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OMNIBUS BILL APPROPRIATES SUFFICIENT FUNDING TO RENEW HOUSING VOUCHERS

Impact of Some New Provisions Will Depend on Implementation by HUD

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Summary

On November 25, 2003, a House-Senate conference committee filed its report on H.R. 2673, the Consolidated Appropriations Act for 2004 (often referred to as the omnibus appropriations bill), which includes fiscal year 2004 funding for "Section 8" housing vouchers. The House of Representatives approved the omnibus bill on December 8. The Senate will consider the bill when Congress reconvenes on January 20.

None of the policy changes discussed in this analysis will be effective until the bill is adopted by the Senate and signed by the President. In the interim, housing vouchers will be renewed using carry-over funds from the fiscal year 2003 appropriations act and appropriations provided under a continuing resolution that is currently funding many federal departments. (The funds that are provided under the continuing resolution are subject to the same conditions as applied to the fiscal year 2003 funds.)

This analysis examines the major provisions of the omnibus appropriations bill that affect the voucher program. It finds:

- **The bill increases the direct appropriation for Section 8 voucher renewals by about $910 million above the level in the House bill and $1.01 billion above the level in the Senate bill (which was essentially the same as the level the Administration requested).** This higher funding level is sufficient to support 96.8 percent of authorized vouchers. When state and local housing agency reserve funds are factored in, it appears that there will be enough funding to cover all vouchers likely to be in use in 2004, even if utilization rises moderately during the course of the year. (The increased funding was made possible by including in the omnibus bill a larger rescission of one-time surplus voucher funds that HUD did not spend in fiscal year 2003 and then reappropriating the rescinded funds.)

- **Unfortunately, the conference bill dropped language from the Senate bill that required HUD to use unspent prior-year funds to the degree necessary to support vouchers in use.** The bill also could be construed to prohibit HUD from using any funds to support vouchers that were not in use in August 2003 beyond the fiscal year 2004 funds the bill appropriates for a "central fund." (Public housing

agencies (PHAs) could also use their individual "program reserves" to support additional authorized vouchers.) Because the conferees increased the funding level for voucher renewals, these provisions are unlikely to pose a problem. The fiscal year 2004 appropriation (and program reserves) should be sufficient to cover all vouchers likely to be in use in 2004. But allowing prior-year funds to be used for this purpose as well, if that proved necessary, would have provided a useful safety net in the unlikely event that agencies are able to use more authorized vouchers than can be supported with funds from the 2004 appropriation and agency reserves.

- **The bill makes technical changes to the rules governing voucher funding that will put more pressure on PHA program reserves.** The 2004 bill requires agencies to use program reserves to cover a greater share of costs stemming from increases in the proportion of their authorized vouchers that are in use or growth in the average cost of their vouchers than was required in 2003. It will be important that HUD request sufficient funding in fiscal year 2005 to replenish program reserves that are depleted in fiscal year 2004.

- **The bill caps voucher administrative funding at $1.23 billion, at least 3 percent below the amount that would be distributed under the administrative fee formula currently in effect.** The bill requires that administrative fees be distributed to agencies on a pro rata basis based on the fees they earned in 2003, except that HUD has some discretion over the distribution of $50 million of the fees. For some PHAs, how HUD awards these funds could determine whether they will have sufficient funding to administer their programs effectively.

- **The bill drops important provisions from the Senate version that permitted temporary "over-leasing" of vouchers beyond the fiscal year.** Because not all families are able to find housing where they can use their vouchers, well-run housing agencies over-issue vouchers in the same manner in which airlines over-issue tickets. If more families than expected are able to use their vouchers, such agencies must be able to cover the costs of the extra vouchers for a temporary period. Unfortunately, the omnibus bill maintains a prohibition, first enacted in the 2003 appropriations act, on using new appropriations to support vouchers temporarily beyond the number an agency is authorized to administer. The Senate bill had removed this prohibition. Fortunately, HUD has interpreted the over-leasing prohibition in 2003 in a flexible manner that allows some short-term over-leasing, and the omnibus bill instructs HUD to be flexible in its implementation of the 2004 prohibition in order to help PHAs increase the number of vouchers in use.

- **The bill funds several components of the voucher program at lower levels than the Administration requested.** The bill provides less funding than the Administration requested for the Family Self-Sufficiency asset development and employment counseling program and for tenant protection vouchers for families displaced from assisted housing. In addition, it omits 5,500 incremental vouchers that the Administration requested and the Senate bill provided (contingent on sufficient funds remaining after the renewal of existing vouchers had been funded).

- **The conference report accompanying the bill contains language expressing concern about the "spiraling" increase in voucher costs and instructing HUD to use its administrative authority to control costs.** It is unclear what effect, if any, this language will have. Over time, congressional concern about costs could lead to increased pressure on PHAs to contain costs. It is important that Congress and HUD not institute measures that impede the voucher program's ability to pursue key goals, such as maintaining high utilization and enabling voucher recipients to access neighborhoods that are safer or offer better employment or educational opportunities.

- **The effects of many of the bill's provisions will depend on how HUD implements them.** The bill gives HUD discretion in several key areas, including the replenishment of agencies' program reserves, the distribution of discretionary administrative fee funding, over-leasing flexibility, and adjustments in the funding levels provided to PHAs to reflect increases in average voucher costs. HUD's actions in these areas will play a significant role in determining whether the conference bill results in a workable system that encourages maximum use of authorized vouchers.

Appropriations for Voucher Renewals

In fiscal year 2003, Congress made significant changes in the funding structure of the housing voucher program. For the first time, Congress provided voucher funding based on the number of vouchers expected to be in use, rather than providing funding for all authorized vouchers whether they were expected to be in use or not. In addition, the 2003 appropriations act separated funding for renewing existing vouchers — previously provided as a single appropriation — into three components.

The 2004 omnibus bill retains the basic funding structure established in 2003, although it makes some changes in the rules governing voucher renewal funds and administrative fees. As in 2003, the 2004 bill provides funds only for vouchers expected to be in use. The 2004 bill also divides renewal funding into the same three components as in fiscal year 2003:

- The bill appropriates $12.811 billion for the renewal of vouchers in use.[1] Administration documents estimate that $100 million of this amount will be used to replenish the program reserve accounts of individual PHAs.

