

November 2004

MULTIFAMILY HOUSING

Implementation of Fiscal Year 2003 Requirements Concerning Housing Choice Voucher Administrative Fees



G A O

Accountability * Integrity * Reliability

Highlights of [GAO-05-30](#), a report to congressional committees

Why GAO Did This Study

The Department of Housing and Urban Development (HUD) received \$12.9 billion in fiscal year 2003 for the Housing Choice Voucher Program, which helps about 2 million low-income families pay rent for privately owned housing. This amount included \$1.1 billion in administrative fee payments to the public housing agencies that administer the program for HUD. In the Consolidated Appropriations Resolution of 2003, Congress included provisions to address a concern that housing agencies may have received more in fees than they needed to run the program. Housing agencies were directed to report to HUD their available reserves as of January 31, 2003. HUD was directed to reduce the fees agencies would receive if these levels were too high and recapture some excess fees.

The conference report accompanying the Consolidated Appropriations Act of 2004 directed GAO to review compliance with these provisions. This report discusses (1) the extent to which housing agencies complied with the requirement to report to HUD their available administrative fee reserves as of January 31, 2003; (2) how these reported reserves compared with reserves reported in earlier fiscal years and possible reasons for any declines; (3) the extent to which HUD made required reductions to fiscal year 2003 fees; and (4) the extent to which HUD has recaptured excess fiscal year 2003 administrative fees.

www.gao.gov/cgi-bin/getrpt?GAO-05-30.

To view the full product, including the scope and methodology, click on the link above. For more information, contact David G. Wood at (202) 512-8678 or woodd@gao.gov.

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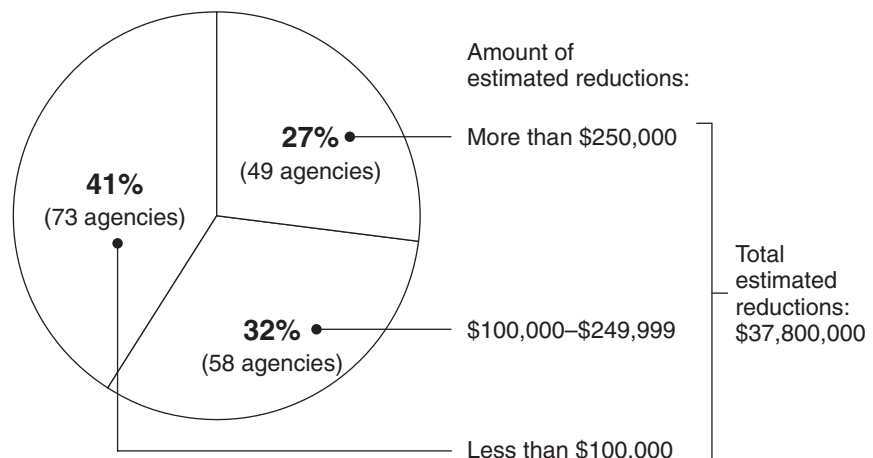
What GAO Found

By the end of calendar year 2004, HUD expects to have finished implementing most of the provisions in the Consolidated Appropriations Resolution of 2003 that address the administrative fees housing agencies receive under the Housing Choice Voucher Program. As of September 2004, all but 5 of the 2,477 housing agencies had reported their available administrative fee reserves as of January 31, 2003. The reported amounts totaled \$587 million, or about \$211 million (26 percent) less than the average \$798 million that housing agencies had reported in fiscal years 1999 to 2002.

GAO found several reasons for this decline. For example, the 2003 resolution allowed housing agencies to deduct from their January 2003 reported amounts funds that were not “available.” Some housing agencies deducted obligated or committed funds they considered unavailable, although they normally include these funds in the reserve amounts they report at their fiscal year ends. Further, between the end of their fiscal year 2002 and the January reporting date, some housing agencies obligated some of their reserves for expenses not related to the Housing Choice Voucher Program, as was permitted by HUD regulations.

By December 2004, HUD plans to have completed most of the required reductions to the estimated fiscal year 2003 administrative fees of 180 housing agencies, a total of about \$37.8 million (see figure). As required by the 2003 resolution, HUD identified housing agencies whose fees would be reduced based on the difference between their available January 2003 reserve balances and 105 percent of the fees they earned in federal fiscal year 2002. HUD has not recaptured any excess 2003 administrative fees but expects to have made some of the required recaptures by December 2004.

Estimated Reductions to 180 Housing Agencies' Fiscal Year 2003 Fees



Source: HUD.

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United States Government Accountability Office
Washington, D.C. 20548

November 19, 2004

The Honorable Christopher Bond
Chairman
The Honorable Barbara A. Mikulski
Ranking Minority Member
Subcommittee on Veterans Affairs, Housing and Urban Development and
Independent Agencies
Committee on Appropriations
United States Senate

The Honorable James T. Walsh
Chairman
The Honorable Alan B. Mollohan
Ranking Minority Member
Subcommittee on Veterans Affairs, Housing and Urban Development and
Independent Agencies
Committee on Appropriations
House of Representatives

The Department of Housing and Urban Development (HUD) received \$12.9 billion in fiscal year 2003 appropriations to help about 2 million low-income families nationwide pay rent for privately owned housing through the Housing Choice Voucher Program. About \$1.1 billion of this amount was designated for administrative fee payments to the approximately 2,500 public housing agencies that administer the program for HUD.¹ The fee payments, which are intended to compensate the housing agencies for administrative activities such as finding property owners to participate in the program, inspecting rental units, and determining family eligibility, are not based on actual incurred expenses, but rather on a formula that takes into account the number of vouchers administered. The difference between the fees earned and expenses incurred are recorded annually in the administrative fee reserve, which shows the accumulated gains and losses housing agencies incur over time. Housing agencies can use their administrative fee reserves for the voucher program and other housing-related expenses.

