U.S. Department of Housing and Urban Development, Office of Public and Indian Housing, Washington, DC

HUD’s Oversight of Voucher Utilization and Reallocation in the Housing Choice Voucher Program

Office of Audit
Chicago, IL

Audit Report Number: 2021-CH-0001
September 15, 2021

To: Dominique G. Blom
General Deputy Assistant Secretary for Public and Indian Housing, P

//**signed**//

From: Kilah S. White
Assistant Inspector General for Audit, GA

Subject: HUD Remains Challenged To Serve the Maximum Number of Eligible Families Due to Decreasing Utilization in the Housing Choice Voucher Program

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) final results of our review of HUD's oversight of voucher utilization and reallocation in the Housing Choice Voucher Program.

HUD Handbook 2000.06, REV-4, sets specific timeframes for management decisions on recommended corrective actions. For each recommendation without a management decision, please respond and provide status reports in accordance with the HUD Handbook. Please furnish us copies of any correspondence or directives issued because of the audit.

The Inspector General Act, Title 5 United States Code, appendix 8M, requires that OIG post its reports on the OIG website. Accordingly, this report will be posted at https://www.hudoig.gov.

If you have any questions or comments about this report, please do not hesitate to call Kelly Anderson, Audit Director, at 312-913-8499.

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INSPECTOR GENERAL
UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Audit Report Number: 2021-CH-0001
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Highlights

HUD Remains Challenged to Serve the Maximum Number of Eligible Families Due to Decreasing Utilization in the Housing Choice Voucher Program

What We Audited and Why

We audited the U.S. Department of Housing and Urban Development's (HUD) oversight of voucher utilization and reallocation in the Housing Choice Voucher Program based on the HUD Office of Inspector General's (OIG) report on HUD's top management challenges for fiscal year 2020 and HUD's strategic goals and objectives reported in its 2018-2022 strategic plan.

In addition, while responding to a congressional inquiry from Senator Chuck Grassley's office, regarding portability in the Program (audit report number 2020-CH-0006, issued September 9, 2020), we identified that as of September 2019, HUD had more than 300,000 unused vouchers that could potentially be used to house families in need of affordable housing. Our audit objective was to assess HUD's oversight of voucher utilization and reallocation in the Housing Choice Voucher Program.

What We Found

HUD remains challenged to ensure that the maximum number of eligible families benefits from its Housing Choice Voucher Program. Specifically, while HUD's voucher utilization rate had decreased, it estimated that as of November 2020, more than 62 percent of public housing agencies in the Program had leasing potential and that leasing potential could increase in 2021. In addition, HUD had not exercised its regulatory authority to reallocate housing choice vouchers and associated funding when public housing agencies were underutilizing their vouchers. HUD remains challenged with voucher utilization because some public housing agencies continue to encounter difficulties that are not within their control to overcome and which negatively impact the agencies' ability to increase leasing in their service areas. In addition, HUD believed that it could not implement its reallocation regulation because of legislative changes dating back to 2003. As a result, nearly 81,000 available housing choice vouchers could potentially be used to provide additional subsidized housing for eligible families. Further, more than 191,000 authorized vouchers were unused and unfunded, meaning that more than 191,000 additional low- to moderate-income families could possibly benefit from subsidized housing by using these vouchers. However, HUD would need an additional appropriation of nearly $1.8 billion to fund these vouchers.

What We Recommend

We recommend that HUD's Office of Field Operations establish and implement a plan to assist public housing agencies in optimizing leasing potential to maximize the number of assisted families and prevent additional vouchers from becoming unfunded. We also recommend that HUD's Office of Public Housing and Voucher Programs establish and implement a plan for the unused and unfunded vouchers to mitigate or prevent additional vouchers from becoming unused and unfunded.

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Table of Contents

Background and Objective

The U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) report on HUD's top management challenges for fiscal year 2020 identified providing adequate monitoring and oversight of operations and program participants as one of HUD's challenges. In addition, HUD's strategic goals and objectives reported in its 2018-2022 strategic plan identified the enhancement of rental assistance as one of the strategic objectives to meet its strategic goal of advancing economic opportunity. This report addresses HUD's monitoring and oversight of operations and program participants regarding voucher utilization and reallocation in the Housing Choice Voucher Program.

The Housing Choice Voucher Program is funded by HUD. The Program allows eligible families to lease safe, decent, and affordable privately owned rental housing. The program is implemented through a combination of an annual contributions contract[1] between HUD and each public housing agency, which authorizes a certain number of vouchers to be issued according to that contract, and annual appropriations by Congress to fund the contractual agreements. A public housing agency must have both the authority to issue a voucher and appropriations available to fund each leased voucher.

A public housing agency determines a family's eligibility and issues a voucher. Once the family has found an acceptable unit, the public housing agency pays the HUD-funded housing subsidy directly to the landlord on behalf of the family. The family pays the difference between the actual rent and the amount subsidized by the Program, typically 30 percent of its monthly adjusted gross income, for rent and utilities. There are more than 2,000 public housing agencies across the Nation that administer the Program, serving approximately 2.25 million households.

HUD's initial allocation of housing choice vouchers to public housing agencies was known as fair share vouchers. The term fair share voucher is another name for an incremental housing choice voucher, which describes the vouchers that were provided in the initial and later allocations of vouchers to public housing agencies. Fair share vouchers do not include special purpose vouchers.[2] HUD's Office of Policy Development and Research must conduct a needs study before incremental housing choice vouchers are issued. The study determines the relative need for low-income housing assistance in each HUD field office's jurisdiction by examining factors such as renter population, households with income below the poverty level, housing overcrowding, and vacancies.

In 2018, we received a congressional inquiry from Senator Chuck Grassley's office to review voucher portability in the Housing Choice Voucher Program. We conducted an audit of HUD's

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[1] A written contract between HUD and a public housing agency. Under the annual contributions contract, HUD agrees to make payments to the public housing agency, over a specified term, for housing assistance payments to owners on behalf of assisted families.

[2] Special purpose vouchers have their own incremental funding provided by Congress and include vouchers such as Family Unification Program, Veterans Affairs Supportive Housing, mainstream, and nonelderly disabled.

oversight of portability in the Program in response to the inquiry and identified that as of September 2019, HUD had more than 300,000 unused vouchers that could potentially be used to house families in need of affordable housing (audit report number 2020-CH-0006, issued on September 9, 2020). Due to concerns we identified during that audit, we conducted the subject audit to look at HUD's oversight of voucher utilization and reallocation.

Further, during the course of this audit, on May 12, 2020, Representative Kathleen Rice requested an inquiry into the Town of Hempstead, NY, Department of Urban Renewal's (1) unused Housing Choice Voucher Program funds and (2) decision to transfer the unused funding into its excess reserves account. However, as of September 1, 2020, the Town of Hempstead's Department of Urban Renewal had transferred its Housing Choice Voucher Program to the New York State Housing Trust Fund Corporation.

The table below shows the number of available unused vouchers from December 2016 to November 2020 for all public housing agencies, including Moving to Work[3] public housing agencies. It also shows the net amount of unused vouchers for public housing agencies with either an overutilized or underutilized Housing Choice Voucher Program. A public housing agency with an overutilized Housing Choice Voucher Program has leased more vouchers than it has allocated on its annual contributions contract.

Date	Total unused vouchers[4] (a)	Total vouchers under ACC[5] (b)	Percentage of total vouchers not used (a/b)
December 2016	239,868	2,464,694	9.7%
December 2017	266,178	2,486,878	10.7%
December 2018	289,611	2,526,378	11.5%
December 2019	301,849	2,558,387	11.8%
November 2020	319,917	2,583,112	12.4%

In overseeing voucher and funding utilization, HUD has a responsibility to Congress to ensure that the funds authorized for housing assistance are used to assist the maximum number of families. HUD's annual assessment of the voucher leasing rate and use of annual budget authority by each public housing agency determines its utilization rate. According to HUD, the failure of any public housing agency to use all of the funding contracted for the Housing Choice Voucher Program means that a family in need of housing assistance is not being helped.[6] To determine the annual utilization rate for public housing agencies, HUD analyzes each individual agency's housing assistance payments spending as a percentage of the total year-to-date funding

[3] The Moving to Work Demonstration program provides participating public housing agencies exemptions from certain existing regulations and funding flexibility for their Housing Choice Voucher Program and public housing program.

[4] This column represents the net of unused vouchers for public housing agencies with either an overutilized or underutilized Housing Choice Voucher Program.

[5] Annual contributions contract.

[6] HUD's Housing Choice Voucher Guidebook 7420.10g, chapter 24.

(including reserves) and the total unit months leased as a percentage of unit months available.[7] The higher of these two percentages serves as the utilization rate for each public housing agency.

As part of monitoring public housing agencies' utilization, HUD assesses each agency's leasing potential.[8] To determine leasing potential for each public housing agency, HUD determines the number of housing choice vouchers and amount of funds that a public housing agency is projected to have remaining available at the end of the calendar year and estimates how many vouchers could likely be leased, based on the agency's average per unit cost.

HUD does not determine leasing potential for Moving to Work public housing agencies because they have a statutory requirement[9] to maintain leasing at or above the level in place when they joined the demonstration. Additionally, Moving to Work public housing agencies are exempt from all or part of HUD performance measurement systems, including Section Eight Management Assessment Program (SEMAP) requirements,[10] unless they elect to be scored. Therefore, Moving to Work agencies are also **not** subject to HUD's utilization requirements. Of the 319,917 unused vouchers, 39,330 were associated with Moving to Work agencies, and the remaining 280,587[11] (nearly 88 percent) were associated with non-Moving to Work agencies. Of the 280,587 unused vouchers, 272,226 consisted of

- 80,929 available vouchers with leasing potential and
- 191,297 unused and unfunded[12] vouchers.