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[1] The bill funds voucher renewals as part of the set-aside within the Housing Certificate Fund of $17.635 billion for renewal of all expiring or terminating Section 8 contracts, including those for project-based housing units. Neither the bill nor the report separately identifies the amount for voucher renewals. We have assumed that $4.72 billion of this sum will be used to renew project-based subsidies, as the Administration requested. That leaves the remaining $12.915 billion to renew housing vouchers and replenish PHA program reserve accounts. The figure of $12.811 billion set-aside for voucher renewals, as well as the other funding figures in this paragraph reflect the 0.59 percent across-the-board reduction specified in a separate provision of the bill and our assumption that HUD will apply the resulting $104 million reduction in the renewal fund solely to the voucher portion of these funds. (See H.R. 2673, Division H (Miscellaneous Appropriations and Offsets Act, 2004), Section 168(b) and (c).)

- The bill sets aside $136 million in a central fund that PHAs may draw upon, after they have spent half of their program reserves, to support additional authorized vouchers that PHAs are able to put to use.

- The bill provides $1.235 billion for fees paid to PHAs to cover the costs of administering the voucher program.

In combination, the bill appropriates $14.182 billion for voucher renewals. This figure (and the amounts in the three preceding bullets), reflect the funding levels after an across-the-board reduction of 0.59 percent, which the omnibus bill applies to all non-defense appropriations accounts. (See footnote 1.)

The $14.182 billion provided for voucher renewals in fiscal year 2004 represents an increase of about $1.8 billion over the fiscal year 2003 level, and is about $1 billion more than the Administration requested or the House and Senate bills provided. The increase above the levels in the Administration's request and the House and Senate bills was necessitated by growth in average costs per voucher and in the proportion of authorized vouchers in use. In developing the Administration's budget request and estimating funding need for the House and Senate Appropriations Committees earlier this year, HUD had relied on program data from 2002 that are now outdated.

HUD provided new, more recent data during the conference on the appropriations bill. These newer data indicated that per-voucher costs will average $7,081 in fiscal year 2004, higher than either the Center on Budget or the Congressional Budget Office had previously estimated. The new HUD data also reflect an estimate that initial renewal funding will be needed for about 96 percent of authorized vouchers.[2] (By comparison, the Administration's budget request submitted last February had assumed that the average voucher cost in fiscal year 2004 would be $6,468 and that 92 percent of vouchers would be in use at the beginning of the year.) The increase in the direct appropriation was made possible by more than doubling a rescission of Section 8 funds, from $1.372 billion in the House and Senate bills to $2.844 billion in the conference bill and reappropriating the rescinded funds. (The rescission is discussed further in the text box on page 6.)

With the added funding that the conference committee included, the omnibus bill appears to contain sufficient funding — in combination with the funds in PHA program reserves — to

[2] It is likely that HUD's revised cost estimate was based on the quarterly data submitted by PHAs through July or October 2003. The CBPP and CBO estimates were based on PHA data through January 2003. (CBO's August estimate also relied on Treasury outlay data through July.) The $7,081 average cost figure, which includes administrative fees, is a weighted average calculated by CBPP using HUD estimates of the per-voucher cost and number of units requiring funding for three categories of vouchers: 1,854,884 regular vouchers (this figure adjusts the total of 1,932,171 regular vouchers that will expire based on 96 percent utilization rate) at a cost of $7,062 per voucher; 102,001 vouchers administered by agencies subject to special funding arrangements under Moving-to-Work agreements at a cost of $7,597 per voucher; and 26,414 Moderate Rehabilitation units at an average cost of $6,539 per unit. The HUD document from which these figures were drawn also contains an overall per-voucher cost of $7,171 for the three categories combined, $90 above the overall cost of $7,081 that we calculated using HUD's cost estimates for the three categories separately. In this analysis, we have used the overall cost estimate based on HUD's estimates for the separate categories.

support all vouchers likely to be in use in fiscal year 2004.[3] As a result, the bill, if approved by Congress, will very likely avert the loss of tens of thousands of vouchers that could have occurred without the added funding.

New Provisions Regarding the Use of Renewal Funds

The omnibus bill modifies how each of the three components of voucher funding that the bill includes — the renewal fund, the central fund, and the administrative fund — may be used to support voucher renewals. It also allows HUD to transfer a portion of the funds set aside for each of the other components to the renewal fund and the central fund to support additional leasing. In a departure from the 2003 appropriation bill, however, the omnibus bill does *not* allow HUD to transfer funds from the other voucher funding components to augment the amount appropriated for the administrative fee fund.

Renewal Fund

The omnibus bill contains a new limitation preventing funds in the main renewal fund from being used to renew more vouchers than a PHA had under lease on August 1, 2003.[4] This

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[3] The omnibus bill appropriates $12.85 billion for voucher renewals and the central fund, without administrative fees (after the 0.59 percent across-the-board reduction and subtracting the $100 million that HUD has indicated will be needed to replenish PHA reserves). Using HUD's most recent estimates of voucher costs (see note 2), this level of funding is sufficient to renew 1,994,330 vouchers, or 96.8 percent of the number of vouchers that HUD has most recently indicated will expire in fiscal year 2004. It appears that HUD is now assuming that 2,060,586 vouchers will expire in 2004, which is 45,647 less than HUD's earlier estimate of 2,106,233 expiring vouchers. (HUD's budget requested sufficient funding for 2,017,000 vouchers at $6,468 per voucher, which HUD then stated was 96 percent of expiring vouchers.) It is likely that the difference is due to HUD's omission from the most recent renewal figures of any tenant protection vouchers newly funded in fiscal year 2003, as well as a few thousand tenant protection vouchers funded in fiscal year 2002. The fiscal year 2003 bill appropriated $234 million for an estimated 43,300 tenant protection vouchers. We do not know whether any of these vouchers were awarded or leased during fiscal year 2003, as HUD has not published a list of tenant protection vouchers awarded since December 2002. If relatively few have already been leased, it is likely that there will be sufficient carryover or recaptured funds to renew any of the fiscal year 2003 tenant protection vouchers that may expire during 2004. In addition, at the end of fiscal year 2002, HUD had not obligated about 20,000 tenant protection vouchers for which it had carry-over funding. (See House VA-HUD Appropriations Subcommittee, *Hearings on the FY 2004 HUD Budget, Part 2*, p. 302.) It is possible that some of these vouchers had not been awarded and leased by the end of fiscal year 2003, in which case it would be appropriate to exclude them from the number of authorized vouchers potentially needing renewal funding in fiscal year 2004.