¹These 2,500 public housing agencies are among the more than 4,100 housing agencies that administer federal housing programs on behalf of HUD.

In the Consolidated Appropriations Resolution of 2003, Congress addressed a concern that housing agencies may have been provided more in fees than necessary to effectively run the Housing Choice Voucher Program, as indicated by the large amounts of some housing agencies' administrative fee reserves. Specifically, the 2003 resolution included provisions requiring the housing agencies to report to HUD their administrative fee reserves available as of January 31, 2003, and requiring HUD to:

- withhold administrative fees for fiscal year 2003 from agencies that did not report their January 2003 reserves;
- reduce the administrative fees paid in fiscal year 2003 to any agency whose reserve amount was more than an established limit; and
- recapture any fees paid in fiscal year 2003 that exceeded housing agencies' actual administrative expenses.²

However, the conference report accompanying the Consolidated Appropriations Act of 2004 raised concerns that neither HUD nor the housing agencies had fully complied with the requirements in the 2003 resolution. This concern was based largely on the fact that some of the reported January 2003 reserves were far lower than had been expected. The conference report directed GAO to review compliance with the provisions of the 2003 resolution. Accordingly, this report:

- shows the extent to which housing agencies complied with the requirement to report to HUD their administrative fee reserves available as of January 31, 2003;
- compares housing agencies' reported available reserves as of January 31, 2003, with reserves reported in earlier fiscal years and discusses possible reasons for any declines;

²These provisions were unique to the 2003 Appropriations Resolution and were not included in previous or subsequent appropriations acts. Several public housing industry associations and public housing agencies have filed a lawsuit in federal district court against HUD concerning the administrative fee provisions in the 2003 resolution. The plaintiffs maintain that the administrative fee reserves are the property of the public housing agencies and that the appropriations provisions, by requiring the reduction and recapture of the fees earned in fiscal year 2003, are unconstitutional and violate both the contractual terms and the Administrative Procedure Act.

-
- examines the extent to which HUD reduced fiscal year 2003 administrative fee payments, as required, in light of housing agencies' reported reserves;³ and
 - shows the extent to which HUD recaptured excess fiscal year 2003 administrative fees, as required.

To meet our objectives, we reviewed relevant laws and HUD guidance, compared HUD data on the January 2003 reported amounts with reserves reported in prior fiscal years, and interviewed officials from HUD's Office of Public and Indian Housing and Financial Management Center. We also visited 5 housing agencies to review financial documents related to their administrative fee reserves and to interview staff involved in calculating their reserves.⁴ We selected these 5 agencies from the 10 that showed the largest differences between their January 2003 reported reserves and their average reported reserves for fiscal years 1999 to 2002.⁵ In addition, we interviewed officials from several housing industry associations and spoke with private-sector accountants these associations cited as experts in housing agency accounting. We did not perform a financial audit of the housing agencies' administrative fee reserves. We conducted our work from January through September 2004 in Los Angeles and Orange County, California; Broward County, Florida; Needham, Massachusetts; Newark, New Jersey; New York, New York; and Washington, D.C., in accordance with generally accepted government auditing standards. Our scope and methodology are discussed in greater detail in appendix I.

Background

The federal government's Housing Choice Voucher Program helps very-low-income families, the elderly, and the disabled pay for housing in

³Unless otherwise noted, "fiscal year" refers to the Housing Choice Voucher Program's fiscal year, which runs from January to December.

⁴The agencies we visited were the Housing Authority of the City of Los Angeles (California), the Orange County Housing Authority (California), the Broward County Housing Authority (Florida), the Newark Housing Authority (New Jersey), and the New York City Housing Authority (New York).

⁵To achieve some geographic distribution, we selected sites in both the eastern and western parts of the country. None of the 10 housing agencies showing the largest differences were located in the Midwest.

the private market.⁶ The program, which has been operating for about 30 years, provides housing vouchers that individuals and families can use to rent houses or apartments in the private housing market if property owners participate in the program. Voucher holders are responsible for finding suitable housing, which must meet the health and safety standards set by the local housing agency. Voucher holders generally pay about 30 percent of their household income on the rent and utilities and the housing agency pays the remainder in subsidies that are paid directly to the property owners.

The administrative fees housing agencies earn are not tied to the actual expenses of operating the Housing Choice Voucher Program. Rather, the fees are based on a formula that takes into account the number of months that each voucher is actually in use (i.e., is used to pay for a rental unit under lease). The amounts used to calculate federal fiscal year 2003 fees were set in the Federal Register on May 6, 2003.⁷ In addition, housing agencies may also earn additional special administrative fees—for example, the “hard-to-house” fee for certain clients, such as persons with disabilities, who require help in locating housing.

Administrative fee payments are based on estimates of voucher use and are reconciled with actual earned amounts at the end of each housing agency’s fiscal year. Housing agencies’ fiscal years are grouped into four cycles ending in March, June, September, and December that allow HUD to more easily complete the fiscal-year-end settlement process, which generally is completed a few months after the close of a housing agency’s fiscal year. HUD projects leasing activity annually based on data the housing agencies submit and provides the agencies with monthly disbursements that are based on these projections. HUD uses the fiscal-year-end settlement process to reconcile the administrative fees disbursed to housing agencies with fees earned based on actual voucher use. For example, if the fees a housing agency earns exceed the projected amounts that HUD disbursed during the housing agency’s fiscal year, HUD pays the difference once the settlement process is completed. Conversely, if the fees a housing agency earns are less than the amount it was paid during its fiscal year, HUD offsets future fee payments by the amount of the difference.

⁶The Housing Choice Voucher Program was formerly referred to as the Section 8 Tenant-Based Program.

⁷Federal Register, Vol. 68, No. 87.