The remaining 8,361 (280,587 - 272,226) vouchers can be attributed to timing differences in HUD's reports and vouchers associated with public housing agencies with overutilized Housing

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7 Unit months leased or unit months available is an annualized number of the leased or available units. For instance, a public housing agency with 100 vouchers under an annual contributions contract has unit months available of 1,200 (100 vouchers x 12 months). If that same public housing agency leased 90 units each month throughout the year, its unit months leased would be 1,080 (90 vouchers x 12 months).

8 Leasing potential is the portion of unused vouchers that could be leased based on a public housing agency's current funding and reserves. Leasing potential is calculated monthly, as public housing agencies' circumstances can change throughout the calendar year.

9 According to the Moving to Work agreement between HUD and the participating public housing agency, HUD may permit public housing agencies to combine funds appropriated under Sections 8 and 9 of the U.S. Housing Act of 1937 (1937 Act) and may exempt public housing agencies from provisions of the 1937 Act and its implementing regulations pertaining to public and Indian housing and Housing Choice Voucher Program assistance.

10 HUD uses SEMAP to remotely measure the performance of the public housing agencies that administer the Housing Choice Voucher Program. It was designed to help HUD target monitoring and assistance to public housing agency programs that need the most improvement. Public housing agencies self-certify performance results to HUD within 60 days after the end of each of their fiscal years. SEMAP is based on a number of points scoring system.

11 This number does not include the initial allocation of special purpose vouchers. Special purpose vouchers are not included in the leasing potential calculation during their first year of use. After the first year of use, the cost of the voucher is included in the following calendar year's annual budget authority.

12 An unfunded voucher is a voucher authorized by the annual contributions contract that a public housing agency did not use during the calendar year and, therefore, would not be eligible to receive funding for the next budget year under the Appropriations Act. Funds authorized by the Act can be used to pay for only the vouchers associated with units under lease.

Choice Voucher Programs. This audit report focuses on non-Moving to Work public housing agencies with underutilized Housing Choice Voucher Programs.

Our audit objective was to assess HUD's oversight of voucher utilization and reallocation in the Housing Choice Voucher Program.

Results of Audit

Finding 1: HUD Remains Challenged To Ensure That the Maximum Number of Eligible Families Benefits From Its Housing Choice Voucher Program

HUD remains challenged to ensure that the maximum number of eligible families benefits from its Housing Choice Voucher Program. Specifically, while HUD's voucher utilization rate had decreased, it estimated that as of November 2020, more than 62 percent of public housing agencies in the Program had leasing potential and that leasing potential could increase in 2021. In addition, HUD had not exercised its regulatory authority to reallocate housing choice vouchers and associated funding when public housing agencies were underutilizing their vouchers. HUD remains challenged with voucher utilization because some public housing agencies continue to encounter difficulties that are not within their control to overcome and which negatively impact the agencies' ability to increase leasing in their service areas. In addition, HUD believed that it could not implement its reallocation regulation because of legislative changes dating back to 2003. As a result, nearly 81,000 available housing choice vouchers could potentially be used to provide additional subsidized housing for eligible families. Further, more than 191,000 authorized vouchers were unused and unfunded, meaning that more than 191,000 additional low- to moderate-income families could possibly benefit from subsidized housing by using these vouchers. However, HUD would need an additional appropriation of nearly $1.8 billion to fund these vouchers.

HUD Estimated That More Than 62 Percent of Public Housing Agencies Had Leasing Potential

While HUD's utilization rate had decreased, it estimated that more than 62 percent of public housing agencies in the Housing Choice Voucher Program had leasing potential. HUD uses utilization reports from its Two Year Projection Tool to monitor and cumulatively track public housing agencies' monthly voucher utilization and leasing potential for the Program. A public housing agency that has not (1) leased 100 percent of its authorized vouchers or (2) spent 100 percent of the funds contracted under its annual contributions contract has not utilized all of the resources provided for its program; thus, those resources would be underutilized. Under its SEMAP performance scoring system, HUD expects public housing agencies achieving a high performance designation to maintain a utilization rate at or above 98 percent and those achieving a standard performance designation to maintain a utilization rate at or above 95 percent. A utilization rate below 95 percent can indicate that a public housing agency has not fully

> As of November 2020, public housing agencies had potential to lease nearly 81,000 vouchers.

optimized[13] its leasing potential, as program funds may be available to provide subsidized housing to additional eligible families.

Using the reports, we determined that the number of public housing agencies with utilization rates below 95 percent generally increased each year during our audit scope.[14] See the table below.

Period ending	Number of PHAs (a)[15]	Number of PHAs with utilization below 95 percent (b)[16]	Percentage of PHAs with utilization below 95 percent (b/a)
December 31, 2017	2,184	1,031	47%
December 31, 2018	2,172	1,251	58%
December 31, 2019	2,158	1,298	60%
November 30, 2020[17]	2,150	1,324	62%

As of November 2020, we determined that of the 2,150 public housing agencies with current Housing Choice Voucher Programs,[18] 1,324 (62 percent) had funding or unit utilization rates of less than 95 percent, ranging between 22.51 and 94.99 percent. Further, while leasing potential fluctuates from month to month, based on funding and the amount of program reserves, of the 2,150 public housing agencies, 1,341 (62 percent)[19] had a potential to lease nearly 81,000 vouchers,[20] collectively. Of the 1,341 public housing agencies with leasing potential, 254 (19 percent) had **significant** leasing potential.[21]

HUD Estimated an Increase in Leasing Potential

According to HUD's Housing Choice Vouchers 2020 Year-in-Review 2021 Look Forward[22] report, as a result of (1) the coronavirus and associated funding provided by the Coronavirus Aid,

13 HUD's Housing Choice Voucher Guidebook 7420.10g, sections 24.1 and 24.3.

14 The increase in the number of public housing agencies with utilization rates below 95 percent indicated that the utilization rate for the Housing Choice Voucher Program had decreased.

15 Public housing agency

16 This column represents public housing agencies that have a utilization rate below 95 percent, defined as the higher percentage of each public housing agency's housing assistance payments spending as a percentage of the total year-to-date funding (including reserves) or the total unit months leased as a percentage of unit months available.

17 The information for November 2020 represents a point in time.

18 Public housing agencies that have one or more units under their annual contributions contract with HUD, according to HUD's Two-Year Projection Tool utilization report, as of November 30, 2020.

19 This number includes public housing agencies with utilization rates that were at, above, or below 95 percent.

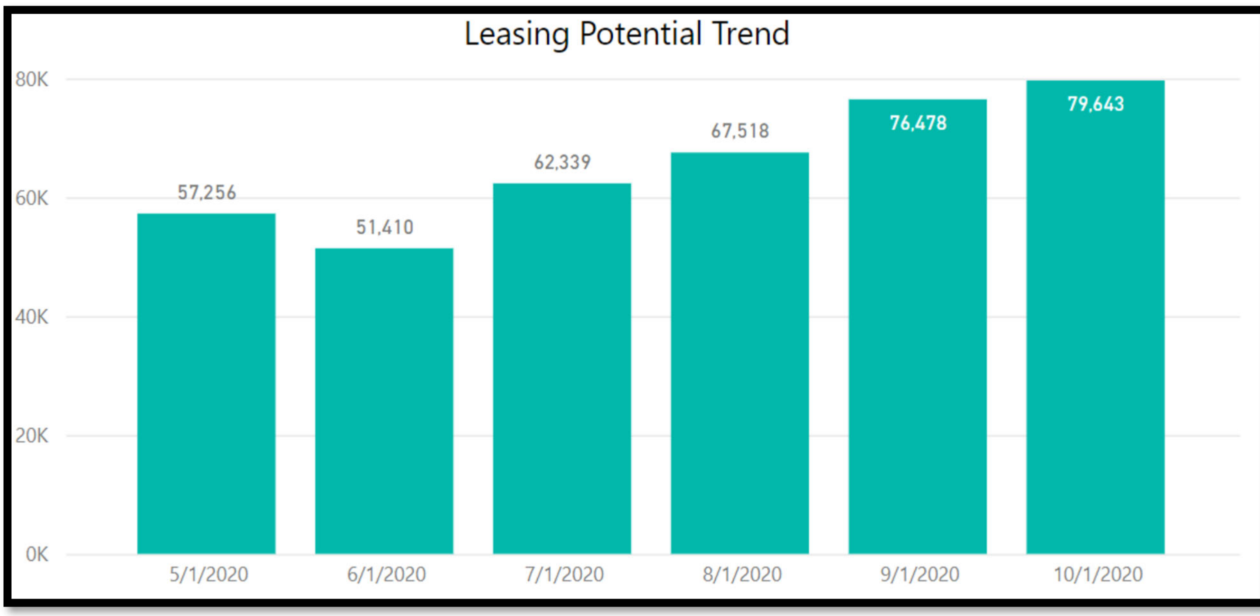
20 This figure represents an estimate based on information available at that time. However, actual leasing potential may be different due to various factors, such as landlord participation, availability of affordable housing, and housing costs increasing faster than a public housing agency's budget.

21 A public housing agency that could potentially lease 75 vouchers or more and has 2 percent or more Housing Choice Voucher Program vouchers available to lease using its current annual funding and reserves.

22 HUD's Housing Choice Vouchers 2020 Year-in-Review 2021 Look Forward, based on data as of January 2021.

Relief, and Economic Security Act (CARES Act);[23] (2) the loss of income for Housing Choice Voucher Program families being less than expected; (3) a decrease in the number of families served during 2020 due to attrition; and (4) a decrease in other program actions, such as new admissions, port-in, port-out, etc., the Housing Choice Voucher Program ended 2020 with a near record level of program reserves. The near record level of program reserves, combined with the calendar year 2021 funding, could create a large amount of leasing potential for the program. HUD estimated leasing potential to be around 80,000[24] vouchers in November 2020 and approximately 98,000 to the mid-to-upper 100,000s in 2021. According to the report, this amount of leasing potential means that there is funding available to serve additional families.

