property management billed HUD for months for an applicant who never officially moved into the unit. We corrected the error and HUD was reimbursed.”

“The management of one PBRA property was incorrectly calculating a Pell grant as part of a resident's income to determine eligibility for assistance. We helped correct that mistake.”

“To determine eligibility for assistance, HUD allows anyone 62 to years of age or older to declare a \$400 ‘elderly deduction’ from gross income. A property manager did not give an elderly resident the required \$400 deduction, which would have helped reduced the resident's rent. We were able to catch the error and correct the elderly household's rent.”

The annual on-site Management and Occupancy Review (MOR) is a critical tool for preventing and reducing improper subsidy payments under the PBRA program. As explained by HUD's Office of Inspector General, MORs are a “comprehensive assessment of the [property] owner's procedures for directing and overseeing project operations, and the adequacy of the procedures for carrying out day to day activities.”<sup>17</sup> As part of the MOR, a PBCA will review the certification and recertification documentation of residents to verify the rent payments are appropriate and the household is eligible to receive subsidy.

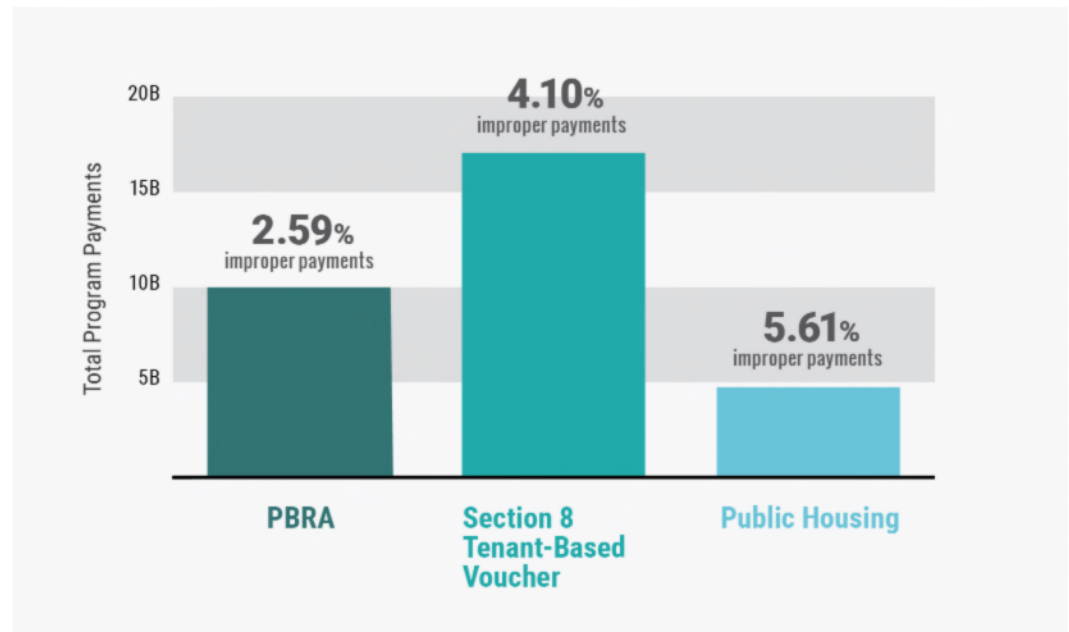
In part because of MORs conducted by PBCAs, HUD had made substantial progress in reducing erroneous payments in the PBRA program – from an estimated \$3.2 billion in fiscal year 2000 to \$1.23 billion in fiscal year 2011, a reduction of more than 60 percent.<sup>18</sup> In fiscal year 2012, however, improper payments began to increase after HUD prohibited PBCAs from conducting MORs in 42 states while the lawsuit over its decision to re-cast contracts for PBCA services as cooperative agreements was pending.<sup>19</sup> PBCA-conducted MORs resumed in these states only recently in 2016. This interruption in PBCA-conducted MORs has undoubtedly contributed to HUD’s failure to comply with the requirements of the Improper Payments Elimination and Recovery Act of 2010 (IPERA) for three consecutive years – from fiscal years 2013 through 2015.<sup>20</sup>