Housing agencies can use their administrative fee reserves both for expenses associated with the voucher program and other expenses. However, housing agencies must use their reserves for any actual administrative expenses that exceed the total amount HUD provides for each housing agency fiscal year. In addition, housing agencies are allowed to use administrative fee reserves accumulated prior to fiscal year 2004 appropriations “for other housing purposes permitted by state and local law,” provided that the agencies have adequately administered the Housing Choice Voucher Program. For example, some housing agencies we visited had used their reserves to offset expenses incurred from rehabilitating or producing affordable housing units, while others had used their reserves to offset expenses from their public housing programs. In the Consolidated Appropriations Act of 2004, Congress limited the uses of the administrative fees earned in fiscal year 2004 to the provision of Housing Choice Voucher Program rental assistance and related development activities.

The amount of the administrative fee reserve is calculated based on housing agency accounting data and does not necessarily represent cash reserves. Housing agencies determine the amount of their administrative fee reserve by calculating the difference (either gain or loss) between the fees they earned that year and the expenses they actually incurred, and adding that amount to (or subtracting it from) its last fiscal-year-end amount. They also deduct amounts used for nonprogram expenses. In calculating their reserves, housing agencies may deduct amounts equal to noncash assets procured with administrative fee reserves. For example, if a housing agency were to purchase a vehicle for program purposes, it could deduct the purchase amount when calculating the year-end balance for that year. However, a housing agency may include amounts equal to noncash assets in their total reported reserve. Housing agencies report their total administrative fee reserves to HUD as a part of the fiscal-year-end settlement process.

Results in Brief

As of September 2004, all but 5 of the 2,477 housing agencies that were required to report their administrative fee reserves available as of January 31, 2003, had done so. All five housing agencies we visited determined their reserves in a manner consistent with HUD’s guidance. However, because HUD did not define the term “available” used in the 2003 Appropriations Resolution, they did not calculate their reserves in exactly the same way. For example, in calculating the amount of available reserves, some housing agencies excluded amounts committed (but not obligated) for anticipated expenses. Moreover, two housing agencies differed in their interpretation

of whether noncash assets should be included in available reserves; one housing agency had excluded an amount equal to its noncash assets, while another had not.

The total of all housing agencies' reported reserves available as of January 31, 2003, was \$587 million, or about \$211 million (26 percent) less than the average \$798 million in total reserves reported for fiscal years 1999 to 2002. Ten housing agencies, including the five we visited, accounted for 82 percent of the total difference. Officials from HUD, housing agencies, and housing industry groups cited several reasons why the total reported amount declined during that time. First, the 2003 resolution allowed housing agencies to deduct from their January 2003 reported amounts funds that were not "available," a term that some housing agencies interpreted as excluding obligated or committed funds. Housing agencies normally include these funds in the reserve amounts they report at their fiscal year ends. Second, prior to the reporting date, some housing agencies used some of their reserves for expenses not related to the Housing Choice Voucher Program, as was permitted by HUD regulations. For example, between the end of their 2002 fiscal years and January 2003, the housing agencies we visited had used their reserves for, among other things, providing security services for housing developments. Finally, changes in government accounting standards, which were phased in beginning in 2001, could have had a small effect on some housing agencies' reported reserves by requiring agencies to deduct from their reserves certain liabilities, such as employees' unused leave, that they had not previously deducted.

By December 2004, HUD plans to have completed most of the required reductions to the estimated fiscal year 2003 administrative fees of 180 housing agencies, a total of about \$37.8 million. As required by the 2003 Appropriations Resolution, HUD identified housing agencies whose fees would be reduced based on the difference between (a) their January 2003 reserves and (b) 105 percent of the fees they earned in federal fiscal year 2002. HUD made about \$27.4 million in reductions to housing agencies' estimated administrative fees over the course of calendar year 2003 (also the fiscal year for the Housing Choice Voucher Program) and plans to complete the remainder of the required reductions as part of the housing agencies' next fiscal-year-end settlement process.

HUD has not yet recaptured any excess fiscal year 2003 administrative fees. However, it has begun processing recaptures and plans to have made some of the required recaptures by December 2004. The 2003 Appropriations Resolution required HUD to recapture fees paid to housing agencies that

exceeded administrative expenses, except the fees necessary to maintain a reserve of 5 percent of the fees earned in fiscal year 2003. As a result, only housing agencies that had reserve amounts of less than 5 percent of their fiscal year 2003 fees could add to their reserves. As of September 2004, HUD was not able to provide estimates of the number of housing agencies that would be affected or the amount it expected to recapture.

Almost All Housing Agencies Reported Their Available Reserves, but Agencies Interpreted the Reporting Requirement Differently

Almost all of the housing agencies that were required to report their available administrative fee reserves as of January 31, 2003, have done so. However, because HUD did not define the term “available” used in the 2003 Appropriations Resolution, housing agencies may have interpreted the term—and thus calculated their reserves—differently. Although the five housing agencies we visited determined their reserves in a manner consistent with HUD’s guidance, we found differences in their methodologies.

Almost All Housing Agencies Reported January 2003 Reserves

As of September 2004, all but 5 of the 2,477 housing agencies required to report their available administrative fee reserves as of January 31, 2003, had done so. The 2003 Appropriations Resolution instructed HUD to collect these reserves data from each housing agency administering the Housing Choice Voucher Program. Although housing agencies had until April 9, 2003, to report their reserves, HUD officials said they did not track which housing agencies met that deadline. However, they said that, as directed, HUD withheld 2003 administrative fees from housing agencies until they reported. The officials said that HUD continued to withhold 2003 administrative fees from the 5 housing agencies that had not yet reported their reserves.⁸

⁸The five housing agencies represented 0.02 percent of fees earned in fiscal year 2002. Therefore, these missing data probably had little effect on the total reserves reported as of January 2003.