The chart below[25] shows HUD's estimate of the amount of overall leasing potential for non-Moving to Work public housing agencies from May to October 2020.



HUD Was Limited in the Assistance That It Could Provide to Public Housing Agencies To Increase Voucher Utilization

While HUD was aware of the number of public housing agencies with estimated leasing potential and had projected a significant increase in leasing potential in its Program in 2021, it recognized that circumstances existed that might hinder public housing agencies in optimizing voucher use. Specifically, HUD recognized that some public housing agencies continued to encounter difficulties that were not within their control to overcome and that negatively impacted

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23 The CARES Act provided approximately $400 million in housing assistance payments funding to compensate public housing agencies for increases in housing assistance payments due to the anticipated loss of income of program families.

24 HUD's 2020 Year-in-Review 2021 Look Forward estimated leasing potential to be around 80,000 vouchers in November 2020. HUD's records demonstrated that the leasing potential was nearly 81,000.

25 HUD's Housing Choice Vouchers 2020 Year-in-Review 2021 Look Forward.

the agencies' ability to increase leasing in their service areas. For the public housing agencies with significant leasing potential, HUD routinely provided suggestions to individual agencies on how to increase their leasing, to include reaching out to landlords, increasing the maximum amount of HUD subsidy allowed to support a voucher, purging the waiting list,[26] and monitoring success rates.[27] However, depending on the difficulties that impacted each individual public housing agency, HUD's suggestions may not have assisted the public housing agency in increasing its leasing. It was up to each individual public housing agency to implement HUD's suggestions or determine what was best for its agency and service areas, as HUD did not have the authority to direct agencies to increase the use of their vouchers.

The Deputy Assistant Secretary for Public Housing and Voucher Programs acknowledged that some public housing agencies may not have implemented HUD's suggestions due to circumstances beyond a public housing agency's control, such as insufficient landlord interest or participation, lack of availability of affordable housing, and housing costs increasing faster than a public housing agency's budget. Therefore, although HUD routinely provided suggestions to public housing agencies on how to increase their leasing, HUD was limited in the assistance that it could provide due to those factors; thus, voucher utilization continued to decrease.

Conversely, to address the public housing agencies with utilization performance issues,[28] in March 2015, HUD created internal guidance that restated HUD's reallocation regulation at 24 CFR (Code of Federal Regulation) 982.102(i),[29] which stated that the desired outcome was for a public housing agency to achieve a program utilization rate at or above 95 percent and addressed a public housing agency's failure to achieve optimum utilization. However, according to HUD management officials, neither the reallocation regulation nor the internal guidance had been implemented. Because of the factors impacting utilization that were beyond HUD's and some public housing agencies' control, HUD's focus was on increasing voucher utilization rather than penalizing public housing agencies for low utilization.

In October 2020, HUD issued Public and Indian Housing Notice 2020-29, which provided tools and guidance to public housing agencies for optimizing voucher utilization. While HUD has provided suggestions and written guidance for public housing agencies' consideration, HUD needs to continue to refine its understanding of the utilization challenges preventing public housing agencies from achieving an acceptable utilization rate and develop a more effective strategy to address the continuing decrease in voucher utilization. Refining its understanding of

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26 Purging the waiting list means that the public housing agency reaches out to the applicants to determine whether they are still interested in obtaining a voucher. Those that do not respond or are no longer interested are removed from the waiting list.

27 Success rate is defined as the rate at which a tenant was successful in leasing a unit.

28 The guidance was created in response to HUD OIG's audit report number 2013-NY-0002, dated July 18, 2013.

29 The regulation at 24 CFR 982.102(i) states that if a public housing agency has performance deficiencies, such as a failure to adequately lease units, HUD may reallocate some of its budget authority to other public housing agencies. If HUD decides to reallocate budget authority, it will reduce the number of units reserved by HUD for the public housing agency program for which budget authority is being reallocated and increase the number of units reserved by HUD for the public housing agencies receiving the benefit of the reallocation so that public housing agencies can issue vouchers.

those challenges could help HUD determine how the various controllable and uncontrollable factors impact utilization. Using this information, HUD should develop and implement a plan to work with the public housing agencies to address the barriers that impact utilization. This plan could lead to opportunities to potentially lease nearly 81,000 available housing choice vouchers to provide subsidized housing for additional eligible families, thus ensuring that the maximum number of eligible families is served and preventing these vouchers from becoming unfunded.

HUD Had Not Exercised Its Regulatory Authority To Reallocate Housing Choice Vouchers and Associated Funding

The Quality Housing and Work Responsibility Act of 1998 changed the way that HUD provided funding to public housing agencies for the Housing Choice Voucher Program by updating the method HUD used to calculate renewal funding. In part, the new requirement[30] directed HUD to establish an allocation baseline of assistance (budget authority) for public housing agencies. Related to establishing this baseline of assistance, HUD issued regulations and established implementing procedures to reallocate vouchers and associated funding from one public housing agency to another (or to multiple agencies) to facilitate maximum use of the voucher program.

As part of its implementation of the Quality Housing and Work Responsibility Act, HUD issued regulations, including 24 CFR 982.102(i), which required HUD to create voucher reallocation procedures by Federal Register notice. Therefore, HUD issued multiple Federal Register notices describing how reallocation would work and the criteria HUD would follow for the reallocation of a public housing agency's vouchers and associated funding. For instance, 64 FR (Federal Register) 56882 through 56886, section V, dated October 21, 1999, states that this provision gives HUD the ability, by Federal Register notice, to permanently dereserve units and their associated budget authority from a public housing agency with performance deficiencies (particularly underleasing) and to reallocate the budget authority to other public housing agencies. Additionally, 66 FR 55524, section II.A, dated November 2001, states that if the leasing rate is less than 90 percent of the number of units reserved and the public housing agency has spent less than 90 percent of its annual budget authority, HUD will issue a warning to the agency. If a public housing agency fails to increase its leasing rate to 95 percent of the number of units reserved by the time it submits its second budget after the warning, the unused baseline units and the unspent baseline annual budget authority are subject to reallocation.

Although HUD planned to reallocate vouchers and associated funding when agencies were underutilizing their vouchers, HUD had not exercised its regulatory authority to do so. We attempted to use the reallocation method prescribed in the Federal Register notices to identify which public housing agencies would have been subject to reallocation of

> As of November 2020, there were more than 191,000 unused and unfunded vouchers.

[30] Section 556(a) of the Quality Housing and Work Responsibility Act of 1998 added section 8(dd) of the 1937 Act (42 U.S.C. (United States Code) 1437f (dd)).

unused vouchers and unused funding during our audit scope of 2017 through 2019;[31] however, the Federal Register notices no longer align with HUD's current policies.[32] HUD had developed its reallocation procedures in response to the Quality Housing and Work Responsibility Act, but the 2003 Omnibus Appropriations Act (Public Law 108-7), signed into law on February 20, 2003, revised the funding process, making the reallocation procedures no longer feasible. Therefore, we used the information from HUD's Two-Year Projection Tool utilization reports and estimated[33] that 109 public housing agencies met the basic requirements for reallocation of their unused vouchers and unused funding as of December 31, 2019. There were a total of 9,082 vouchers associated with the 109 public housing agencies that potentially could have been used to house families in need if the vouchers and funding had been reallocated.[34]

As of November 2020, more than 191,000 authorized housing choice vouchers were unused and unfunded.[35] Because the 191,000 vouchers were allowed to go unused and the public housing agencies no longer receive funding through appropriations to fund the vouchers, HUD would need an additional appropriation of nearly $1.8 billion[36] to fund these vouchers.

HUD Believed That It Could Not Implement Its Voucher Reallocation Regulation

HUD believed that it could not implement its Housing Choice Voucher Program reallocation regulation because the procedures that it had developed in relation to the Quality Housing and Work Responsibility Act to implement reallocation, no longer aligned with legislative changes that occurred in 2003. According to HUD program management officials, before 2003, the Program was funded based on the number of units under a public housing agency's annual contributions contract, meaning that public housing agencies were provided funding for all units on their annual contributions contracts, regardless of whether the units were leased. However, in

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31 Public and Indian Housing Notice 2006-03 states that because the data HUD collects through form HUD-52681 (yearend settlement statement) is captured electronically in the Voucher Management Subsystem and the Financial Assessment Subsystem, it is unnecessary for public housing agencies administering the Housing Choice Voucher Program to continue to report using form HUD-52681. Therefore, we used HUD's Two-Year Projection Tool utilization report for our analysis because the report collects information from the various HUD systems that we needed to complete our estimate.

32 Public and Indian Housing Notices 2017-10, 2018-09, and 2019-08 had a similar process to Notice 2003-23(HA). Specifically, if a public housing agency did not utilize its vouchers from the previous calendar year, it would not receive funding for the unused vouchers for the following calendar year and beyond.

33 We completed this estimate to demonstrate how many public housing agencies and vouchers could have met HUD's previous requirements to be reallocated during our audit scope from January 1, 2017, through December 31, 2019.

34 Because HUD did not follow its reallocation regulations and procedures and had not issued warning letters to public housing agencies meeting the basic requirements for reallocation, we were unable to determine when the second annual budget authority after the warning would have been submitted. In lieu of that information, we used a period of 3 years, January 1, 2017, through December 31, 2019, to estimate the public housing agencies and associated vouchers that would have been subject to reallocation.