The “value proposition” provided by PBCAs becomes even clearer when comparing the improper payment rate in the PBRA program to the rates experienced by other HUD programs. In fiscal year 2011, the last year in which PBCAs conducted a sufficient number of MORs to have an impact, the improper payment rate in the PBRA program was 2.59 percent, compared to rates of 5.61 percent for Public Housing and 4.1 percent for the Section 8 Tenant-Based Voucher program and a “weighted rate” of 4.43 percent across all three programs. See Figure 4. If the PBRA rate of 2.59 percent had matched the weighted rate of 4.43 percent in fiscal year 2011, the cost to HUD as a result of increased improper payments would have amounted to nearly \$185 million.

By contrast, in Fiscal Year 2011, PBCAs earned \$232 million in administrative fees. The PBCAs arguably pay for themselves through the costs savings they achieve by preventing and reducing payment errors, just one of the many services they perform.

Figure 4.

**IMPROPER PAYMENTS AS A PERCENTAGE OF TOTAL PROGRAM PAYMENTS  
(FISCAL YEAR 2011)**



Source: Adapted from U.S. Department of Housing and Urban Development, Office of Inspector General, *Compliance with the Improper Payments Elimination and Recovery Act of 2010, Audit Report No. 2014-FO-0004 (April 15, 2014), 6*. Note that about 10% of HAP contracts under the PBRA program are administered by HUD and traditional contract administrators, not PBCAs.

In addition, a significant number of properties (6,275) in the PBCA portfolio are insured by the Federal Housing Administration or financed through HUD-held debt. These properties account for \$18.4 billion, or 21 percent, of the \$87.5 billion in total outstanding FHA-insured multifamily debt (excluding debt for hospitals and assisted-living facilities).<sup>21</sup> By effectively servicing these properties, PBCAs help support the stability of FHA's multifamily insurance programs and limit taxpayer exposure.

## **PBCAs Support Property Owners and Help Maintain the Affordable Housing Stock**

PBCAs are responsible for reviewing, processing, and paying monthly vouchers submitted by the property owners who participate in the Project-Based Rental Assistance program. PBCAs also work with the owners to renew their annual HAP contracts with HUD.

These functions are critical ones: Failure to process and pay vouchers on a timely and accurate basis, as well as a slow and cumbersome HAP renewal process, can have a very negative impact on PBRA property owners. These delays can force owners to make late payments on the mortgages secured by PBRA properties or hold off paying bills for utilities, telephone service, cable, and pest control. They can also affect a property owner's ability to meet his payroll obligations. If the delays are persistent, they may encourage the owner to leave the PBRA program altogether, reducing even further the already-depleted stock of affordable rental units.

Concerns about late payments and delays in HAP contract renewals by HUD were major factors in the department's decision to outsource these responsibilities to the PBCAs.

In fact, concerns about late payments and delays in HAP contract renewals by HUD were major factors in the department's decision to outsource these responsibilities to the PBCAs. According to a 2005 report by GAO, thousands of subsidy payments were late from fiscal years 1995 to 2004, with eight percent of all payments made during that period delayed by two weeks or more. GAO criticized HUD's administration of HAPs as "largely a manual, hard-copy paper process that requires multiple staff to complete" and cited the "lack of systematic internal processes to estimate subsidy payments" as a cause for these delays.<sup>22</sup>

PBCAs are also a critical source of knowledge about the PBRA program, helping property owners navigate the complex web of program rules and regulations that have developed over the years. PBCAs assist owners with implementing the requirements under these rules, notify them when their practices are inconsistent with the requirements, assist owners with resolving errors, and help train staff on program changes.

In addition, PBCAs play a role in supporting the nation's fair housing laws. Before undertaking an on-site MOR, PBCAs are required to review the owner's Affirmative Fair Housing Marketing Plan and verify the marketing steps taken by the owner are consistent with the plan and target the correct population.<sup>23</sup> While HUD's Office of Fair Housing and Equal Opportunity determines whether a property has violated fair housing regulations, PBCAs are required to report to HUD any indications of potential violations.