[4] If the number of vouchers a PHA is using has decreased since August 1, 2003, HUD would provide PHAs with funding only for the lower number of vouchers in use. The renewal paragraph within the Housing Certificate Fund appropriation directs HUD to provide renewal funding for the number of vouchers under lease "as reported on the most recent end-of-year financial statement" *or* "as adjusted by such additional information submitted . . . as of August 1, 2003 . . . ." While the phrase "most recent" is a rolling date, permitting statements submitted for PHA fiscal years ending September 30, 2003 and later to be used for subsequent renewals, it is clear when this paragraph is read together with the paragraph on the central fund and the report accompanying the bill that a statement for a year ending *after* August 1, 2003 may not be relied on to renew more vouchers than were leased on August 1. Statements for fiscal years ending September 30, 2003 or later may be relied on by HUD only if they show fewer vouchers leased than were leased on August 1, 2003.

One-Time Surplus Made an Expanded Rescission Possible

The omnibus bill increases the amount of prior-year funds rescinded from the Section 8 program and reappropriated for Section 8 and other programs from $1.3 billion — the amount contained in the House and Senate bills — to $2.844 billion. Of the $1.447 billion made available through the added rescission, about $940 million is used to increase appropriations for the voucher program, compared with the level requested by the Administration and approved by the Senate. (This is equivalent to a $790 million increase over the voucher appropriation level in the version of the bill the House passed.) The remainder of the funds are used elsewhere in the bill.

Based on a HUD document apparently provided to conferees, it appears that the additional funds rescinded are funds that were appropriated for the voucher program for fiscal year 2003 but not spent. The reason these funds were left unspent is different from the reason that large amounts of voucher funds were left unspent in years before 2003. In those earlier years, funds were left unspent because Congress appropriated funds for all authorized vouchers despite the fact that some vouchers always went unused. In 2003, Congress appropriated funds based on an estimate of actual voucher utilization and costs. Utilization and costs turned out to be higher than Congress had anticipated, so there was no surplus of the type that had routinely occurred before 2003.

Even so, HUD did not use all of the appropriated funds last year. This occurred because of the effects of the transition to a new contracting method that HUD adopted in response to the requirements of the fiscal year 2003 appropriations act. Rather than committing a full year of funds to PHAs to renew expiring vouchers, HUD generally entered into three-month contract renewals. For example, if a PHA's vouchers expired on June 30, 2003, HUD would have renewed the expiring vouchers for July – September, rather than through June of 2004. As a result, 2003 funds would be used for three months of voucher renewal, rather than 12 months, as in the past. HUD made this change to implement effectively the new requirement to fund only vouchers in use rather than all authorized vouchers. But a by-product of the change was to generate a substantial one-time-only funding surplus in 2003.

The approach the conference committee took — rescinding the unused fiscal year 2003 funds and reappropriating them for fiscal year 2004 — is preferable to leaving the unspent funds at HUD and relying on HUD to use the carry-over funds if needed. Committing the funds to the voucher program in the appropriations legislation avoids the risk that the funds would be rescinded and used for other purposes before they could be used to support vouchers. The increase in the direct appropriation also makes it clearer how much the program is expected to cost in fiscal year 2004, and provides a more accurate comparison for the adequacy of the fiscal year 2005 budget request.

It is very unlikely that the additional rescission will have any adverse effect on the project-based Section 8 program or other HUD housing programs. While the language of the bill technically makes it possible for HUD to meet the rescission — which is not effective until September 30, 2004 — from other programs' unobligated balances, HUD is not expected to do so unless the voucher funds it has identified as available somehow become unavailable. There is no reason to think this will occur.

means that *if a PHA is using more vouchers when a voucher renewal contract expires than were leased on August 1, 2003, it will initially have to use its reserve funds to support the additional vouchers.* After a PHA has used half of its reserve funds, it is permitted to receive further funding from the central fund to cover the additional vouchers.

In contrast, in fiscal year 2003, HUD was permitted to distribute funds from the main renewal fund based on any utilization data that HUD considered to be timely and reliable. Since April 2003, HUD has generally provided renewal funding to agencies based on the average number of vouchers leased during their fiscal year to date. HUD has also required PHAs to report data each quarter on the number of vouchers under lease and their cost, providing a source of timely data that can be used to calculate renewal funding amounts.[5] This approach has allowed HUD to increase renewal funding for particular PHAs periodically to keep pace with increased utilization and has limited PHAs' need to draw on reserves.

The new restriction limiting use of the main renewal fund to vouchers in use on August 1, 2003 will prevent HUD from using money from that fund to support additional vouchers that the quarterly data show to be in use. It is not clear, however, to what extent the restriction will force HUD to alter the current funding system; it may be possible for HUD to maintain essentially the same system, but to draw funds to cover the extra vouchers from PHA program reserves and the central fund — which are not subject to the new restriction — rather than the main renewal fund.

It is likely that the $12.711 billion set aside for initial voucher renewals (the amount remaining after subtracting the $100 million that HUD budget documents assume will be needed to replenish PHA reserves) is about the right amount for the main renewal fund's intended purpose: to fund the number of authorized vouchers that were in use on August 1, 2003. At the time of the conference agreement, HUD had available leasing data at least through August 1, and possibly for several more months. It appears that the conferees provided the substantial increase in the renewal fund (about $1.5 billion more than the Administration requested) because recent data reflected a sharp increase in voucher utilization — from about 92 percent in 2002 to about 96 percent — as well as a considerable increase in average voucher costs.

Based on HUD's revised cost estimates, the renewal fund would have supported 1,989,000 vouchers without the 0.59 percent across-the-board reduction. This is only about 2,000 fewer vouchers than the Center on Budget and Policy Priorities had estimated would be leased in August and in need of renewal in fiscal year 2004, using earlier data on voucher leasing corrected by HUD's recent breakdown which identifies the number of vouchers subject to special funding under the Moving to Work Demonstration and the number of Section 8 Moderate Rehabilitation units. HUD's latest data are more up-to-date and hopefully more accurate. If slightly more funding is needed than the omnibus bill sets aside in the renewal fund due to the cut of $104 million made by the across-the-board reduction (equivalent to about 16,000 vouchers), HUD may transfer funds to the renewal fund from either the central fund or the administrative fund. It also appears that HUD could use recaptured funds or other unobligated funds from Section 8 appropriations in prior years for this purpose.