35 This number will increase as more vouchers become unused and eventually unfunded.

36 Using HUD's Housing Choice Voucher Dashboard, we calculated the amount it would cost to allocate funding for the unused unfunded vouchers. To complete our calculation, we multiplied the total unused vouchers, less leasing potential, by the average per unit cost and multiplied that amount by 12 to show the amount for 1 year. Our calculation is as follows: (272,226 - 80,929 = 191,297. 191,297 * $764.65 = $146,275,251. $146,275,251 * 12 months = $1,755,303,012).

the 2003 Omnibus Appropriations Act,[37] Congress specifically prescribed a revised method for calculating renewal funds for public housing agencies' voucher programs. The 2003 Omnibus Appropriations Act required HUD to renew expiring annual contributions contracts for each public housing agency based on the total number of unit months under lease, as reported on the most recent end-of-year financial statement submitted to HUD by the agency.[38] As a result, funds authorized under the Act could be used to pay for only those vouchers associated with units under lease. If a public housing agency had unused vouchers, it may not receive funding for those vouchers in the following budget year. Without associated funding, HUD could not reallocate the unused vouchers.

Congress then made an additional change to the funding of public housing agencies for their Housing Choice Voucher Programs. In the Appropriations Act of 2014,[39] Congress authorized HUD to offset a public housing agency's appropriations funding if it had excess reserves and to use the offset funding[40] to (1) prevent the termination of rental assistance for families as the result of insufficient annual appropriations funding and (2) avoid or reduce the proration of renewal funding allocations.[41] HUD believed that Congress' decision to authorize offsets further supported HUD's belief that it could not reallocate housing choice vouchers because the public housing agencies would not have the funding to accompany these unused vouchers.

HUD had not revised its reallocation procedures to adapt to changes in the budgeting process. Although the Appropriations Act of 2003 changed the way HUD allocated budget authority to public housing agencies and the Appropriations Act of 2014 allowed HUD to offset excess funding reserves, these changes did not supersede HUD's reallocation regulation at 24 CFR 982.102(i). Therefore, the Office of Public and Indian Housing should work with the Office of General Counsel to determine whether legislative changes prevent it from implementing or revising the reallocation regulation.

Further, according to the Deputy Assistant Secretary for Public Housing and Voucher Programs, the transition to budget-based funding[42] resulted in many public housing agencies' no longer receiving sufficient funding to lease up the number of units authorized by their annual contributions contract. HUD's Deputy Assistant Secretary also said that many public housing

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37 2003 Omnibus Appropriations Act, Division K, Title II, Department of Housing and Urban Development, Public and Indian Housing certificate fund.

38 HUD issued Public and Indian Housing Notice 2003-23 to implement the changes to the funding of the public housing agencies for their voucher program. The notice states that the Federal Fiscal Year 2003 Appropriations Act, supersedes relevant sections of Federal Register Notice 64 FR 56882, dated October 21, 1999 (FR 4459-F-03), and 24 CFR 982.102.

39 113 Public Law 76, 128 Stat. 5, enacted January 17, 2014.

40 An offset occurs when a public housing agency has excess reserves. HUD reduces the appropriation amount the public housing agency would receive and requires the agency to use the excess reserves.

41 HUD may eliminate or reduce a public housing agency's portion of renewal funding allocation if the public housing agency has excess reserves.

42 Under HUD's budget-based funding, public housing agencies' prior-year expenditures, among other factors, are used to determine the agency's next year's budget. Therefore, as a public housing agency's voucher utilization decreases, its voucher funding also decreases. Thus, it would be difficult for a public housing agency that does not have excess funding to increase voucher leasing.

agencies did not recover from the sequestration of 2013,[43] which had a permanent shrinking effect on the Housing Choice Voucher Program. In addition to the sequestration, public housing agencies' housing costs had increased faster than their budgets, and there had also been a decrease in affordable housing.

As significant budget-related changes took place in the Housing Choice Voucher Program over time, it is unclear whether Congress was aware of HUD's decision to not exercise its regulatory authority to reallocate vouchers and how that decision potentially impacted the growing number of unused and unfunded vouchers. HUD's congressional funding justifications do not notate the number of vouchers authorized in public housing agencies' annual contributions contracts or in use but, instead, notate only the funds requested to ensure that vouchers under lease at the time of the budget formulation are not terminated.

As the need for affordable housing increases, HUD needs to look for opportunities to address the issue as well as develop and implement a plan to ensure that its Housing Choice Voucher Program assists the maximum number of eligible families. One potential opportunity for HUD to pursue is a current housing needs assessment.[44] HUD had not performed such an assessment since November 2000, based on 1990 census data. An updated housing needs assessment would assist HUD in (1) determining which communities could benefit from additional housing vouchers and (2) identifying and working with the public housing agencies in those communities. Because HUD has unused vouchers, it is potentially in a position to serve communities in need of access to affordable housing by determining how unused and unfunded vouchers could be used to serve these communities, especially when each year more of these vouchers become unfunded.

Conclusion

HUD remains challenged to ensure that the maximum number of eligible families benefits from its Housing Choice Voucher Program. These challenges remain because some public housing agencies continue to encounter difficulties that are beyond their control to overcome and which negatively impact the agencies' ability to increase leasing in their service areas. In addition, HUD believed that it could not implement its reallocation regulation because of historical legislative changes to the funding process for public housing agencies' voucher programs. Addressing the multiple factors impacting voucher utilization could help HUD and public

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43 Title I, sections 1113 (b) and (c), of the 2013 Appropriations Act state that (b) if a sequestration is ordered by the President under section 251A of the Balanced Budget and Emergency Deficit Control Act of 1985, the spending, expenditure, or operating plan required by this section must reflect such sequestration and (c) HUD is one of the agencies to which this section applies. Additionally, HUD Public and Indian Housing Notice, 2013-12, section 3, states that the 2013 Appropriations Act requires HUD to provide renewal funding based on validated Voucher Management System leasing and cost data for the prior calendar year (January 1, 2012, through December 31, 2012). The amounts appropriated are reduced by the sequestration requirements and an additional across-the-board rescission of 0.2 percent.

44 HUD's requirements at 24 CFR 791.402(a) state that before budget authority is allocated to each public housing agency, the Assistant Secretary for Policy Development and Research must determine the relative need for low-income housing assistance in each HUD field office jurisdiction. This determination must be based on data from the most recent, available decennial census and, as appropriate, upon more recent data from the Bureau of the Census or other Federal agencies or from the American Housing Survey.

housing agencies optimize the Housing Choice Voucher Program and assist more families in need of subsidized housing.

Recommendations

We recommend that the General Deputy Assistant Secretary for Public and Indian Housing require the Office of Field Operations to

1A. Establish and implement a plan to assist public housing agencies in optimizing leasing potential to maximize the number of assisted families and prevent additional vouchers from becoming unfunded. The plan should include but not be limited to (1) addressing the circumstances that prevent public housing agencies from leasing vouchers and assessing whether legislative, policy, or funding changes are needed to optimize voucher use and (2) establishing timeframes to lease vouchers for those public housing agencies that can lease vouchers and determining appropriate corrective actions for those public housing agencies that do not increase their leasing to prevent additional vouchers from becoming unfunded.

We recommend that the General Deputy Assistant Secretary for Public and Indian Housing require the Office of Public Housing and Voucher Programs to

1B. Establish and implement a plan for the unused and unfunded vouchers to mitigate or prevent additional vouchers from becoming unused and unfunded. This plan should include but not be limited to (1) implementing new or revising current regulations or procedures to allow for the reallocation of voucher funding in coordination with the Office of General Counsel; (2) working with interested parties, in particular the public housing industry, to determine how to use the unfunded vouchers; and (3) coordinating with HUD's Office of Policy Development and Research to determine whether research is needed to assess the current need for additional low-income housing assistance in each jurisdiction.

Scope and Methodology

We performed our audit work remotely, due to the COVID-19 Pandemic, between March 2020 and February 2021. The audit covered the period January 1, 2017, through December 31, 2019. We expanded our scope through November 30, 2020, to report on more current data.

To accomplish our audit objective, we reviewed

- Applicable laws; Federal Register Notices 4694-N-01, 4459-N-07, and 4459-F-03; HUD's regulations at 24 CFR parts 791 and 982; HUD's Public and Indian Housing Notices 1998-65, 2003-23, 2006-03, 2012-44, 2017-10, 2018-09, 2019-08, and 2020-04; HUD's Guidebook 7420.10G; HUD's Two-Year Projection Tool Manual; and HUD's Dashboard User Guide.
- HUD's frozen[45] Voucher Management System data, Two-Year Projection Tool utilization reports, Housing Choice Voucher InfoPath reports, and Housing Choice Voucher Dashboard.

We also interviewed HUD's staff from the Housing Voucher Program Office, Financial Management Division, and Office of Field Operations.

We analyzed HUD's Two-Year Projection Tool utilization reports to understand utilization trends during our audit scope. We also used the reports to determine which public housing agencies between 2017 and 2019 would have been eligible for reallocation of vouchers and funding. Lastly, we used the reports to analyze the difference between leasing potential and unused vouchers.

Data, Review Results, and Generally Accepted Government Auditing Standards

We relied in part on HUD's Two-Year Projection Tool utilization reports, which include information from HUD's frozen Voucher Management System and Public and Indian Housing Information Center. Although we did not perform a detailed assessment of the reliability of the data, we found the data to be sufficiently reliable for our purposes.

We provided our review results to HUD's General Deputy Assistant Secretary for Public and Indian Housing, Deputy Assistant Secretary for Field Operations, Deputy Assistant Secretary for Public Housing and Voucher Programs, and other pertinent management officials.