## **PBCAs ARE THE TROUBLE-SHOOTERS WITHIN THE PROJECT-BASED RENTAL ASSISTANCE PROGRAM**

“An owner of a PBRA property lost the manager at the property. It turns out that the manager, not the owner, possessed all the knowledge regarding how to create and submit vouchers. After two months of not sending vouchers and not responding to emails, we were eventually able to speak with the owner. The problem: he simply did not know what to do. After reviewing his options, we sent him information about using a voucher service provider. Less than a month later, the owner had selected a service bureau and was vouchering with ease.”

### **- Navigate Affordable Housing Partners (PBCA)**

“One of our properties benefited from a moratorium on city taxes but this moratorium was set to expire around the end of the property’s HAP contract. The property owner indicated a desire to opt-out of the PBRA program because rents under the program would be insufficient to cover the taxes the property would soon be paying. To preserve these affordable units, we discussed several renewal options with the owner, including ‘Section 8bb’ policies that would allow budget authority to be moved from one property to another. After organizing a conference call with the owner and HUD, the owner decided to renew the HAP contract for an additional year. The owner is currently in discussions with HUD regarding a possible re-finance or transfer of budget authority through Section 8bb. This issue is still ongoing but we’re hopeful we will preserve these units.”

### **- Navigate Affordable Housing Partners (PBCA)**

## **PBCAs Help Meet the Housing Needs of Low-Income Families**

Helping low-income families is a major part of the PBCA portfolio of responsibilities. PBCAs educate families about their obligations as recipients of federal rental assistance and provide guidance on how best to meet these obligations.

Protecting resident health and safety and preserving the livability of their surroundings are major responsibilities of PBCAs. PBCAs routinely respond to complaints about water leaks, faulty light fixtures, mold, and other problems affecting housing conditions. From 2005 to 2015, PBCAs have been responsible for follow-up and confirmation of mitigation on nearly 27,300 “Exigent Health and Safety” violations identified during a physical inspection by HUD’s Real Estate Assessment Center (REAC).<sup>24</sup> Since 2000, there have been tens of thousands of these inspections of properties assigned to a PBCA, with annual average REAC scores well above 80.<sup>25</sup> (A passing score for a REAC physical inspection is 60 or above.)

## PROTECTING RESIDENT HEALTH AND SAFETY

Protecting resident health and safety and preserving the livability of their surroundings are major responsibilities of PBCAs. Here are some real-life examples provided by one PBCA, Navigate Affordable Housing Partners:

- “The resident’s unit was flooded. His ceiling was leaking and there were water leaks by light fixtures. The air conditioning was also not working properly, and there was the possibility of mold in the unit. We worked with the resident and property management until all issues were mitigated.”
- “The resident’s bathroom ceiling would leak when the upstairs neighbor used water in their bathroom. The resident stated this leak had been going on for about a year. We worked with the resident to finally get the issue resolved.”
- “The resident said the carpet was old and worn, the bathtub was peeling, knobs on the stove were missing, and the closet doors were falling off the hinges. We reached out to property management and worked with them until all issues were mitigated.”

## The Integration of Tasks: A Critical Feature of the PBCA Model

Since the adoption of the PBCA model in 1999, contract administration tasks have largely been combined and assigned to one entity that is responsible for serving a single jurisdiction. For example, a single PBCA today has responsibility for administering the PBRA program in Minnesota, another in Alabama, and a third in New Mexico. PBCAs can and do compete for contracts in multiple states and jurisdictions, but the assignment of full contract responsibilities falls solely to a single contractor in each location. Currently, there are 54 PBCA jurisdictions: one in each state (except for California, which has two), plus Washington D.C., Puerto Rico, and the U.S. Virgin Islands.

This holistic, integrated, single point-of-contact approach has ensured the most efficient administration of the PBRA program and promoted accountability.<sup>26</sup> With years of experience working in specific jurisdictions, PBCAs know their turf: They develop a deep understanding of the unique needs of the residents, owners, and properties they assist. As the sole providers of contract administration services within their jurisdictions, they are the accountable party. Property owners and residents know whom to contact if there is a problem that needs urgent attention. Likewise, HUD staff know whom to reach out to in order to communicate important policy and regulatory guidance.