Central Fund

Another change included in the omnibus bill is a new restriction on the use of the central fund. In fiscal year 2003, the central fund served as a reserve that could be used to provide a PHA with additional funds beyond the amount it received from the main renewal fund if needed to cover an increase in either the PHA's number of vouchers in use or its average cost per voucher. The 2004 omnibus bill permits the central fund to be used only to support increases in the number of vouchers in use.

[5] See PIH Notice 2003-23, Sept. 22, 2003.

Eliminating the use of the central fund for voucher cost increases may not have much practical effect, however, *if* HUD continues its current practice of using the most recent quarterly data on voucher costs (adjusted using an inflation factor) to determine the average cost of vouchers to be renewed. The bill makes no change in the language governing adjustments for cost increases, so it is likely — though not guaranteed — that HUD will continue to update costs on a quarterly basis.[6] Renewal funds allocated on the basis of such updates — together with program reserve funds, which can still be used to cover cost increases — are likely to be sufficient to meet actual costs under nearly all circumstances.

The bill is silent on the question of whether HUD must replenish program reserve funds used to support cost increases beyond the amount covered by renewal funds. Unless HUD changes current policies, however, PHAs should be eligible at the start of their next fiscal year for replenishment of reserves used to meet cost increases. Both the restriction on the use of the main renewal fund to cover vouchers put to use after August 1, 2003 and the restriction on the use of the central fund to cover increases in average voucher costs are likely to lead PHAs to need to make greater use of program reserves than they did in fiscal year 2003, so it will be important for HUD to provide PHAs with as much reassurance as it can that these reserves will be replenished. HUD can instill the confidence needed by requesting sufficient funding for fiscal year 2005 to restore reserves used in 2004, to support additional authorized vouchers, and to cover reasonable cost increases.

A key question is whether the $136 million appropriated for the central fund will be sufficient to enable PHAs to lease the maximum number of authorized vouchers they are capable of leasing and to support the costs of the additional vouchers (above the number under lease on August 1, 2003), since the costs of such vouchers cannot be funded out of regular renewal funding. The funding *is* likely to be sufficient, for the following reasons.

- **Increases in utilization will occur gradually over the course of the year.** If relied on for a full 12 months of renewal funding, $136 million is likely to fund about 21,150 of the 87,407 authorized vouchers that expire in fiscal year 2004 and that are

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[6] The bill language allows HUD to use the most current data available to determine actual unit costs, as the bill does not restrict the determination of unit costs (unlike the determination of the number of vouchers leased) to a certain date. In the conference report, the conferees state that "increased per unit costs . . . have been reflected in the amount provided for renewals," implying that HUD should calculate renewal funding based on the most recent data available on unit costs. (H. Rept. 108-401, p. 1049.) The report contains another statement about costs, however, that creates some uncertainty: "The conferees are aware that the Secretary has the administrative authority to control the rapidly rising costs of renewing expiring annual contributions contracts (ACC), including the budget based practice of renewing expiring ACCs, and expect the Secretary to utilize these tools. (*Id.*, p. 1048.) It is not clear what current "administrative authority" the report refers to. Most likely, the reference is to HUD's authority under the regulations governing the determination of renewal funding to require a particular PHA to reduce its overall program costs (by reducing average subsidy payments, the number of families served, or both) if HUD determines that the agency's costs "threaten to exceed budget authority and allowable reserves." 24 C.F.R. § 982.102(g)(1). This regulatory provision was agreed to as part of the negotiated rulemaking on voucher renewal funding. For the reasons discussed in the text on pages 8 and 9, it is unlikely that any PHA will exhaust its reserves paying for authorized vouchers without being able to receive additional funding from the central fund. Thus, it does not appear that the preconditions for the Secretary invoking this extraordinary authority are likely to arise this fiscal year.

left unfunded by the level of appropriations in the renewal fund. These 21,150 vouchers would enable PHAs to reach a national utilization rate of 96.8 percent. The number of vouchers that the central fund could actually support is much higher, however, because in most cases, PHAs will rely on the central fund to support vouchers for periods substantially shorter than 12 months. This is the case both because utilization increases will occur gradually over the course of the year and because, as discussed below, PHAs will be required to use half of their program reserves before tapping the central fund. If, for example, the central fund supports vouchers for a period of six months on average, it could fund 42,300 vouchers — enough to achieve a national utilization rate of 97.8 percent.

- **Program reserves are available to cover additional vouchers.** PHAs that have more vouchers in use at the beginning of a renewal contract than were under lease on August 1, 2003 will first have to rely on their program reserve funds to pay voucher subsidies. Only after they have drawn down half of their reserves are they eligible to receive funding from the central fund. Assuming that HUD continues the current policy of restoring a PHA's reserve level to the one-month level at the start of the PHA's fiscal year, *each PHA should be able to support about four percent of its vouchers with half of its reserve funds*.[7] (Because we do not know the amount of program reserves that were depleted in fiscal year 2003, we cannot be certain whether the $100 million requested by HUD to replenish reserves will be sufficient to enable HUD to continue its current policy.) This does not mean that program reserves can be relied on to fund four percent of vouchers nationally, since program reserves are distributed across agencies in proportion to their budgets and utilization increases are likely to be concentrated at particular agencies. But program reserves will provide a cushion that will enable more vouchers to be funded than could be supported using the central fund alone.

- **Utilization at most agencies is already quite high.** Relatively few PHAs are using such a low proportion of their vouchers that they would need — and be able — to increase voucher utilization by more than four percentage points above the August 1, 2003 level for all of 2004. Only these PHAs should need to draw on the central fund.

Thus, we think it is very likely that the central fund, together with PHAs' reserves, will be sufficient to support all of the additional authorized vouchers that PHAs will be able to lease. It is important to note, however, that it is conceivable that there could be too little funding available in the central fund and PHA reserves.

- PHAs' program reserves could contain less funding than we assume, particularly if HUD does not continue current reserve replenishment policies.

- HUD could discontinue its use of quarterly cost data to determine renewal funding amounts, forcing PHAs to use program reserves to cover a larger share of cost increases.

[7] PHAs that have used reserves to support over-leased units, discussed below, are not entitled to have these funds replenished by HUD. See PIH Notice 2003-23, ¶ 9.

- Utilization or per-voucher costs could increase by much more than we think is likely.