The five housing agencies we visited calculated their reserves available as of January 31, 2003, in a manner consistent with HUD's instructions.⁹ As directed, they began with their last fiscal-year-end reserve amounts and employed year-end closing procedures to bring the reserves current as of January 31, 2003. The five housing agencies had different fiscal years, however. For example, to meet this requirement the New York City Housing Authority had to update its reserve from its fiscal year ending December 31, 2002, while the Newark Housing Authority had to update its reserve from its fiscal year ending March 31, 2002.¹⁰ The five housing agencies we visited first added estimated fees earned and other income, such as interest income, earned since their most recent fiscal year end. They then deducted program expenses, such as staff salaries, incurred up to the January 2003 reporting date. In addition, all of the housing agencies deducted amounts used for housing purposes other than the Housing Choice Voucher Program, an action allowed under HUD regulations. For example, officials from the Broward County Housing Authority deducted \$1.5 million (13 percent of its average reserve from 1999 to 2002) from its administrative fee reserves to offset the cost of installing air conditioning in public housing units. Finally, officials from two of the housing agencies deducted obligated amounts from their reported reserves. For example, officials from the New York City Housing Authority deducted slightly over \$6 million (8 percent of its average reserve from 1999 to 2002) from the agency's reported reserve for two housing-related development projects.

Housing Agencies Interpreted "Available" Reserves Differently Due to a Lack of HUD Guidance

Because HUD did not define the term "available" used in the 2003 Appropriations Resolution, housing agencies interpreted the term differently and thus may not have reported consistently defined reserve amounts to HUD.¹¹ HUD's regular fiscal-year-end closing procedures require housing agencies to report their total reserves. Therefore, reporting only their "available" reserves was a new requirement for housing agencies. HUD program officials did not elaborate on the 2003 Appropriations

⁹Results from a judgmental sample cannot be used to make inferences about a population, because in a judgmental sample some elements of the population being studied have no chance or an unknown chance of being selected as part of the sample.

¹⁰None of the four fiscal year ending dates (March 31, June 30, September 30, and December 31) corresponds to the January 31, 2003 reporting date required by the 2003 Appropriations Resolution.

¹¹The 2003 resolution required housing agencies to report to HUD "the amounts remaining available as of January 31, 2003," in their administrative fee reserves (P.L. 108-7).

Resolution's language. In the guidance it provided housing agencies regarding the 2003 resolution, HUD simply emphasized the word "available" with bold and italics several times throughout the instructions. Officials from HUD's Office of General Counsel told us that legally obligated funds were not "available" amounts.

The lack of a clear definition of "available" resulted in two interpretive issues. First, three of the housing agencies we visited deducted from their "available" reserves amounts committed (but not yet obligated) for anticipated expenses. For example, Orange County Housing Authority officials deducted almost \$900,000 (5 percent of its average reserve from 1999 to 2002) that the agency had committed for fraud investigation services for the Housing Choice Voucher Program in future fiscal years. Similarly, officials at the Housing Authority of the City of Los Angeles deducted over \$8 million (15 percent of its average reserve from 1999 to 2002) from its reported reserve for an expected shortfall in public housing subsidies. HUD's guidance did not indicate whether these amounts should or should not have been deducted from their "available" reserves.

Second, two housing agencies differed on whether to include noncash assets in their reported reserves. Officials from the Newark Housing Authority did not deduct amounts representing noncash assets, including computers and vehicles, from their January 2003 reported reserve. According to these officials, they included those amounts in the reported reserve because they include noncash assets in the amount they report to HUD at their fiscal year end. In contrast, officials from the Orange County Housing Authority deducted amounts from their reported reserve for noncash assets—primarily notes receivable from loans they had made to help developers build affordable housing. These officials told us that they did not consider these amounts to be "available" because the loans had not yet been repaid.

Some Housing Agencies' Available January 2003 Reserves Were Lower Than Previously Reported Reserves for Several Reasons

Housing agencies' total reported reserves available as of January 31, 2003, were about 26 percent less than the average total reserves reported by the agencies for fiscal years 1999 to 2002. Declines in the amounts reported by 10 housing agencies, including the 5 we visited, represented 82 percent of this difference. Officials from HUD, housing agencies, and housing industry groups cited several explanations for the difference.

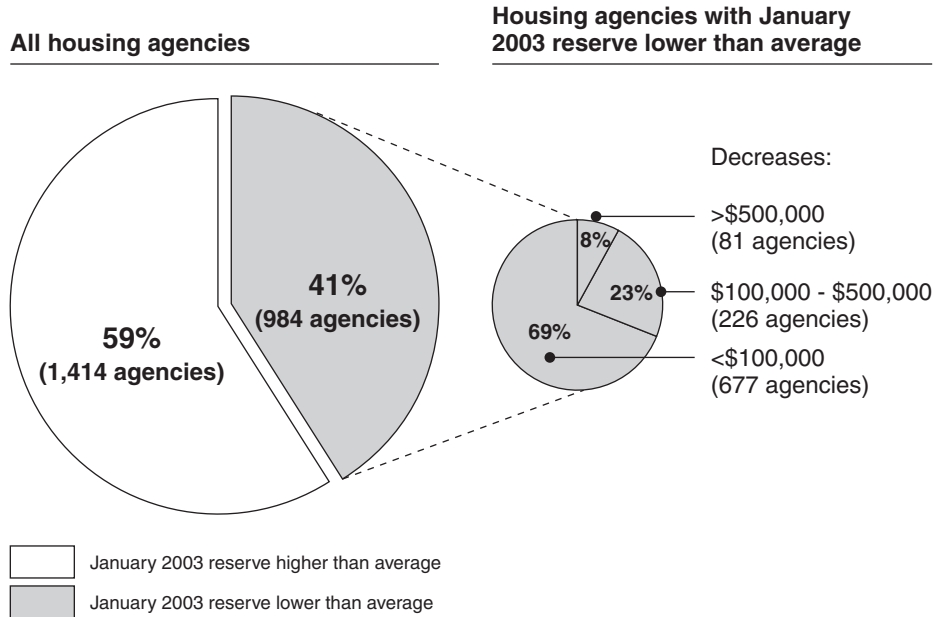
A Small Number of Housing Agencies Were Responsible for Most of the Difference