We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate

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[45] HUD provides public housing agencies a deadline for completing entries into the Voucher Management System. After the deadline, HUD extracts the information from the Voucher Management System for the final validation. Once the final validation is complete, the information is considered "frozen." This information is then used as part of each public housing agency funding calculation for the next calendar year.

evidence to provide a reasonable basis for our findings and conclusions based on our audit objective(s). We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Internal Controls

Internal control is a process adopted by those charged with governance and management, designed to provide reasonable assurance about the achievement of the organization's mission, goals, and objectives with regard to

- effectiveness and efficiency of operations,
- reliability of financial reporting, and
- compliance with applicable laws and regulations.

Internal controls comprise the plans, policies, methods, and procedures used to meet the organization's mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations as well as the systems for measuring, reporting, and monitoring program performance.

Relevant Internal Controls

We determined that the following internal controls were relevant to our audit objective:

- Policies and procedures related to HUD's oversight of voucher utilization and reallocation.

We assessed the relevant controls identified above.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, the reasonable opportunity to prevent, detect, or correct (1) impairments to effectiveness or efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations on a timely basis.

We evaluated internal controls related to the audit objective in accordance with generally accepted government auditing standards. Our evaluation of internal controls was not designed to provide assurance regarding the effectiveness of the internal control structure as a whole. Accordingly, we do not express an opinion on the effectiveness of HUD's internal controls.

Appendix A

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation | **Auditee Comments**

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-5000

OFFICE OF PUBLIC AND INDIAN HOUSING

MEMORANDUM FOR: Kelly Anderson, Audit Director, Office of Inspector General, 5AGA

FROM: Danielle Bastarache, Deputy Assistant Secretary for Public Housing and Voucher Programs, PE

Felicia Gaither, Deputy Assistant Secretary for Field Operations, PQ

SUBJECT: Comments on Draft Discussion Office of Inspector General Report: HUD's Oversight of Voucher Utilization and Reallocation in the Housing Choice Voucher Program

Thank you for the opportunity to review and comment on the Discussion Draft Audit Report on HUD's Oversight of Voucher Utilization and Reallocation. As we have previously discussed with the OIG audit team, the Office of Public Housing and Voucher Programs (OPHVP) remains concerned that the Discussion Draft is seriously flawed.

Comment 1

We believe Discussion Draft fails to acknowledge how changes to the Housing Choice Voucher (HCV) program renewal formula through HUD's appropriations acts have profoundly impacted how the program is funded and managed, and the impact of those changes with respect to "unfunded" vouchers. We object to the Discussion Draft's conclusion that because HUD did

Comment 2

not reallocate vouchers under its regulatory authority, the result is that more than 191,000 authorized vouchers are now unused and unfunded. The Discussion Draft fails to account for obvious factors that have created unfunded vouchers, such as the budget-based nature of the HCV program; discretionary PHA administrative decisions that reduced the numbers of families the PHA can serve within its budgetary constraints; HCV program renewal funding offsets; and years where the amount of appropriated funds was insufficient to fully meet PHA renewal funding eligibility.

Comment 3

While we have significant concerns with draft report itself, OPHVP agrees that the utilization of voucher funding is a critical aspect of HCV program management. Since 2003, the appropriations acts have over-ridden Section 8(dd) of the United States of 1937 and HUD's implementing regulations at 24 CFR 982.102. Under the appropriations acts, Housing Assistance Payments (HAP) renewal funding is allocated based on the actual amount of housing assistance payment expenses the PHA incurred in the previous calendar year, and not on the number of authorized vouchers under the PHA's Consolidated Annual Contributions Contract (CACC) with HUD. This means that the PHA's eligibility for future year renewal funding is

Comment 4

dependent on their current housing HAP funding utilization. Since PHAs are required to manage their HCV programs within their funding constraints, not in accordance with the number of authorized vouchers for their programs, failing to properly utilize their voucher funding can have significant ramifications for their program funding in future years, reducing the PHA's eligibility

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Auditee Comments

Ref to OIG Evaluation

Comment 5

for resources to lease additional units or increase payment standards to expand housing choices for voucher families. Consequently, we look forward to working constructively with the Office of Inspector General (OIG) to further strengthen and build upon the Office of Public and Indian Housing's (PIH) efforts to improve voucher funding utilization, notwithstanding our disagreement over the validity of some of the statements and conclusions in the Discussion Draft.

Please see the following responses on the specific recommendations, as well as additional comments on the Discussion Draft.

Recommendation 1A. Establish and implement a plan to assist public housing agencies in optimizing leasing potential to maximize the number of assisted families and prevent additional vouchers from becoming unfunded. The plan should include but not be limited to (1) addressing the circumstances that prevent public housing agencies from leasing vouchers and assessing whether legislative, policy, or funding changes are needed to optimize voucher use and (2) establishing timeframes to lease vouchers for those public housing agencies that can lease vouchers and determining appropriate corrective actions for those public housing agencies that do not increase their leasing to prevent additional vouchers from being unfunded.

OPHVP and OFO response:

Comment 6

Agree. OPHVP will review relevant regulations, statutes, and other guidance to try to expand on our existing efforts to facilitate leasing generally and work to optimize voucher use. OPHVP and OFO understand that establishing timeframes to lease vouchers means that OFO will continue to work with PHAs on leasing plans, focusing on those PHAs with the highest amount of funds available to ensure optimal utilization of vouchers. Utilizing available tools to work with PHAs on developing timeframes for voucher issuance as well as analyzing their voucher costs and trends and providing technical assistance is the best way to ensure that PHAs are serving as many families as their funding will allow.

Comment 7

With respect to the wording of the recommendation, the opening sentence fails to acknowledge the extensive and intensive efforts PIH has made over the last ten years to maximize voucher utilization. PIH has developed tools for PHAs and HUD staff to identify leasing potential and utilization challenges, including training videos and guidance material on their use. PIH has implemented detailed protocols by which the PIH Field structure engages with PHAs and tracks performance and provides technical assistance. PIH has further established high-profile goals for the HCV program and voucher utilization is currently part of PIH's Wildly Important Goal (WIG) effort. PIH has further made a major effort to increase owner receptivity to participation in the HCV program, including developing materials and guidance targeted specifically for landlords and holding numerous symposiums around the country with landlords to discuss specific issues and concerns in their local community.

Comment 8

We also believe the phrases "…to prevent additional vouchers from being unfunded" in the first and concluding sentences are problematic and should be deleted. While voucher utilization efforts by PHAs often include plans to lease additional vouchers, some PHAs may choose to direct their utilization actions toward reducing participant rent burdens and expanding

Auditee Comments

Ref to OIG Evaluation

housing choices for families in areas of opportunity by implementing higher payment standards. Determining the appropriate balance between these competing priorities (the number of families that can be assisted vs. the amount of subsidy that will be provided on behalf of program participants to expand housing choice) is ultimately the responsibility of the PHA, not HUD. For example, it would not be appropriate for HUD to impose corrective actions on a PHAs that did not prevent additional vouchers from being unfunded if the PHA instead maximized its voucher funding utilization by establishing more generous payment standards to increase housing opportunities for voucher families in higher rent areas of their jurisdictions. HUD's oversight should be focused on whether the PHA is adequately utilizing its voucher funding and not the choices that the PHA makes in terms of how best to utilize those resources.

Comment 9

Recommendation 1B. Establish and implement a plan for the unused and unfunded vouchers to mitigate or prevent additional voucher from becoming unused and unfunded. This plan should include but not be limited to (1) implementing new or revising current regulations or procedures to allow for the reallocation of unfunded vouchers in coordination with the Office of General Counsel; (2) working with interested parties, in particular the public housing industry, to determine how to use the unfunded vouchers, and (3) coordinating with HUD's Office of Policy Development and Research to update the assessment of housing needs to determine the need for additional low-income housing assistance in each jurisdiction.

OPHVP Response:

Comment 10

Agree with caveats. HUD is committed to exploring ways to offset and reallocate unfunded vouchers in order to maximize assistance for families. This may be done legislatively or through a regulatory revision process. In doing so, we may coordinate, as allowed, with industry partners and others. Additionally, OPHVP will consult and coordinate with PDR to determine ways to update the assessment of housing needs or explore alternative methods of assessing housing needs in each jurisdiction to help inform any proposal.

Comment 11

It is clear from our previous discussions that OPHVP believes the methodology and calculations used as well as the underlying legal authority on which Discussion Draft bases its findings is not an accurate representation of the utilization/reallocation in the HCV program. Thus, OPHVP does not agree with the second recommendation (1B) to work with PD&R on needs and to establish an offset/reallocation process for vouchers that are unfunded. We would, however, be open to establishing a process whereby vouchers that have funding but are not in use would be reallocated. As the HCV program is a budget-based program, this would be much more meaningful than focusing on unfunded vouchers in both the short and long term and comports with the Administration's goal of expanding the social safety net and access to housing opportunities.

Comment 12

We would recommend striking "unfunded" throughout the recommendation, reflecting that HUD's efforts should remain concentrated on improving voucher funding utilization and reducing leasing potential, as opposed to redistributing "unfunded" vouchers among PHAs.

Additional Comments

Auditee Comments

Ref to OIG Evaluation

OPHVP Comment:

Comment 13

The Discussion Draft estimates that as of November 2020, more than 62 percent of PHAs had leasing potential and that leasing potential could increase by at least 22 percent in 2021. While OPHVP acknowledges that leasing potential if left unaddressed is a serious concern for the HCV program, the Discussion Draft does not place November 2020 in its proper historical context. At the time in question PHAs and their communities were in the midst of grappling with some of the severest impacts of the COVID-19 pandemic, and that public health measures, safety concerns, and ongoing operational challenges certainly had a major impact on the efficiency of PHA leasing.