In the unlikely event that the funding level provided in the omnibus bill is insufficient, two decisions made by the conference committee will take on particular importance. First, the conference committee omitted a provision in the Senate bill that would have required HUD to use available funds beyond those appropriated for fiscal year 2004, if this proved necessary to support all authorized vouchers in use. The conferees also inserted language in the paragraph governing the central fund that could be construed as prohibiting HUD from using any funds beyond the 2004 appropriation (other than program reserves) to supplement the central fund. These changes are significant because Administration budget documents suggest that some unspent Section 8 funds from prior years are available to HUD. If HUD were required (or even simply permitted) to use these funds to support vouchers if needed, the funds would provide a useful safety net to cover possible unforeseen needs.

Second, conferees also included language in the bill and in the conference report directing HUD to submit quarterly reports on the use of the central fund and the balance remaining. The appropriations committees could, if they received a report indicating that insufficient funds remained in the central fund, allow HUD to use other funds it has available to supplement the direct appropriations for the voucher program. The appropriations committees are unlikely to take such action, however, unless the Administration requests it.

Administrative Fund

The omnibus bill makes several substantial changes to the system for providing administrative funding to PHAs. The bill replaces the current administrative fee formula, which adjusts the amount of administrative fees provided to each PHA based on the number of the PHA's vouchers that are in use, the number of people with disabilities and other "hard-to-house" households that the PHA adds to its program, changes in wages of government workers, and other factors.[8] The omnibus bill instructs HUD instead to distribute the bulk of fiscal year 2004 administrative fees using a pro rata system based on the distribution of administrative fees in fiscal year 2003. HUD would provide each PHA with a fraction of the total amount of administrative fees provided nationally that is equal to the fraction of the administrative fees earned nationally in 2003 that were earned by that PHA. (The distinction between fees "earned" in fiscal year 2003 and those actually provided to PHAs is significant because, under a provision of the fiscal year 2003 appropriations act, some PHAs with large reserves of unspent administrative fees from previous years were awarded a smaller amount of administrative fee funding than they earned under the administrative fee formula.)

[8] Under current rules, PHAs earn a formula amount for "on-going" fees for each voucher leased. They also earn special one-time fees for various types of activities, such as successfully housing people with disabilities, housing conversion actions, or lead paint-related expenses. See 68 Federal Register 24078 (May 6, 2003). See also PIH 2002-7, ¶5(B) (March 12, 2002), which expired March 31, 2003 and has not yet been renewed but is HUD's most complete statement of administrative fee policies.

This pro-rata distribution of funds could result in significant underfunding of some PHAs that would otherwise be entitled to increases in administrative funding — such as agencies that increase the number of authorized vouchers in use or the number of hard-to-house households they add to their programs. The bill gives HUD some authority to compensate such agencies by exempting $50 million in administrative funding from the pro rata distribution requirement and allowing HUD to allocate those funds at its discretion.[9]

In addition, the bill provides less funding for administrative fees than would be needed to cover the fees that PHAs would earn under the current formula. Assuming that 96.8 percent of authorized vouchers (the number funded by the omnibus bill) will be in use in fiscal year 2004 and using a HUD estimate that under the current formula PHAs would earn an average of $639 per voucher in use, the administrative fee shortfall would be $39.5 million, or about 3.1 percent of the amount that PHAs would earn. The shortfall could be larger if PHAs use their program reserves to put more than 96.8 percent of their vouchers to use, a portion of the bill's administrative fee funding is needed to cover fees for the approximately 75,000 tenant protection vouchers authorized in the fiscal year 2003 and 2004 appropriations bills,[10] or HUD's estimate that administrative fees would average $639 excluded some types of administrative expenditures (such the cost of audits of PHA finances). HUD staff have reportedly estimated that the shortfall in administrative fees will be about $100 million.

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[9] The wording of the requirement that HUD distribute most administrative funds on a pro rata basis appears to allow HUD some flexibility to provide additional funds to agencies that are using more vouchers or that are eligible for a higher proportion of one-time special fees — such as those for serving new hard-to-house households — in 2004 than they were in 2003. In fiscal year 2002, approximately $41 million of the total of more than $1.1 billion paid in fees for the voucher and Moderate Rehabilitation programs were for special fees and audit costs. (House VA-HUD Appropriations Subcommittee, Hearings on the FY 2004 HUD Budget, Part 2, p. 313.) Given the larger number of vouchers that will be under lease in fiscal year 2004, these 2002 data indicate that such one-time costs could consume all or nearly all of the $50 million in administrative funds over which HUD has discretion. It is important that HUD prevent this from happening by making appropriate adjustments for such one-time fees in the calculation of PHAs' pro rata share.

[10] As noted above (see note 3), the data HUD provided in November 2003 indicate that no tenant protection vouchers funded in the fiscal year 2003 appropriations act require renewal funding in the fiscal year 2004 bill. This implies that there are sufficient unspent fiscal year 2003 tenant protection funds available to HUD (or already awarded to PHAs) to support the fiscal year 2003 tenant protection vouchers issued and leased through the end of fiscal year 2004. Even if this is the case, however, any tenant protection vouchers funded in fiscal years 2003 and 2004 bill that are leased in the period covered by the 2004 bill will result in administrative costs for PHAs. In addition, under current HUD policy, PHAs are eligible to receive a special one-time "housing conversion fee" of $250 for each voucher awarded to replace a unit of project-based assisted housing that is occupied at the time that the contract (or mortgage) for project-based assistance is terminated or expires without being renewed. These housing conversion fees are in addition to the regular "on-going" fees that agencies earn for administering tenant protection vouchers. In 2002 and earlier years, these conversion fees were paid out of sums appropriated by Congress for new tenant protection vouchers. In the fiscal year 2003 appropriations act, Congress set aside an amount within the sum appropriated for administrative fees to be used for new tenant protection vouchers. This set-aside could be used for one-time conversion fees as well as the ongoing administrative fees for these vouchers. It is not clear whether HUD retains any of these funds to pay fees (including the one-time conversion fee) to PHAs for any of the fiscal year 2003 tenant protection vouchers that may not yet have been issued. The fiscal year 2004 bill, however, does not contain a similar set-aside, and specifies that no other funds can be used to supplement the $1.242 billion appropriated for "administrative and other expenses." As a result, it appears likely that some costs for administrative fees (including one-time conversion fees) for tenant protection vouchers newly funded in fiscal year 2003 or 2004 will need to be drawn from the $1.242 administrative fund.