The total of all the housing agencies' reported reserves available as of January 31, 2003, was \$587 million, about \$211 million (26 percent) lower than the average total reserves of \$798 million for fiscal years 1999 to 2002.¹² Of those housing agencies whose January 2003 available reserves were different from their average reserves from 1999 to 2002, 984 (41 percent) housing agencies reported available reserve amounts that were lower than their average year-end amounts, but a small number of housing agencies was largely responsible for the overall difference (fig. 1). Of housing agencies that reported lower amounts, most (69 percent) showed a decline of less than \$100,000, while only about 8 percent had declines of over \$500,000. Specifically, the 10 housing agencies with the largest declines represented 82 percent (\$173 million) of the decline in total reserves; of these, the 5 we visited represented 61 percent (\$129 million) of the total difference. In contrast, most housing agencies (59 percent) reported amounts that were higher than their average reserves from 1999 to 2002.¹³

¹²The average total reserve is based on the sum of the reserves reported by housing agencies at the end of their fiscal years.

¹³We did not determine the reasons for these increases in the course of our audit work.

Figure 1: Proportion of Housing Agencies Whose January 2003 Available Reserves Were Different from Their Average Reserves from 1999 to 2002



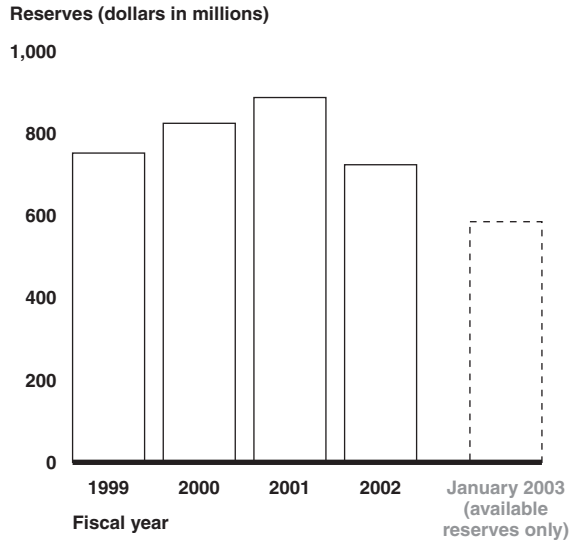
Source: HUD.

Note: The figure above accounts for 2,398 of the 2,472 (97 percent) housing agencies that reported a January 2003 reserve. Due to missing data, GAO could not calculate the differences for 63 housing agencies. In addition, 11 housing agencies reported no change between their average reserves (1999-2002) and their January 2003 reported reserves.

The total amount of reserves reported by agencies at fiscal year ends varied from fiscal year to fiscal year. For example, the total reserves went from \$753 million in fiscal year 1999 to \$825 million in fiscal year 2000 but fell from \$888 million in 2001 to \$725 million in 2002 (fig. 2).¹⁴ Over a third of the total decline between 2001 and 2002 was attributable to the New York City Housing Authority, which used \$58 million to cover deficits in public housing programs sponsored by their state and city governments.

¹⁴These fiscal year totals are the sum of the reserves housing agencies reported at the end of their fiscal years.

Figure 2: Total Reserves, by Housing Agency Fiscal Year



Source: HUD.

January 2003 Available Reserves Were Lower for Several Reasons

We found several reasons for the difference in reported reserve amounts. First, officials from HUD, housing industry associations, and some housing agencies we visited told us that the different reporting requirement was in part responsible for the lower reported amounts. As previously discussed, the January 2003 requirement was for “available” reserves, a term that some housing agencies interpreted as excluding funds that had been obligated or committed. The regular year-end reporting requirement was (and is) for total reserves, including amounts the housing agency had either obligated or committed. As a result, the January 2003 reserves for some housing agencies fell from the previous year-end levels—in some cases, dramatically. For example, officials from the Broward County Housing Authority deducted from the agency’s January 2003 reported reserve \$9.5 million (80 percent of its average reserve from 1999 to 2002) that it had committed for the redevelopment of a public housing site.

Second, some housing agencies obligated some of their reserves for expenses not related to the Housing Choice Voucher Program, as was permitted by HUD regulations.¹⁵ Of the five housing agencies we visited, two had used their reserves for projects or expenses not related to the Housing Choice Voucher Program between the end of their fiscal year 2002 and the January 2003 reporting date. For example, officials from the Newark Housing Authority deducted about \$3.4 million (47 percent of its average reserve from 1999 to 2002) from its reserve for security services at their housing developments.

Third, a new accounting requirement may have contributed to the decline in the total reported amount, but housing agency officials said that this effect was likely small. Beginning in 2001, housing agencies began implementing applicable provisions of the Governmental Accounting Standards Board Statement No. 34, *Basic Financial Statements—and Management’s Discussion and Analysis—for State and Local Governments*. The statement directed housing agencies to deduct from their reserves certain liabilities that they had not been required to deduct before, such as employees’ unused compensated leave. The largest agencies were required to implement this standard in June 2001. Other agencies were not required to implement the standard until June 2003. According to some housing agency officials, the effect of this accounting requirement was relatively small. For example, officials at the Housing Authority of the City of Los Angeles deducted almost \$4 million (7 percent of its average reserve from 1999 to 2002) from its reported reserve as a result of the conversion to this accounting standard.