Comment 14

In addition, the Discussion Draft estimate that leasing potential could increase by at least 22 percent in 2021 should also be qualified. Data used to determine this estimate was early from early in the calendar year when PHAs did not know the amount of their 2021 renewal funding. Historically, PHAs been conservative with leasing until they know their renewal funding awards. PHAs were notified of their HAP renewal funding awards during the last week in March 2021. Given the Office of Field Operations efforts on reducing leasing potential, it is now unlikely the leasing potential will increase to this extent in 2021.

OPHVP Comment:

Comments 2 and 15

As previously indicated, we respectfully but strenuously disagree with the Draft Discussion's conclusion that there are more than 191,000 authorized vouchers unused and unfunded because HUD did not reallocate vouchers under its regulatory authority. There are a variety of factors that contribute to the number of "unfunded" vouchers. Furthermore, the Draft Discussion further fails to recognize that voucher HAP funding is in fact being re-distributed from PHAs that fail to utilize their funding to other PHAs, even if the authorized units stay with the losing PHA and become "unfunded."

First and foremost, the HCV program is a budget-based program. This means PHAs are responsible for managing their programs based on the funding at their disposal. The HCV program provides PHAs with the authority to make administrative decisions that can significantly impact their per-unit-costs and consequently affect the number of families they can assist within their funding constraints. PHAs must make difficult choices on how to best manage their programs with their available funding.

Comment 16

For example, PHAs have the statutory right to establish payment standards without HUD approval anywhere between 90 and 110 of the Fair Market Rent (FMR) for the area. The payment standard limits the amount of subsidy that the PHA may pay on behalf of a participating family. A PHA may find it necessary to increase its payment standard for a variety of reasons such as efforts to increase the number of voucher families that live in areas of opportunity or outside of neighborhoods with high concentrations of poverty. Raising payment standards will increase its per unit costs and consequently reduce the number of families it can serve. This will potentially increase the number of vouchers that become unused and unfunded, but the rationale (for example, to increase opportunities and/or decreased concentration of voucher families in

Auditee Comments

Ref to OIG Evaluation

higher poverty areas) was worth that trade-off to the PHA in terms of its program's needs and priorities. A PHA that increases its payment standard may fully expend its voucher funding for the calendar year but still end up serving less families than it did the previous year. Since the renewal funding is based on the PHA's actual leasing and costs for that calendar year, the PHA's decision created "unfunded" vouchers even though the PHA is fully utilized from a funding perspective. We hope OIG would agree that the PHA's unused/unfunded vouchers should not be reallocated as a result of the PHA's decision in such a circumstance.

Comments 15 and 17

Second, the Discussion Draft makes reference to the fact that the appropriations acts have for a number of years now authorized HUD to offset PHA excess reserves and to use those offset funds for specific purposes. However, it omits any discussion of how HUD has on numerous occasions exercised that offset authority and the practical effect of such an offset. The use of offsets essentially reallocates unused HCV renewal funding from PHAs that have failed to utilize their voucher funding appropriately to PHAs that do not have excess reserves. This basically acts as a reallocation because most PHAs do not have sufficient funding to lease all their authorized units and therefore have authorized vouchers available to lease when additional funding is directed to them through the offset provision. Furthermore, the appropriations acts offset provision requires HUD to use those offsets for specific purposes. The offset must be used to reduce or eliminate the proration when the renewal appropriations are insufficient to meet PHA renewal eligibility (based on the PHA's actual leasing and costs for the previous calendar year), or to prevent terminations of families where the PHA, despite taking reasonable cost savings measures, has insufficient funding to cover the cost of their existing HAP contracts.

In both instances, the use of the offset prevents a potential reduction in the number of families assisted under the program. It increases the funding that is available to meet all or more of every PHA's renewal need eligibility by reducing or eliminating the proration of renewal funding, and it is used to prevent families from being terminated from a PHA's program.

Comment 18

Furthermore, in addition to the redistribution of funds through offsets, the appropriations acts formula itself is effectively reallocating voucher funding by directing a greater share of the renewal appropriations to those PHAs that fully utilized their funding at the expense of those agencies that failed to do so. While the use of the offset and funding redistribution inherent in the appropriations acts renewal formula may be creating additional "unfunded" vouchers at the losing PHAs, it is preventing "unfunded" vouchers at the PHAs that have fully utilized their voucher funding. In essence, appropriated funds are being redirected away from those PHAs that fail to effectively utilize voucher funding to those that do so, even though the authorized vouchers under the PHA's CACC do not move.

Comment 19

Third, the Discussion Draft view of unfunded vouchers and the underlying cause fails to account for the fact that Congress does not always provide the full amount of renewal funding for which PHAs are eligible under the appropriations act formula. The required prorations contribute to the gap between the number of units authorized and the funding appropriated to lease all the authorized units. For example, in 2013 the appropriated HCV HAP renewal funding required a proration of 94 percent of the PHA's renewal eligibility based on actual leasing and costs from the previous calendar year. Congress clearly understands that they may not be

Auditee Comments

Ref to OIG Evaluation

appropriating enough funding to fully cover the renewal needs of PHAs as evidenced by the provision they include in the act that directs HUD to prorate the renewal funding in such circumstances.

Comment 20

While we believe the Discussion Draft is flawed in its assumptions of how the voucher program renewal funding formula impacts HCV operations and in its understanding of the root causes of "unfunded" vouchers, as noted above we agree that effectively managing voucher utilization is a critical component to the ongoing success of the voucher program. OPHVP therefore welcomes the opportunity to work with the OIG on plans to build upon and expand HUD's robust efforts to date in this regard, including how to most effectively and efficiently utilize existing voucher funding, whether through improved PHA performance or directing those unused funds to other agencies that can put them to use.

Thank you again for this opportunity to share our comments and for the previous discussions we have had with your audit team regarding this report. If you have any questions, please do not hesitate to contact me.

OIG Evaluation of Auditee Comments

General Comment:
HUD's Deputy Assistant Secretaries for Public Housing and Voucher Programs and Field Operations provided a joint response to the report. In our evaluation, when a specific response was attributed to a particular office, we identified that specific office, and when both offices commented jointly, we attributed those comments to HUD in general.

Comment 1 HUD's Office of Public Housing and Voucher Programs stated that it believes the audit report fails to acknowledge how changes to the Housing Choice Voucher Program renewal formula through appropriations acts have impacted how the Program is funded and managed.

We disagree. The report states that beginning with the 2003 Omnibus Appropriation Act, the method for funding the Program has changed. It also addresses how the shift from a unit-based to budget-based funding approach impacted the Program.

Comment 2 HUD's Office of Public Housing and Voucher Programs stated that it objects to the report's conclusion that because HUD did not reallocate vouchers under its regulatory authority, more than 191,000 authorized vouchers are unused and unfunded. It also stated that the report fails to account for various factors that created unfunded vouchers.

We disagree. The report mentions the various factors that contributed to vouchers being unused and eventually becoming unfunded, such as changes in how the Program was funded, impact of the sequestration in 2013, and HUD's implementing offsets of public housing agencies' Program reserves. We believe that if HUD had implemented a plan to address (1) public housing agencies that could not or did not optimize leasing potential to maximize the number of assisted families and prevent additional vouchers from becoming unfunded and (2) the increasing number of unused and unfunded vouchers to mitigate or prevent additional vouchers from becoming unused and funded, it could have potentially decreased the number of unused vouchers that eventually became unfunded.

Comment 3 HUD's Office of Public Housing and Voucher Programs stated that although it had significant concerns with the report, it agreed that utilization of voucher funding is a critical aspect of Program management. The Office also said that since 2003, appropriations acts have overridden section 8(dd) of the United States Housing Act of 1937 and HUD's implementing regulations at 24 CFR 982.102.

We acknowledge that utilization is a critical aspect of the Program. Although the Appropriations Act of 2003 changed the way that HUD allocated budget authority to public housing agencies and the Appropriations Act of 2014 allowed HUD to offset excess funding reserves, these changes did not supersede HUD's reallocation regulation at 24 CFR 982.102(i). As we recommended in the audit report, HUD's Office of Public Housing and Voucher Programs should work with the Office of General Counsel to determine whether legislative changes prevent it from implementing or revising the reallocation regulation.

Comment 4 HUD's Office of Public Housing and Voucher Programs stated that public housing agencies are required to manage their Programs within their funding constraints and that failing to properly utilize their voucher funding could have significant consequences for their Programs in future years, reducing the public housing agencies' eligibility for resources to lease additional units.

We acknowledge that public housing agencies are required to manage their Programs within their funding constraints and that eligibility for yearly renewal funding depends on their housing assistance payments funding utilization. However, HUD regulations at 24 CFR 982.102(i) provide HUD with the option of reallocating a public housing agency's budget authority when the public housing agency does not adequately lease units. When the appropriations acts changed the way that HUD allocated budget authority to public housing agencies, HUD did not revise its reallocation procedures to adapt to changes in the budgeting process. Consequently, HUD no longer had a feasible process for reallocating a public housing agency's budget authority to another public housing agency that could benefit from issuing additional vouchers in its service area. We believe that if HUD had revised its reallocation procedures, when it moved to a budget-based funding approach, it could have potentially mitigated the growing number of unused vouchers.

Comment 5 HUD's Office of Public Housing and Voucher Programs stated that it looks forward to working with us to strengthen and build upon its efforts to improve voucher funding utilization, although it disagrees with some statements and conclusions in the report.

We appreciate the willingness of HUD's Office of Public Housing and Voucher Programs to work with us during the audit resolution process to strengthen its efforts to improve voucher utilization.

Comment 6 HUD stated that it agrees with recommendation 1A.

We appreciate HUD's willingness to take corrective actions and look forward to working with HUD during the audit resolution process.