Finally, the omnibus bill alters rules governing the use of administrative fees and reserves of unspent administrative fees from previous years in a manner that is likely to have the effect of giving PHAs more flexibility to use these funds for purposes of their choosing. Like the fiscal year 2003 appropriations act, the omnibus bill includes language intended to limit PHAs to using administrative fees "only for activities related to the provision of rental assistance under section 8." The bill defines such activities more broadly than the 2003 act, however, allowing the inclusion of "related development activities."[11] In addition, unlike last year's bill, the new bill does not specify a mechanism to enforce this limitation and does not apply it to prior years' administrative fee reserves. Because the bill requires that 96 percent of administrative fee funding be distributed pro rata, receipt of these funds will not be linked to a PHA's use of its fiscal year 2003 fees or prior years' fee reserves for Section 8 administration or its plans to spend fiscal year 2004 fees for that purpose. Other than conditioning receipt of any of the discretionary $50 million on some evidence that a PHA is using all of its current fees (and possibly fee reserves) for Section 8 purposes, it is unclear how HUD could enforce the requirement that fees be used only for Section 8-related activities.

Restrictions on "Over-Leasing" Continued

The omnibus bill retains language from the 2003 appropriations act restricting the ability of PHAs to use a process called "temporary over-leasing" to maximize the number of their authorized vouchers that are in use. For a PHA to use all (or nearly all) of its authorized vouchers, it must issue more vouchers than it is authorized to administer. This is because some voucher holders may fail to find apartments for which they can use their vouchers within the allotted time or may decide for other reasons not to use their vouchers. If, for example, 80 percent of the families issued vouchers actually use them, an agency must issue five new vouchers for every four vouchers that it expects will become available through turnover. Otherwise, this agency will be unable to use more than 80 percent of its available vouchers on a consistent basis.

A housing agency cannot, however, predict with precision what proportion of vouchers issued will actually be used. Moreover, the agency must issue vouchers several months in advance of the date it expects them to be used, and it is impossible to anticipate exactly how many current participants will leave the program that far into the future. If a greater-than-anticipated share of voucher holders use their vouchers successfully, or if a smaller-than-anticipated number of vouchers become available through turnover, there will be a period of time during which more vouchers will be leased than the agency is authorized to administer. An agency must have access to funding that will enable it to maintain its commitments to families when such "over-leasing" temporarily occurs.

[11] Longstanding HUD rules permit PHAs to use fees that are not needed to administer the voucher program "for other housing purposes permitted by State and local law." 24 C.F.R. § 982.155(b)(1). Under this authority, many PHAs have used "excess" fees to supplement inadequate public housing funding and to develop or acquire additional affordable housing. The addition of the quoted clause in the 2004 bill gives PHAs more flexibility than the 2003 act on the use of current fees, but possibly less than the existing regulation.

Beginning in 1999, HUD allowed the use of reserve funds to support temporary over-leasing as part of its efforts to improve voucher utilization.[12] The fiscal year 2003 appropriations bill, however, prohibited the use of the new funds made available by the bill to support over-leased units. The Senate version of the 2004 appropriations bill would have lifted the over-leasing prohibition, while at the same time preventing abuse of over-leasing by requiring PHAs that have leased too many vouchers to reduce the number of vouchers in use promptly to the authorized level. Unfortunately, the conferees rejected such an approach – reportedly at HUD's insistence – and extended the over-leasing prohibition to fiscal year 2004 funds.

The 2003 over-leasing prohibition has not been implemented in a manner that prevents all over-leasing. In a notice issued in September 2003,[13] HUD indicated that agencies are permitted to use voucher renewal funds to cover over-leasing in one or several months so long as the PHA lowers its utilization far enough below 100 percent during the remainder of the fiscal year that the average number of vouchers in use over the full year does not exceed the authorized level. The 2004 omnibus bill explicitly endorses the practice of allowing over-leasing during portions of a fiscal year.

Defining the over-leasing prohibition as applying only to full-year over-leasing reduces but does not eliminate the potentially harmful effects of the prohibition. An agency that maintains utilization exactly at the authorized level for the first eleven months of the fiscal year and then experiences an unexpected increase in utilization in the twelfth month would have an average utilization rate above 100 percent for the year. A PHA could also experience a large shift in the local housing market that pushes the utilization rate far enough over 100 percent that the agency is unable to bring utilization back to 100 percent even over a period of several months. This occurred recently in several metropolitan areas in California and Massachusetts where an unanticipated and rapid loosening of the housing market made it much easier for families to use their vouchers. Many housing agencies have utilization rates close to 100 percent, and could find themselves over-leased even though they are managing their programs responsibly. The over-leasing provisions of the 2003 appropriations act and 2004 omnibus prohibit such agencies from using new voucher renewal funds to cover the over-leased vouchers.

Neither the 2003 nor the 2004 over-leasing prohibition restricts the use of funds appropriated in 2002 or before for over-leasing, however, so the impact of the prohibitions depends heavily on whether PHAs have access to funds appropriated in those earlier years. In 2003, nearly all PHAs affected by the over-leasing prohibition had sufficient reserve funds from prior years' appropriations (including administrative fee reserves) to support any over-leased units and avoid drastic actions such as terminating voucher assistance to participating families. But HUD replenishes reserves that have been spent with current-year funds, so the supply of reserves from pre-2003 appropriations will dwindle over time.

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[12] Prior to fiscal year 2003, Congress appropriated and HUD awarded to PHAs sufficient funding to renew *all* of their authorized vouchers, regardless of the number used. PHAs that used a portion of their reserves to support temporarily over-leased units could restore their reserves by subsequently leasing fewer vouchers and thereby leaving some of their contracted funds unused. At the end of the fiscal year, HUD allocated to the agency's reserve account the portion of the unused funds necessary to replenish the reserve to the authorized level.

[13] See PIH 2003-23.

As result, more and more PHAs will find themselves in a position where they will have no funds that legally can be used to avoid terminating vouchers if the agencies become over-leased. It is uncertain how many agencies have already reached this point. As the number of such PHAs increases, however, it is likely that more agencies will feel compelled by the threat of over-leasing to manage their programs with extreme caution. In some cases, agencies that inadvertently over-lease may be forced to recall vouchers recently issued to applicants who have waited many years to receive them or even drop from their programs some families who are already using vouchers to help meet their housing costs. Moreover, because reserves derived from funds appropriated in 2002 or earlier are finite, even agencies with access to substantial amounts of pre-2003 reserves may take steps — such as issuing fewer vouchers to families on their waiting lists during the last several months of the fiscal year — to minimize the risk of being over-leased.