HUD Is Reducing Estimated Administrative Fees by About \$37.8 Million

By December 2004, HUD plans to have completed most of the required reductions to the estimated fiscal year 2003 administrative fees of 180 housing agencies, a total of about \$37.8 million. As required by the 2003 Appropriations Resolution, HUD identified housing agencies whose fees should be reduced because their reported January 2003 reserves exceeded 105 percent of the fees they earned in federal fiscal year 2002. HUD made about \$27.4 million in reductions to housing agencies’ estimated

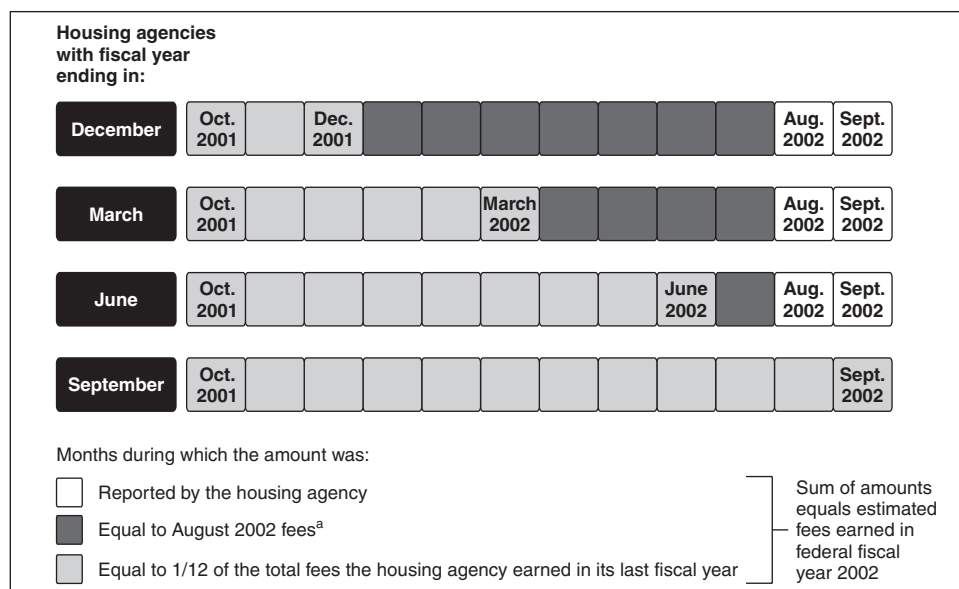
¹⁵HUD regulations permitted housing agencies to use administrative fee reserves accumulated prior to 2004 for other housing purposes permitted by state or local law. The Consolidated Appropriations Act of 2004 prohibited housing agencies from using administrative fees earned under the period covered by the act for purposes not related to the program.

administrative fees over the course of calendar year 2003 (the Housing Choice Voucher Program’s fiscal year). HUD plans to make most of the remaining reductions by December 2004 through the housing agencies’ fiscal-year-end settlements.

HUD Identified 180 Housing Agencies That Should Receive Reductions

To implement the reductions required in the 2003 Appropriations Resolution, HUD needed information on each housing agency’s available administrative fee reserves as of January 31, 2003, and on the fees each housing agency earned in fiscal year 2002. According to HUD attorneys, HUD interpreted the term “fiscal year 2002” in the 2003 resolution to mean federal fiscal year 2002. Because HUD generally collects information on fees earned based on the housing agency fiscal year, it had to estimate the amounts for federal fiscal year 2002 for all agencies except those with fiscal years that ended in September. As shown in figure 3, HUD used a combination of data to estimate fees housing agencies earned in federal fiscal year 2002.

Figure 3: How HUD Estimated Administrative Fees Earned in Federal Fiscal Year 2002



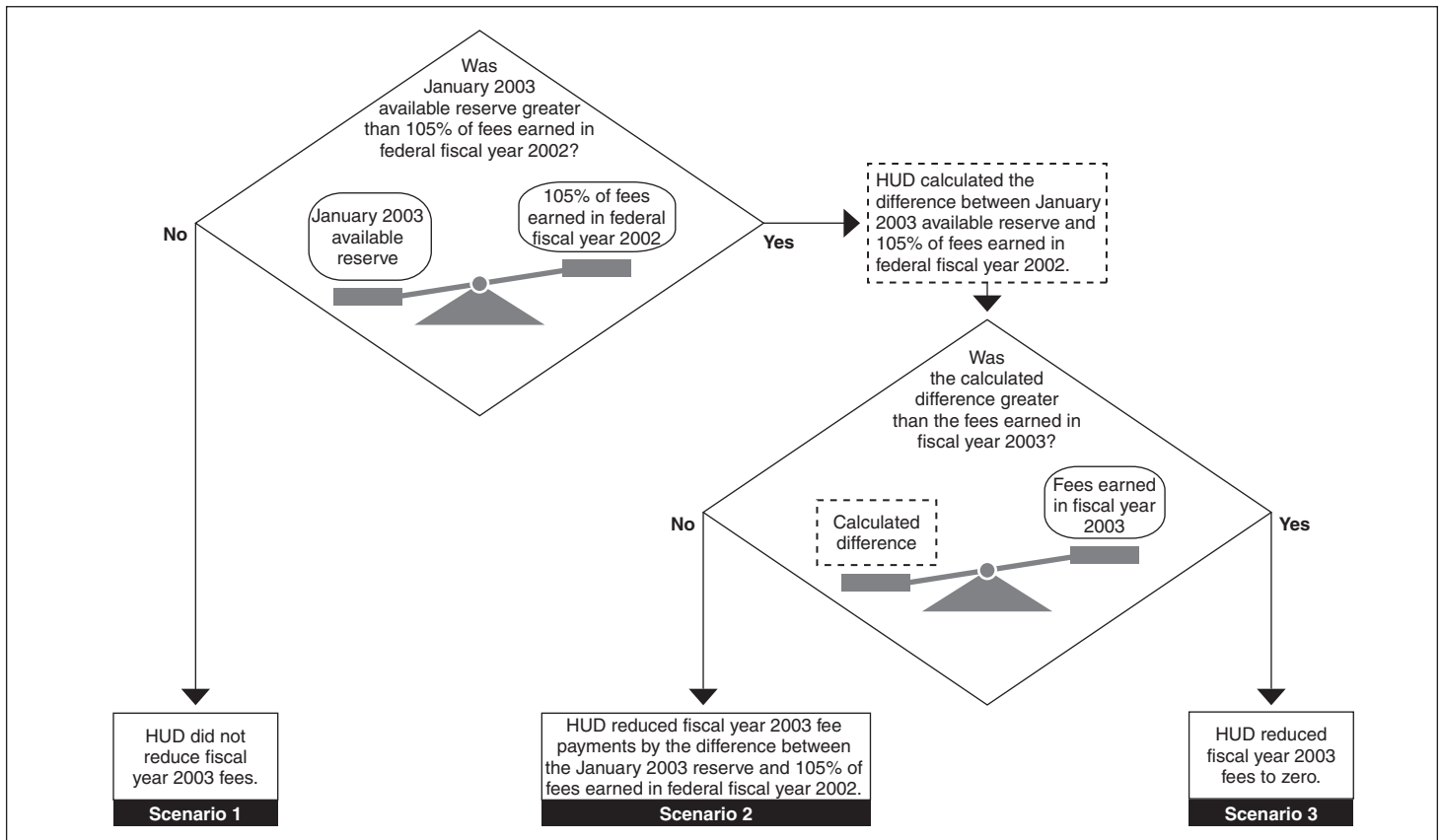
Source: GAO.