Recent proposals to split and assign tasks within a jurisdiction among multiple contractors would greatly diminish these benefits, increase program complexity, and raise administrative costs.

Each task performed by a PBCA is connected to the other tasks.

Each task performed by a PBCA is connected to the others. For example, adjusting contract rents (one task) is intimately related to the task of reviewing, processing, and paying monthly vouchers submitted by property owners. Similarly, conducting an on-site MOR is directly linked to the tasks of responding to health and safety issues at the same property and verifying paperwork submitted by property owners to ensure proper payment. As numerous HUD OIG reports have demonstrated, the on-site MOR performed by a single PBCA with access to multiple information systems and the files of the property owner also plays a critical role in preventing improper subsidy payments by HUD.<sup>27</sup>

Unbundling these tasks and dividing them up among separate contractors adds a level of complexity that is simply not warranted. It will likely increase, perhaps significantly, contract administration costs for HUD at a time when the agency faces considerable management challenges and pursues the streamlining and staff-reduction objectives of its ongoing Multifamily Transformation Initiative. Under these circumstances, HUD may even find that it needs to hire an additional contractor, a general contractor, to supervise and coordinate all the work within each jurisdiction.

Figure 5.

### THE INTEGRATION OF PBCA TASKS IS VITAL



Having multiple contractors within a single PBCA jurisdiction increases the risk of non-compliance with PBRA program rules.

Having multiple contractors within a single jurisdiction also increases the risk of non-compliance with program rules. Because the tasks performed by a PBCA are so interrelated, the failure of one contractor to perform its assigned tasks will likely have a ripple effect across the chain of tasks and impact performance in other areas. For example, if a contractor fails to adjust contract rents correctly, it will likely impact another contractor's ability to pay vouchers with the correct subsidy amounts. To help mitigate the risk of non-compliance, particularly as a result of factors beyond their own control, some contractors may decide to charge HUD more for the services they perform.

Ensuring accurate, timely, and consistent communication with assisted residents, project owners, property management companies, and other concerned parties such as local leaders and the media is a significant part of the PBCA job description. Today, the key stakeholders in the PBRA program benefit from having a single point of contact with whom to share concerns or raise questions. When there is water leak in a unit, residents know whom to call. When a local leader is worried about a potential increase in rents, she knows whom to contact. Adding new contractors to the mix will diffuse responsibility, delay the resolution of problems and complaints, and contribute to tardy and inconsistent messaging.

A representative of National Church Residences, a mission-oriented non-profit and one of the nation's leading providers of affordable rental housing, put it this way:

As an owner and agent of a large affordable housing portfolio with multifamily assets in many different states, we interact with a significant number of regulatory agencies across the country. As such, we are challenged in our efforts to maintain clear, open and efficient lines of communication with so many different regulatory entities. At a time when HUD and State Housing Agencies have worked together to combine and reduce the number of physical inspections that a property receives in a year, the proposal to separate the core section 8 project-based function seems to run counter to the progress we as an industry have made to streamline and consolidate these oversight functions into as few “touch” points as necessary. This proposal would essentially double the number of contractor entities that we would be dealing with in the many states where we now operate. We therefore support a plan that would maintain all core section 8 project-based oversight functions under a single contractor per region.<sup>28</sup>

In short, the existing PBCA model that integrates tasks and assigns them to a single PBCA for each jurisdiction served has worked well for more than 15 years, supporting residents, property owners, and HUD itself. There is no compelling reason to deviate from this model, while there are significant risks associated with doing so.

## The PBCA Model: More Important Than Ever

By helping to ensure that HUD receives the highest possible return on its investment in affordable housing, PBCAs and the work they perform are now more important than ever. The reason: the United States is in the midst of a deepening rental affordability crisis. More than 11 million renter households spend in excess of 50 percent of their incomes on rent alone and are considered “severely” rent-burdened under federal standards.<sup>29</sup> Not surprisingly, most of these households rank among the poorest Americans.