HUD has significant authority to reduce the negative impact of the over-leasing prohibition. The conference report accompanying the 2004 omnibus bill directs HUD — within the limits of the prohibition on using new voucher renewal appropriations for full-year over-leasing — to "allow maximum flexibility under the law in order to allow PHAs to be temporarily over-issued and/or over-leased due to efforts to reach full leasing." To carry out this directive, it will be helpful if HUD at least takes the following steps:

- Make sure PHAs understand that they may pay for over-leased units with funds from fiscal year 2002 and earlier appropriations acts.

- Require PHAs to use available reserves of unspent administrative fees to avoid terminating voucher assistance.[14]

- Allow PHAs to choose which vouchers are considered to be over-leased. Vouchers held by families with relatively high incomes have lower costs than those held by families with lower incomes. In some cases, a family's income has risen to a point where it is no longer eligible for a subsidy and the voucher has no cost. PHAs are required to keep such vouchers on their rolls in "suspense status" for six months in case the family's income falls or its rent rises.[15] If HUD permitted an over-leased PHA to designate vouchers with

[14] Generally, a PHA may terminate voucher assistance when a family is without fault and the housing unit complies with requirements *only* "if the PHA determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program." 24 C.F.R. § 982.454. This provision is incorporated into each PHA's contract with each owner that leases a unit to a family under the voucher program. See form HUD-52641 (3/2000), Part B ¶ 4(b)(5). Both program and administrative fee reserves are derived from funds provided by HUD under its annual contributions contracts with PHAs. HUD's form ACC contract requires PHAs to use funds in their administrative fee reserves to pay expenses in excess of program receipts, and allows HUD to direct a PHA to use administrative fee reserve funds to pay for expenses otherwise ineligible for payment by HUD. See Form HUD-52520 (12/97), ¶ 12.

[15] HUD rules require PHAs to continue to consider a family a participant in the voucher program for six months after the family's income becomes too high to qualify for a housing assistance payment (HAP). This occurs when 30 percent of a family's adjusted income is equal to or exceeds the maximum subsidy the family would otherwise be eligible to receive. See 24 C.F.R. § 982.455. While in some technical sense, such "zero HAP" families count as

little or no cost as its over-leased vouchers, the PHA would be able to cover its higher cost vouchers with newly appropriated funds and reduce use of its limited supply of pre-2003 reserves.

- Consult with public housing agencies and voucher tenants and the organizations that represent them regarding other strategies to address this issue.

The harmful effects of the over-leasing provision can be prevented entirely only by Congressional action to provide PHAs with a sustainable source of funds for responsible, temporary over-leasing. The extent and severity of the harmful effects will grow with each passing year in which the prohibition is maintained. By taking actions like those listed above, however, HUD could slow the rate at which agencies are exhausting pre-2003 reserves and reassure PHAs, landlords, and voucher holders that the consequences of over-leasing will be manageable in many cases.

Reduced Funding for Other Voucher Program Components Compared with the Administration's Request

In addition to voucher renewal funding (and funding for the project-based Section 8 program), the Housing Certificate Fund includes funding for Family Self-Sufficiency coordinators and new tenant protection vouchers. These two programs were funded at levels below the Administration's request. In addition, the omnibus bill does not include any funding for new, or "incremental," vouchers.

- **Family Self Sufficiency:** The Family Self-Sufficiency (FSS) program is a HUD-administered employment and savings incentive program for low-income families that have housing vouchers or live in public housing. HUD has identified FSS as its "principal asset-building tool" and as "one of the Department's most important tools for helping assisted families increase earned income."[16] Despite HUD's request for a 50 percent increase in funding for coordinators for Section 8 FSS programs, and the Senate's inclusion of the additional funds in its bill, the omnibus retains the same $48 million funding level as in 2003. Without any adjustment for inflation, this is likely to result in salary freezes or cuts in staffing in local FSS programs and no funding either for additional PHAs to institute FSS programs or for PHAs that operate FSS programs to expand them. This is unfortunate as FSS is the best tool HUD has to help families increase employment and earnings and accrue savings.

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leased, they are not receiving any subsidy assistance and therefore no appropriated funds are being used for their support.

[16] HUD Budget Justifications for FY2004, page A-19. Many PHAs do not operate FSS programs or limit their program size due to lack of funding for FSS coordinators or case managers. In 2001, at HUD's request, Congress nearly doubled the amount of funding previously available for FSS coordinators. Funding has not increased significantly since then. In fiscal year 2002, there were $14.5 million in eligible applications for FSS coordinator funding that HUD was not able to fund due to insufficient appropriations. For more information on the FSS program, see Barbara Sard, *The Family Self-Sufficiency Program: HUD's Best Kept Secret for Promoting Employment and Asset Growth*, available on the internet at http://www.cbpp.org/4-12-01hous.htm.

- **Tenant protection vouchers:** The bill also makes available $206 million for tenant protection vouchers for families that are displaced from HUD-assisted housing. This sum is likely to support about 32,000 such vouchers. (HUD's most recent estimate of the average annual cost of new tenant protection vouchers was $6,414, not counting administrative fees.) The Administration's budget requested $252 million for tenant protection vouchers, or 22 percent more than the amount appropriated. The $252 million was intended to support 43,300 such vouchers at the lower average voucher cost that HUD projected at the time the budget was submitted. It is unclear whether HUD has reduced its estimate of the number of new tenant protection vouchers needed in fiscal year 2004 or whether it has additional funds carried over from earlier years to supplement the new appropriation. As in last year's bill, these funds cannot be used to provide tenant protection vouchers as replacements for public housing units demolished due to HOPE VI funding. The bill language also appears to preclude the new vouchers from being used to replace public housing units that a PHA wants to convert to vouchers, despite the fact that HUD recently issued a final rule implementing this "voluntary conversion" authority, which Congress established as part of the 1998 public housing reforms.

- **Incremental vouchers:** The omnibus bill provides no funds for incremental vouchers. This is the second year in a row in which Congress has declined to provide any funding for incremental vouchers. The Administration's budget request included $36 million for about 5,500 new vouchers for people with disabilities. The Senate bill, but not the House bill, included the requested amount, but only if sufficient funds were available after vouchers in use were renewed.