^aHUD used August 2002 data for these months because it was the nearest monthly data available.

Using these estimates and housing agencies' reported January 2003 reserves, HUD determined which housing agencies should receive less in administrative fees and the amounts of the reductions.¹⁶ HUD identified 180 housing agencies whose fiscal year 2003 administrative fees should be reduced because their available reserves as of January 31, 2003, exceeded 105 percent of the fees they earned in federal fiscal year 2002. The total reduction for each agency was the lower of (a) the difference between its January 2003 reserve and 105 percent of the fees it earned in federal fiscal year 2002, or (b) the total administrative fees the housing agency would earn in fiscal year 2003. HUD did not reduce the fees of some housing agencies by the full difference between their January 2003 reserves and 105 percent of the fees earned in federal fiscal year 2002, because the 2003 resolution did not require HUD to make reductions to housing agencies' administrative fees that exceeded the amounts they earned in fiscal year 2003. Figure 4 shows, for three possible scenarios, how HUD determined the reduction, if any, in a housing agency's fiscal year 2003 fees. In the first scenario, no reduction would be made, because the reserves were less than the 105 percent level; the housing agency would receive all of the fiscal year 2003 fees it earned. In the second scenario, the reduction would equal the full difference between the January 2003 reserves and the 105 percent level, and the housing agency would receive the remainder of its fiscal year 2003 administrative fees. In the third scenario, the reduction would equal the full amount of the housing agency's fiscal year 2003 fees, and the housing agency would not receive any administrative fees.

¹⁶The 2003 Appropriations Resolution did not require HUD to reduce the fees of any housing agency that earned less than \$100,000 in administrative fees in fiscal year 2003.

Figure 4: HUD's Process for Determining Reductions to Fiscal Year 2003 Fees



Source: GAO.

HUD Reduced Administrative Fees in Two Stages

As noted previously, HUD normally makes monthly disbursements to housing agencies based on projections of their earnings for each month, and reconciles these disbursements with the agencies' actual earnings during the fiscal-year-end settlement process.¹⁷ To implement the reductions required by the 2003 Appropriations Resolution, HUD estimated each agency's total reduction (as described above) and the estimated

¹⁷Housing agencies receive a monthly disbursement from HUD to cover both their administrative fees and the housing assistance payments that the agencies pay to property owners on behalf of tenants in the Housing Choice Voucher Program.

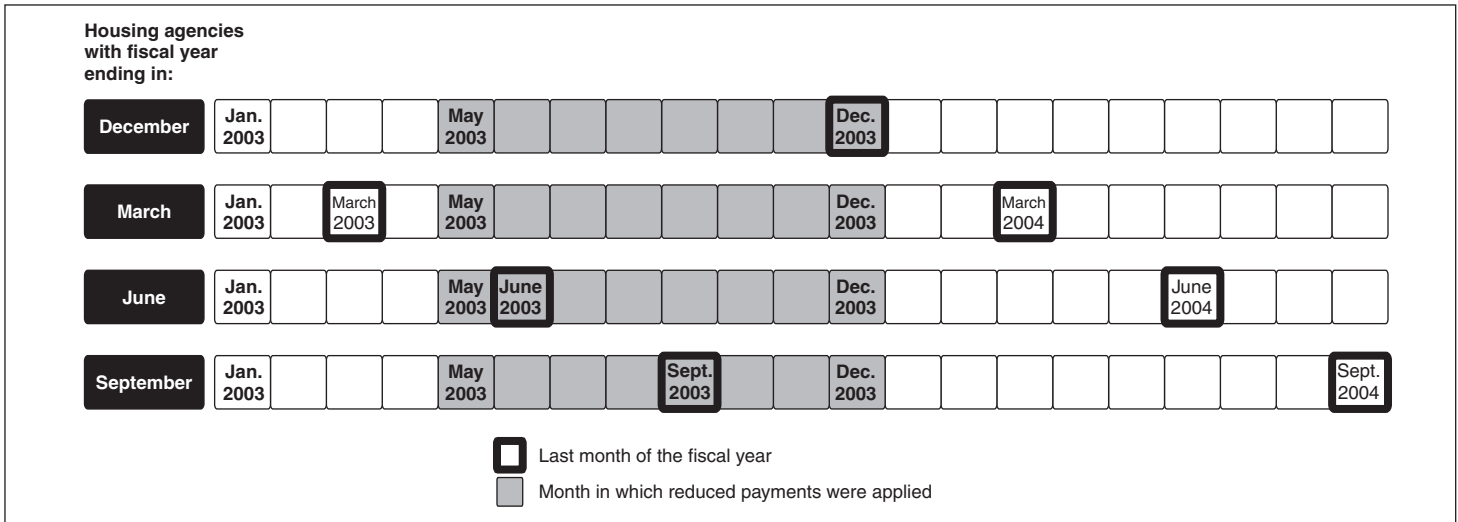
monthly reduction, based on the total fees earned in federal fiscal year 2002 divided by 12. Using these amounts, HUD reduced some housing agencies' monthly payments over the course of calendar year 2003 (also the fiscal year for the Housing Choice Voucher Program) and will make any remaining reductions during the housing agencies' fiscal-year-end settlement process.