A major cause of these severe rent burdens is the lack of affordable rental supply. According to HUD, there are just 38 affordable rental units available for every 100 “extremely low-income” renters (making 30 percent or less of the area median) and only 62 affordable and available units for every 100 “very low-income” renters (making up to 50 percent of the area median). The number of households with “worst case” housing needs has increased by 38.7 percent since 2007, when the Great Recession began, and by 63.4 percent since 2001.<sup>30</sup> Federal rental assistance provides critical help, but it reaches only a fraction, about one quarter, of those families who are eligible for assistance.<sup>31</sup>



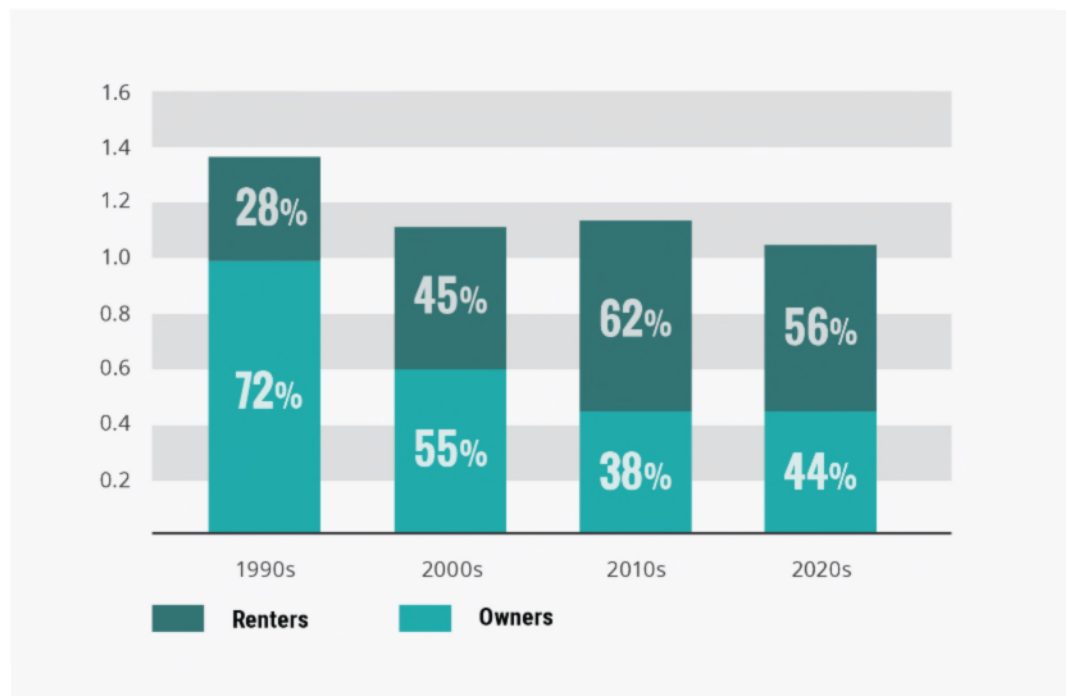
By ensuring that vouchers are processed on a timely basis and HAP contracts administered efficiently, PBCAs play a critical role as “affordable supply enhancers.” Without the work they perform, some property owners would move their properties out of the PBRA program, exacerbating the already-acute supply shortage.

Over the next 15 years, the demand for rental housing will almost certainly intensify, the result of members of the Millennial generation forming households for the first time and the increasing diversity of the U.S. population. The aging of the 78-million Baby Boomers will also have an impact: Many older adults will eventually seek to downsize into more manageable and affordable rental homes.

According to estimates by the Urban Institute, 62 percent of new housing demand will be rental during the decade of 2010 to 2019, while 56 percent will be rental during the decade of the 2020s. These projections are a reversal of the mix between homeownership and rental demand from the previous two decades. See Figure 6.

Figure 6.

**MOST NEW HOUSING DEMAND WILL BE RENTAL**  
ANNUAL HOUSEHOLD GROWTH (MILLIONS)



Source: Urban Institute

PBCAs play a critical role in enhancing the supply of affordable rental homes.