Comment 7 HUD stated that the wording of the first sentence of recommendation 1A fails to acknowledge its extensive and intensive efforts over the past 10 years to maximize voucher utilization. Additionally, HUD stated that it has implemented detailed protocols by which HUD field offices engage, track performance, and provide technical assistance to public housing agencies; established high-profile goals for the Program; and included voucher utilization as part of the Office of Public and Indian Housing's "Wildly Important Goal" effort. HUD also stated that it has made a major effort to increase owner receptivity to participation in the Program.

We disagree. In our report, we acknowledge HUD's efforts to track utilization with its various tools and optimization protocol. However, HUD did not provide additional documentation of its efforts during the audit or with its written comments in response to this audit report. The report also acknowledged that some public housing agencies continue to encounter difficulties that are not within their control to overcome and which negatively impact the agencies' ability to increase leasing in their service areas. Nevertheless, HUD did not have a formal plan to (1) assist public housing agencies in optimizing leasing potential that addresses the circumstances preventing public housing agencies from leasing vouchers and (2) determine the appropriate corrective actions for public housing agencies that can lease additional vouchers but have not done so.

Comment 8 HUD stated that it believed that the phrase "to prevent additional vouchers from being unfunded" should be removed from recommendation 1A because public housing agencies may choose to direct their utilization action efforts toward (1) reducing current participants' rent burdens and (2) expanding housing choices for families in areas of opportunity by increasing payment standards. HUD also stated that determining the appropriate balance between competing priorities is ultimately the responsibility of the public housing agency, not HUD. For example, it would not be appropriate for HUD to impose corrective actions on a public housing agency that did not prevent additional vouchers from being unfunded if the public housing agency maximized its voucher funding utilization by establishing more generous payment standards to increase housing opportunities.

We acknowledge that public housing agencies have the authority to run their Programs. However, we disagree that the phrase should be removed from recommendation 1A. This recommendation addresses public housing agencies with leasing potential, meaning that HUD determined that these public housing agencies had funding available to assist nearly 81,000 additional families. HUD's example of a public housing agency's increasing its payment standards may result in the public housing agency's no longer having leasing potential. Therefore, the unused vouchers may become unfunded and would then be addressed by recommendation 1B.

Comment 9 HUD stated that its oversight should be focused on whether a public housing agency was adequately utilizing its voucher funding and not the choices that the public housing agency made on how best to use its resources.

We agree that HUD should maintain oversight of public housing agencies' voucher utilization; however, HUD should also have a level of oversight of the decisions public housing agencies make regarding their Program resources, especially if their decisions do not result in the best use of those resources. If

HUD determines that a public housing agency acted reasonably when it increased its payment standards, HUD should address any unused vouchers that are the result of those increased payment standards. Having a plan in place to address the circumstances that may hinder a public housing agency's ability to lease vouchers and for determining the appropriate actions to take when public housing agencies do not properly optimize their resources by leasing to the maximum number of low-to-moderate-income families would assist HUD in meeting its Program objective to serve the most economically vulnerable families.

Comment 10 HUD's Office of Public Housing and Voucher Programs stated that it agreed with recommendation 1B but with caveats. The Office also stated that it was committed to exploring ways to offset or reallocate unfunded vouchers to maximize assistance for families and that it would consult and coordinate with HUD's Office of Policy Development and Research to determine ways to update the assessment of housing needs or explore alternative methods of assessing housing needs in each jurisdiction to help inform any proposal.

We commend the commitment of HUD's Office of Public Housing and Voucher Programs to take corrective actions and look forward to working with the Office during the audit resolution process.

Comment 11 HUD's Office of Public Housing and Voucher Programs stated that it does not agree with recommendation 1B to work with the Office of Policy Development and Research on needs and to establish an offset or reallocation process for unfunded vouchers. However, the Office also stated that it would be open to establishing a reallocation process for vouchers that have funding but are not in use, which the Office stated would be much more meaningful than focusing on unfunded vouchers and supports the Administration's goal of expanding the social safety net and access to housing opportunities.

The Office of Public Housing and Voucher Programs' previous statement that it agrees with recommendation 1B (refer to comment 10) contradicts this statement, but we appreciate the Office's willingness to take corrective actions on the vouchers that have funding available but are not in use.

However, we disagree that the Office of Public Housing and Voucher Programs should not take action on the unfunded vouchers. As of November 2020, there were nearly 81,000 authorized vouchers with leasing potential and more than 191,000 authorized vouchers that were no longer funded. Each voucher under a public housing agency's annual contributions contract, which is not used during the current calendar year becomes unavailable for funding in the next calendar year, thus effectively removing the budget authority for that voucher from the public housing agency's Housing Choice Voucher Program.

Comment 12 HUD's Office of Public Housing and Voucher Programs stated that we should remove the word "unfunded" from recommendation 1B to reflect that HUD should remain concentrated on improving voucher funding utilization and reducing leasing potential, as opposed to redistributing unfunded vouchers.

We partially agree. We removed the word "unfunded" from item (1) in the recommendation; however, we do not agree that HUD should not include the unfunded vouchers as part of its plan to improve utilization in the Program. As of November 2020, there were more than 191,000 unused and unfunded vouchers. We maintain that HUD's plan should address unused vouchers with leasing potential as well as unused and unfunded vouchers.

Comment 13 HUD's Office of Public Housing and Voucher Programs stated that it acknowledges that leasing potential, if left unaddressed, is a serious concern but that during November 2020, public housing agencies were navigating the COVID-19 pandemic and the pandemic had a major impact on the efficiency of public housing agency leasing.

We acknowledge that the pandemic was an unprecedented occurrence and that it continued through November 2020. However, the table in the background section of the report shows that the percentage of total vouchers not used has increased each year since 2016. The table on page 8 of the report shows that the number of public housing agencies with utilization below 95 percent also increased each year from December 2017 through November 2020. These tables show that the number of unused vouchers and public housing agencies with utilization below 95 percent increased before the pandemic. The changes in voucher utilization that occurred during 2020 mirrored those in previous years.

Comment 14 HUD's Office of Public Housing and Voucher Programs stated that the estimate regarding leasing potential increasing by at least 22 percent in 2021 was based on information from early in calendar year 2021 and that, historically, public housing agencies have been conservative with leasing until knowing their renewal funding awards. HUD also stated that public housing agencies were notified of their housing assistance payments renewal funding awards in late March 2021. Further, given the Office of Field Operations' efforts to reduce leasing potential, it is now unlikely that leasing potential will increase to that extent in 2021.

The estimated leasing potential increase of at least 22 percent was based on data estimated in HUD's 2020 Year-in-Review, 2021 Look Forward. We acknowledge that the document used data available as of January 2021 and over time, the data could change. Therefore, we removed the estimated percentage from the report.

Comment 15 HUD's Office of Public Housing and Voucher Programs stated that the report fails to recognize that the funding for voucher housing assistance payments was being redistributed from public housing agencies that failed to utilize their funding to other public housing agencies, even if the authorized units stayed with the losing agency and became "unfunded."

We disagree. The report acknowledges that in the Appropriations Act of 2014, Congress authorized HUD to offset a public housing agency's appropriations funding if it had excess reserves and to use the offset funding to (1) prevent the termination of rental assistance for families as the result of insufficient annual appropriations funding and (2) avoid or reduce the proration of renewal funding allocations. However, HUD has the authority to implement offsets at its discretion, unless directed otherwise through future appropriations acts. Offsets reduce a public housing agency's reserves but do not change the total amount of funding available for the public housing agency to administer its Program. When calculating offsets, HUD protects a portion of a public housing agency's reserves, then offsets a portion of the nonprotected reserves. The offset amount is added to the renewal authority for all public housing agencies and then proportionally redistributed to all public housing agencies or used to prevent the termination of rental assistance for families. In 2019, HUD exercised its offset authority for public housing agencies that had excess Program reserves, regardless of the public housing agencies' voucher utilization. These across-the-board offsets may not necessarily result in additional families being assisted by the Program.

Comment 16 HUD's Office of Public Housing and Voucher Programs stated that public housing agencies have the statutory right to establish payment standards without HUD approval, within established parameters. A public housing agency may decide to increase its payment standards for a variety of reasons and raising payment standards increases its per unit costs and, therefore, reduces the number of families that it can serve. This change could potentially increase the number of vouchers that become unused and unfunded, but the rationale was worth the tradeoff to the agency with regard to its Program's needs and priorities. An agency that increases its payment standard may fully spend its voucher funding for the calendar year but still end up serving fewer families than it did the previous year. The Office added that because the renewal funding is based on the agency's actual leasing and costs for that calendar year, a public housing agency's decision to increase payment standards could create unfunded vouchers even though the agency funding is fully utilized from a funding perspective. The Office hoped that we would agree that unused or unfunded vouchers should not be reallocated based on the public housing agency's decision to increase its payment standards.

We acknowledge that a public housing agency may decide to increase its payment standards to increase landlord participation and create opportunities for families. However, we do not agree that increasing payment standards in year one would cause vouchers to be unfunded in year two. HUD calculates a public housing agency's renewal funding based on the expenses incurred during the previous calendar year. Therefore, the increased payment standards would increase the expenses of a public housing agency in year one, which would be a consideration of the annual budget authority provided in year two. Further, if a public housing agency anticipates a funding shortfall, it could use its reserves, if available, or apply to receive funding set-asides to prevent the termination of voucher assistance for families. Therefore, we maintain that HUD should develop and implement a plan for the unused and unfunded vouchers and work with the individual public housing agencies to determine the best course of action to ensure that the Program is optimized.