HUD Required to Report on Voucher Program Costs

The conference report requires HUD to report by July 31, 2004 on the reasons for the recent increases in voucher costs, how cost increases may be linked to policies or practices of HUD and PHAs, and what changes could be made in the voucher program to enable more families to be served without increasing program costs. On its face, this request appears reasonable. Costs have increased at a significantly higher rate in recent years than over the history of the program as a whole. The conference report, however, also describes the recent cost increases as "alarming," and states that the cost per voucher has increased "at a rate of more than double the average increase in the private rental market in each of the last two years."

These statements do not reflect the context in which recent voucher program cost growth has occurred. A significant portion of the recent per-voucher cost increases has been driven by decisions made by federal policymakers, so cost growth would not be expected to match precisely with changes in market rents. The policy decisions that have resulted in greater costs — such as the changes in targeting requirements and rules for setting payment standards enacted as part of the Quality Housing and Work Responsibility Act in 1998 — were specifically designed to raise voucher utilization, ensure that vouchers reach the families with the greatest need, and further other program goals. The cost increases that have resulted from these changes are essentially a one-time event: the changes have caused costs to grow as they have been implemented, a process that is now largely complete. They should not cause on-going cost growth in the future.

Moreover, increases in private market rents have slowed substantially during the past year, a trend that can be expected to reduce growth in voucher costs. Driven by unusually rapid growth in private market rents, the Fair Market Rents (FMRs) that HUD sets (which determine the amount of rent that a voucher can cover) rose by 6.3 percent in fiscal year 2003, 5.6 percent in fiscal year 2002, and 5.5 percent in fiscal year 2001. The FMRs for fiscal year 2004, however are only 2.6 percent above the fiscal year 2003 level.[17] Changes in FMRs influence average voucher costs beyond the year in which they go into effect, because an increase in the maximum rent that a voucher can cover does not immediately affect the rents that most voucher holders pay. As a result, the unusual recent surge in FMRs will continue to have some impact on the rate of growth in voucher costs in 2004, but this impact will decline in years after that.

In considering the issue of voucher costs, it should be recognized that delivering on the promise of real housing choice and ensuring affordability for the lowest-income families and elderly and disabled individuals entails certain costs. Policy changes that would reduce the average cost of a voucher (and thus could be used to enable the voucher program to serve more households for the same amount of funding) would be welcome, but only if these changes do not sacrifice other central program goals — by, for example, shifting vouchers from the neediest families to those with higher incomes or reducing the opportunities available to voucher holders to move to neighborhoods with more jobs and better schools. It is unlikely that many opportunities for such cost-free savings exist.

Future Challenges

The omnibus bill represents both a victory for the voucher program and the families it serves and a warning of possible challenges ahead. For the final bill to provide about $1 billion in additional funding for voucher renewals in the face of steadfast denials by senior HUD officials that there was any shortfall in their budget request is a testament to the broad-based congressional commitment to fund all vouchers in use. This commitment was further affirmed by approval on the House and Senate floors of amendments supporting adequate funding for housing vouchers. All available evidence indicates that the added funding will be sufficient to enable PHAs to continue to increase voucher utilization.

Nevertheless, there remains a risk that the new funding approach initiated in the fiscal year 2003 appropriations act, as continued and revised by the fiscal year 2004 omnibus bill, will result over time in fewer families receiving voucher assistance even if Congress makes no further

[17] The increases in FMRs listed here are based on national weighted-average FMRs. The method we used to calculate these weighted averages is explained in "Estimating The Shortfall In Requested Voucher Funding For Fiscal Year 2004," July 21, 2003, available on the internet at <http://www.centeronbudget.org/7-22-03hous.htm>.

major changes. PHAs have succeeded in the last few years in increasing by tens of thousands the number of families that are able to secure affordable housing through the use of vouchers. This achievement is the product of a broad range of incentives and tools created by Congress and HUD, as well as the commitment and creativity of PHA staff and their partners at the state and local levels. But this achievement is not automatically a permanent one. Take away the incentives and tools that helped create today's success and utilization may fall back toward earlier levels, despite efforts by PHA staff, voucher tenants and advocates to resist such backsliding.

A number of the recent incentives to increase utilization have been weakened or removed by the 2003 and 2004 appropriations bills. PHAs with high utilization rates cannot be rewarded with new vouchers because there are no new vouchers for which to compete. PHAs with low utilization rates are no longer in fear of losing vouchers permanently through reallocation because Congress and HUD have not provided funds to award unused vouchers to new agencies. In the past, many agencies were able to enhance their administrative capacity by, in effect, borrowing against the fee increases they would receive when they leased more vouchers. This year, PHAs that increase utilization might not receive additional administrative fees as a result, depending on how HUD implements the new fee provisions.

The changes the appropriations bills have made also have diminished the tools available to PHAs to increase voucher use. The likely adverse effects of the restrictions on use of reserve funds to support over-leasing are described above. Some PHAs also may be discouraged from making advance commitments to project-base vouchers, due to the reduced flexibility on temporary over-leasing and the fact that they may need to use a part of their reserve funds to support additional vouchers beyond the number in use on August 1, 2003. In addition, HUD recently sent a letter to its field offices around the country that circumscribed more narrowly than current law the procedures and grounds for approval of "exception payment standards" that allow vouchers to cover more rent in neighborhoods with housing costs that are high relative to costs elsewhere in the region.[18] This could weaken another important tool for increasing utilization. (If HUD, and perhaps in the future, Congress, reduces PHAs' flexibility to set voucher payment standards based on the actual rental costs in communities, fewer families will succeed at using their vouchers and families that do succeed will be limited to neighborhoods with fewer opportunities.)

The final decisions encompassed in the omnibus bill reflect a tension between the Congressional commitment to the voucher program and the families it serves and the desire to contain costs and make them more predictable. The mounting federal budget deficit and competing tax and spending priorities are reasons for concern about the adequacy of future funding for vouchers as well as for other housing programs. At the same time, a key lesson of this year's struggle over voucher appropriations may be that when pressed, neither Congress nor the Administration wanted to appear to cut funding for vouchers in use. This reluctance to cut voucher funding will be more likely to persist if the program continues its success in the years ahead, by maintaining and, where possible, increasing the proportion of the vouchers Congress

[18] Memorandum from Assistant Secretary Michael Liu to HUD Field Offices concerning "Approval of Exception Payment Standard Amounts for the Housing Choice Voucher Program," September 13, 2003. The new policies are inconsistent with HUD's regulations and procedures. See PIH Notice 2002-20.

has authorized that are in use. The decisions that PHAs and, more importantly, HUD make in implementing the 2004 appropriation bill will play a major role in determining whether this occurs.