Absent a major expansion in the supply of affordable rental homes, rents will likely rise in response to this new demand, rental cost burdens will increase, and the need for help through programs like the PBRA will grow. With multiple demands placed on a federal budget already under stress, the efficiencies that Performance-Based Contract Administrators bring to the administration of the PBRA program will be of critical importance.

---

## ENDNOTES

<sup>1</sup> U.S. Department of Housing and Urban Development, *FY 2017 Congressional Justifications*, 24-8.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*

<sup>4</sup> *Ibid.*

<sup>5</sup> U.S. Department of Housing and Urban Development, *HUD's FY 99 Budget Congressional Justifications*; <https://archives.hud.gov/budget/fy99/justif99/pih/bpihcfcd.cfm>.

<sup>6</sup> Data supplied by Navigate Affordable Housing Partners.

<sup>7</sup> *CMS Contract Management Services v. United States*, No. 13-5093 (Fed. Cir. 2014).

<sup>8</sup> Jacob Fischler, Law 360, *Supreme Court Won't Hear HUD Appeal over Section 8 Grants* (April 22, 2015); <https://www.law360.com/articles/645143/supreme-court-won-t-hear-hud-appeal-over-section-8-grants>.

<sup>9</sup> See *Report to Accompany the Departments of Transportation, and Housing and Urban Development, and Related Agencies Appropriations Bill, 2015*, 85. <http://appropriations.house.gov/uploadedfiles/hrpt-113-hr-fy2015-thud.pdf>.

<sup>10</sup> U.S. Department of Housing and Urban Development, *FY 2017 Congressional Justifications*, 24-3.

<sup>11</sup> The travel and person-hours devoted to conduct a Management and Occupancy Review (MOR) are the most substantial cost elements for any PBCA. HUD has endorsed the idea of a "risk-based" system for MORs that would adjust the frequency of the MOR based on observed problems at a given property. Under this system, more frequent MORs would occur at properties with a record of observed problems while there would be less frequent MORs of consistently well-performing properties. HUD has not yet established the formula for this risk-based system.

<sup>12</sup> U.S. Department of Housing and Urban Development, Transformation Initiatives (accessed on February 21, 2017); [https://portal.hud.gov/hudportal/HUD?src=/transforming\\_hud/multifamily\\_transformation/transformation\\_initiatives](https://portal.hud.gov/hudportal/HUD?src=/transforming_hud/multifamily_transformation/transformation_initiatives).

<sup>13</sup> U.S. Department of Housing and Urban Development, *Multifamily for Tomorrow Transformation Progress Report* (June 2015); [https://portal.hud.gov/hudportal/documents/huddoc?id=MFT\\_Report\\_to\\_Congress.pdf](https://portal.hud.gov/hudportal/documents/huddoc?id=MFT_Report_to_Congress.pdf).

<sup>14</sup> Under the *Multifamily for Tomorrow Transformation Initiative*, HUD has begun shifting to risk-based management of its portfolio of assets, an approach that allocates the most staff resources to the riskiest assets. Assets are rated troubled, potentially troubled, or not troubled. U.S. Department of Housing and Urban Development, *FY 2017 Congressional Justifications*, 24-10.

<sup>15</sup> U.S. Government Accountability Office, *Project-Based Rental Assistance: HUD Should Streamline Its Processes to Ensure Timely Housing Assistance Payments* (GAO-08-199T) (October 17, 2007).

<sup>16</sup> U.S. Government Accountability Office, Department of Housing and Urban Development, *Actions Needed to Incorporate Key Practices into Management Functions and Program Oversight* (GAO-16-497) (July 2016).

<sup>17</sup> U.S. Department of Housing and Urban Development, Office of Inspector General, *Compliance with the Improper Payments Elimination and Recovery Act of 2010*, Audit Report Number 2014-FO-0004 (April 15, 2014), 8.

<sup>18</sup> *Ibid.* at 4.