Comment 17 HUD's Office of Public Housing and Voucher Programs stated that the report does not discuss the many times HUD has exercised its offset authority and the practical effect of such an offset. The Office also stated that the use of offsets essentially reallocates unused voucher renewal funding from public housing agencies that failed to use their funding appropriately to those that do not have excess reserves and that this action basically acts as reallocation. It further stated that the appropriations acts require HUD to use offset funding for specific purposes. Offsets must be used to reduce or eliminate proration when the renewal appropriations are insufficient to meet public housing agency renewal eligibility or to prevent the termination of families from the Program when a public housing agency's funding is not sufficient to cover the cost of its existing housing assistance payments contracts.

We disagree that offsets are a reallocation of funding. In 24 CFR 982.102(i), HUD describes reallocation as a process by which HUD takes budget authority and the number of reserved units from one public housing agency to provide to another. Thus, HUD is reducing the number of authorized units on one public housing agency's annual contributions contract and adding those units to another public housing agency's annual contributions contract.

We agree that offset funding can be used to reduce the impact of proration or prevent the termination of rental assistance for families in situations in which a public housing agency has insufficient funding to provide subsidized rent. Offsets reduce a public housing agency's reserves but do not change the total amount of funding available for the public housing agency to administer its Program. When calculating offsets, HUD protects a portion of a public housing agency's reserves, then offsets a portion of the nonprotected reserves. The offset amount is added to the renewal authority for all public housing agencies and then distributed to all public housing agencies proportionally or used to prevent the termination of rental assistance for families.

Comment 18 HUD's Office of Public Housing and Voucher Programs described offsets as a redistribution of funds and stated that the appropriations acts effectively reallocated voucher funding by directing a greater share of renewal funding to public housing agencies that fully utilized their funding at the expense of those that had not done so. The Office also stated that the use of offsets and funding redistribution inherent in the renewal formula may be creating unfunded vouchers at losing public housing agencies and is preventing unfunded vouchers at public housing agencies that have fully utilized their voucher funding.

We acknowledge that the use of offsets and funding redistribution may be creating unfunded vouchers. However, for a voucher to become unfunded, it must first be unused. Therefore, HUD should develop and implement a plan to assist public housing agencies in optimizing leasing potential to maximize the number of assisted families and prevent additional vouchers from becoming unfunded.

Comment 19 HUD's Office of Public Housing and Voucher Programs stated that the report view of unfunded vouchers and the underlying cause do not account for the fact that Congress does not always provide the full amount of renewal funding for which public housing agencies are eligible under the appropriations act formula or that the prorations contribute to the gap between the number of units authorized and the funding appropriated to lease all authorized units.

We acknowledge that Congress does not always fund the Program at 100 percent. However, the essence of the report is not about the amount of funding that the Program receives. The report addresses (1) public housing agencies with leasing potential, meaning that the public housing agencies have funding available to lease vouchers; however, due to various factors, they cannot or do not lease vouchers to assist additional families and (2) vouchers that have become unfunded due to various factors.

Comment 20 HUD's Office of Public Housing and Voucher Programs stated that it believed the audit report was flawed in its assumption of how the Program renewal funding formula impacts Housing Choice Voucher Program operations and in its understanding of the root causes of unfunded vouchers. However, the Office agreed that effectively managing voucher utilization is critical to the ongoing success of the Program and welcomed the opportunity to work with us on plans to build upon and expand HUD's efforts to effectively and efficiently utilize existing voucher funding.

We disagree that the audit report was flawed. The report was based on data obtained from interviews with HUD management officials and staff; HUD's regulations, monitoring documents, policies, Office of Public and Indian Housing notices, and internal guidance; public laws and acts; and Federal Register notices. However, we agree that the effective management of voucher utilization is critical to the ongoing success of the Program.

According to HUD's congressional justification for 2022, the President's budget requested $30.4 billion for tenant-based rental assistance, which was approximately $4.6 billion more than the 2021 enacted level. Of the $30.4 billion, $1.6 billion was for incremental vouchers, a new effort that will result in 200,000 additional families' receiving support. Therefore, with the potential growth of the Program, our recommendation for HUD to develop a plan to address the circumstances that prevent public housing agencies from leasing vouchers and to establish timeframes for public housing agencies to lease vouchers could potentially prevent the new incremental vouchers proposed in the President's budget, if received, from becoming unused and then eventually unfunded. If HUD implements our recommendation to establish and implement a plan for the unused and unfunded vouchers, the number of new households that could be assisted in 2022 and beyond would be nearly 400,000 of the Nation's most economically vulnerable families.

Further, we commend the commitment of HUD's Office of Public Housing and Voucher Programs to take corrective actions and look forward to working with the Office during the audit resolution process.

Appendix B

Applicable Requirements

Section 556(a) of the Quality Housing and Work Responsibility Act of 1998 (Pub. L. 105-276, 112 Stat. 2461, approved October 21, 1998) added section 8(dd) of the United States Housing Act of 1937 and was codified at (42 U.S.C. (United States Code) 1437f(dd)).

U.S. Code Title 42, chapter 8, subchapter I, section 1437f (dd), states that subject to amounts provided in appropriations acts, starting in fiscal year 1999, the HUD Secretary must renew all expiring tenant-based annual contributions contracts under this section by applying an inflation factor based on local or regional factors to an allocation baseline. The allocation baseline must be calculated by including, at a minimum, amounts sufficient to ensure continued assistance for the actual number of families assisted as of October 1, 1997, with appropriate upward adjustments for incremental assistance and additional families authorized after that date.

Federal Register Notice FR-4459-F-03, dated October 21, 1999, states that HUD convened a negotiated rulemaking advisory committee to discuss and negotiate a rule that would change the current method of distributing funds to the public housing agencies for purposes of renewing assistance contracts in the Housing Choice Voucher Program. The committee and HUD reached consensus that HUD should have the authority to use the current unit-based method.

Public Law 108-07 (2003 Appropriations Act), Division K, Title II, page 117, Stat. 484, Department of Housing and Urban Development, Public and Indian Housing certificate fund, states that the Secretary must renew expiring Section 8 tenant-based annual contributions contracts for each public housing agency based on the total number of unit months, which were under lease as reported on the most recent end-of-year financial statement submitted by the public housing agency to HUD, adjusted by such additional information submitted by the agency to the Secretary which the Secretary determines to be timely and reliable regarding the total number of unit months under lease at the time of renewal of the annual contributions contract, and by applying an inflation factor based on local or regional factors to the actual per unit cost as reported on such statement. Further, none of the units made available in this paragraph may be used to support a total number of unit months under lease, which exceeds a public housing agency's authorized level of units under contract.

Public Law 113-76 (2014 Appropriations Act), Division L, Title II, page 128, Stat. 606, states that the Secretary may offset public housing agencies' calendar year 2014 allocations based on the excess amounts of agencies' net restricted assets accounts, including HUD-held programmatic reserves, as determined by the Secretary. Further, the Secretary must use any offset referred to in the previous proviso throughout the calendar year to prevent the termination of rental assistance for families as the result of insufficient funding, as determined by the Secretary, and to avoid or reduce the proration of renewal funding allocations.

Public Law 116-94 (2020 Appropriations Act), Division H, Title II, page 133, Stat. 2976, states that up to $100 million is available only for the following categories, as determined by the

Secretary: (1) for adjustments in the allocations for public housing agencies that experienced a significant increase in renewal costs resulting from unforeseen circumstances; (2) for vouchers that were not in use during the previous 12-month period in order to be available to meet a commitment according to section 8(o)(13) of the United States Housing Act; (3) for adjustments for costs associated with HUD-Veterans Affairs Supportive Housing vouchers; (4) for public housing agencies that despite taking reasonable cost savings measures, would otherwise be required to terminate rental assistance for families as a result of insufficient funding; (5) for adjustments in the allocations for public housing agencies that (i) are leasing a lower-than-average percentage of their authorized vouchers, (ii) have low amounts of budget authority in their net restricted assets accounts and HUD-held programmatic reserves relative to other agencies, and (iii) are not participating in the Moving to Work Demonstration, to enable such agencies to lease more vouchers; and (6) for public housing agencies that have experienced increased costs or loss of units in an area in which the President declared a disaster.

HUD's Public and Indian Housing Notice 2020-29, section 2, states that an "optimized" Housing Choice Voucher Program maximizes both effectiveness and efficacy, maximizing the number of families served while minimizing rent burden within a given public housing agency's financial constraints. The operation of an optimized program is a significant challenge. Additionally, there are many negative potential repercussions for underoptimized programs. Most importantly, a program that is not optimized will leave families on waiting lists or managing an excessive rent burden. In the case of public housing agencies' ending the calendar year with excessive reserves, Congress may in a particular year, direct HUD to rescind or offset those funds. This means that this money is no longer available to serve families in the public housing agency's community. HUD also has authority to initiate offsets for reallocation, which compel public housing agencies to utilize available program reserves first in lieu of new renewal budget authority.

HUD's Housing Choice Voucher Guidebook 7420.10g, chapter 24.1, states that a public housing agency that has not (1) leased 100 percent of the vouchers or (2) spent 100 percent of the funds contracted under its annual contributions contract has not utilized all of the resources provided for its program. The program is underutilized, and the public housing agency may be penalized through a lower SEMAP score or through a recapture of some part of its voucher funding. The failure of any public housing agency to use all funding contracted for the Housing Choice Voucher Program will always mean that a family in need of housing assistance is not being helped.

Chapter 24.3 states that HUD expects a high-performing public housing agency to maintain an average utilization rate at or above 98 percent. A public housing agency achieving a standard level of performance is expected to maintain its utilization at 95 percent or above. Utilization below 95 percent will result in a failing score on SEMAP Indicator 13, Lease-Up. An agency with utilization below 95 percent cannot receive new unit allocations and cannot be rated as a high performer under SEMAP.