<sup>19</sup> *Ibid.* at 8. In the absence of the MORs, HUD's corrective actions were limited to supplemental measures it developed around the Enterprise Income Verification (EIV) system. However, because of limitations within the EIV system, limited staff resources, and other issues, HUD was unable to use the EIV system to track and monitor billing error. U.S. Department of Housing and Urban Development, Office of Inspector General, *Compliance with the Improper Payments Elimination and Recovery Act of 2010*, Audit Report No. 2014-FO-0004 (April 15, 2014), 16.

<sup>20</sup> See U.S. Department of Housing and Urban Development, Office of Inspector General, *Compliance with the Improper Payments Elimination and Recovery Act of 2010*, Audit Report No. 2016-FO-0005 (May 13, 2016); U.S. Department of Housing and Urban Development, Office of Inspector General, *Compliance with the Improper Payments Elimination and Recovery Act of 2010*, Audit Report No. 215-FO-0005 (May 15, 2015); and U.S. Department of Housing and Urban Development, Office of Inspector General, *Compliance with the Improper Payments Elimination and Recovery Act of 2010*, Audit Report No. 2014-FO-0004 (April 15, 2014).

<sup>21</sup> Data supplied by Navigate Affordable Housing Partners.

<sup>22</sup> U.S. Government Accountability Office, *Project-Based Rental Assistance: HUD Should Streamline Its Processes to Ensure Timely Housing Assistance Payments* (GAO-06-57) (November 2005).

<sup>23</sup> Applicants seeking to participate in Federal Housing Administration multifamily housing programs with five or more units must complete an Affirmative Fair Housing Marketing Plan. The purpose of the plan is to help applicants offer equal housing opportunities regardless of race, color, national origin, religion, sex, familial status, or disability. <https://www.hudexchange.info/resource/4716/affirmative-fair-housing-marketing-plan-form/>.

<sup>24</sup> Data supplied by Navigate Affordable Housing Partners.

<sup>25</sup> In 2011, when HUD attempted to re-cast the contracts for PBCA services as cooperative agreements, it entered into “temporary” contract extensions with the PBCAs. These temporary extensions did not include any provision or option for the PBCAs to conduct on-site Management and Occupancy Reviews.

<sup>26</sup> For a comprehensive discussion of the importance of integrating tasks with a single PBCA for each region served, see CGI, *Avoiding Risks to HUD’s Performance Based Contract Administration Program* (2016); [http://ahma-nch.org/\\_newsletter/cgi-PBCA-white-paper.pdf](http://ahma-nch.org/_newsletter/cgi-PBCA-white-paper.pdf).

<sup>27</sup> See, e.g., U.S. Department of Housing and Urban Development, Office of Inspector General, *Compliance with the Improper Payments Elimination and Recovery Act of 2010*, Audit Report No. 2014-FO-0004 (April 15, 2014).

<sup>28</sup> CGI, *Avoiding Risks to HUD’s Performance Based Contract Administration Program* (2016), 4.

<sup>29</sup> Daniel McCue, Harvard Joint Center for Housing Studies of Harvard University, *New Data Shows US Renter Cost Burdens Easing, But Still Elevated* (September 22, 2016); <http://housingperspectives.blogspot.com/search?updated-max=2016-10-25T07:55:00-04:00&max-results=5&start=15&by-date=false>.

<sup>30</sup> U.S. Department of Housing and Urban Development, *Preview of 2015 Worst Case Housing Needs* (January 2017). Households with “worst case needs” are renters with very low incomes who lack housing assistance and have either severe rent burdens or severely inadequate housing (or both). <https://www.huduser.gov/portal/sites/default/files/pdf/Worst-Case-Needs-Preview.pdf>.

<sup>31</sup> Congressional Budget Office, *Federal Housing Assistance for Low-Income Households* (September 2015), 10.



#### **ABOUT THE AUTHOR**

Dennis Shea is the founder and principal of Shea Public Strategies LLC, a public policy firm based in Alexandria, Virginia. During the Administration of President George W. Bush, he served as Assistant Secretary for Policy Development and Research at the U.S. Department of Housing and Urban Development.