In the first stage of reductions, HUD lowered the monthly disbursements for the housing agencies' estimated administrative fees by a total of about \$27.4 million between September and December 2003. Although HUD began calculating reductions in May 2003, HUD did not apply any reductions to fee disbursements until September 2003, after housing agencies' budgets were revised.¹⁸ The September payments reflected up to 5 months of estimated monthly reductions (May through September), even if the reduction affected not only the administrative fees but also the payments for tenants' housing assistance. In contrast, fees for October through December 2003 were reduced by no more than the estimated monthly reduction. According to HUD officials, HUD initially stopped reductions with the December 2003 payment after 8 months of estimated monthly reductions because of uncertainty about applying the 2003 Appropriations Resolution retroactively to January through April 2003, the first 4 months of the Housing Choice Voucher Program fiscal year.

Although HUD has already made these estimated reductions, it must complete the housing agencies' fiscal-year-end settlements to determine the actual amount of fees to which reductions should be applied. HUD will not have the data to calculate the actual reductions for all housing agencies until after December 2004 (when the September 2004 fiscal-year-end settlements are due), because housing agencies whose fiscal years ended in June and September received reduced payments over the course of two of their fiscal years, as illustrated in figure 5. The actual reductions might be higher or lower than the estimated amounts, depending on each agency's actual voucher use.

¹⁸In January through August 2003, HUD disbursed fees according to housing agencies' existing budgets until they were revised in August 2003.

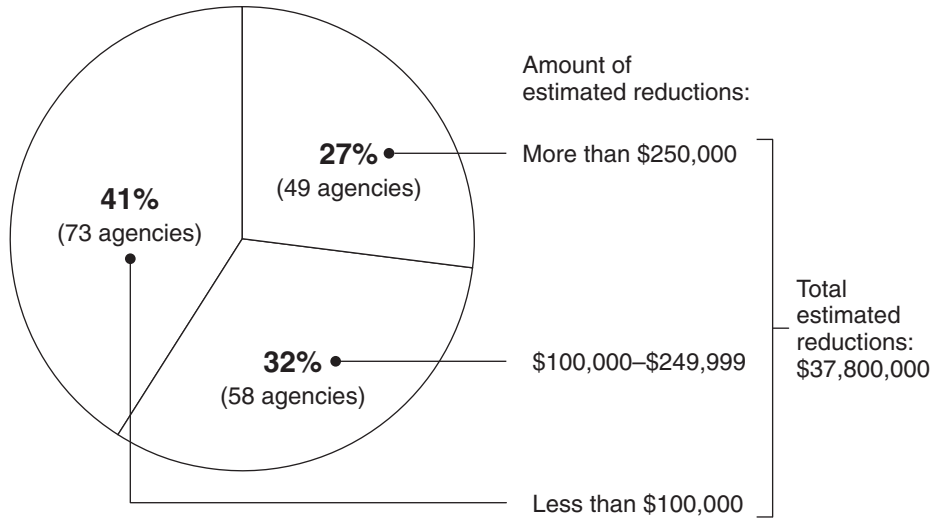
Figure 5: Months in Which HUD Applied Reduced Administrative Fee Payments



Source: GAO.

HUD will implement a second stage of reductions because its general counsel determined that the reductions should apply to the entire period during which fiscal year 2003 appropriations were used. In July 2004, HUD developed procedures to make adjustments to housing agencies' January, February, March, and April 2004 payments using the fiscal-year-end settlement process. HUD will use actual fees earned to determine the amount of additional reductions to be made to the fees of housing agencies whose fees have not been reduced by the full amount required by the 2003 Appropriations Resolution. HUD estimated that these additional 4 months of administrative fee reductions would total about \$10.4 million, bringing the total reduction to about \$37.8 million. As shown in figure 6, most housing agencies will receive total reductions of less than \$250,000. By December 2004, HUD plans to have completed reductions for the majority of housing agencies.

Figure 6: Estimated Reductions to 180 Housing Agencies' Fiscal Year 2003 Fees



Source: HUD.

HUD Expects to Have Recaptured Some Excess 2003 Administrative Fees by December 2004

The 2003 Appropriations Resolution required HUD to recapture from housing agencies administrative fees that they earned in fiscal year 2003 that exceeded administrative expenses, except for an amount necessary to maintain a reserve equal to 5 percent of the fees earned in the Housing Choice Voucher Program fiscal year 2003. HUD began processing recaptures in July 2004, but had not completed any at the time of our review.

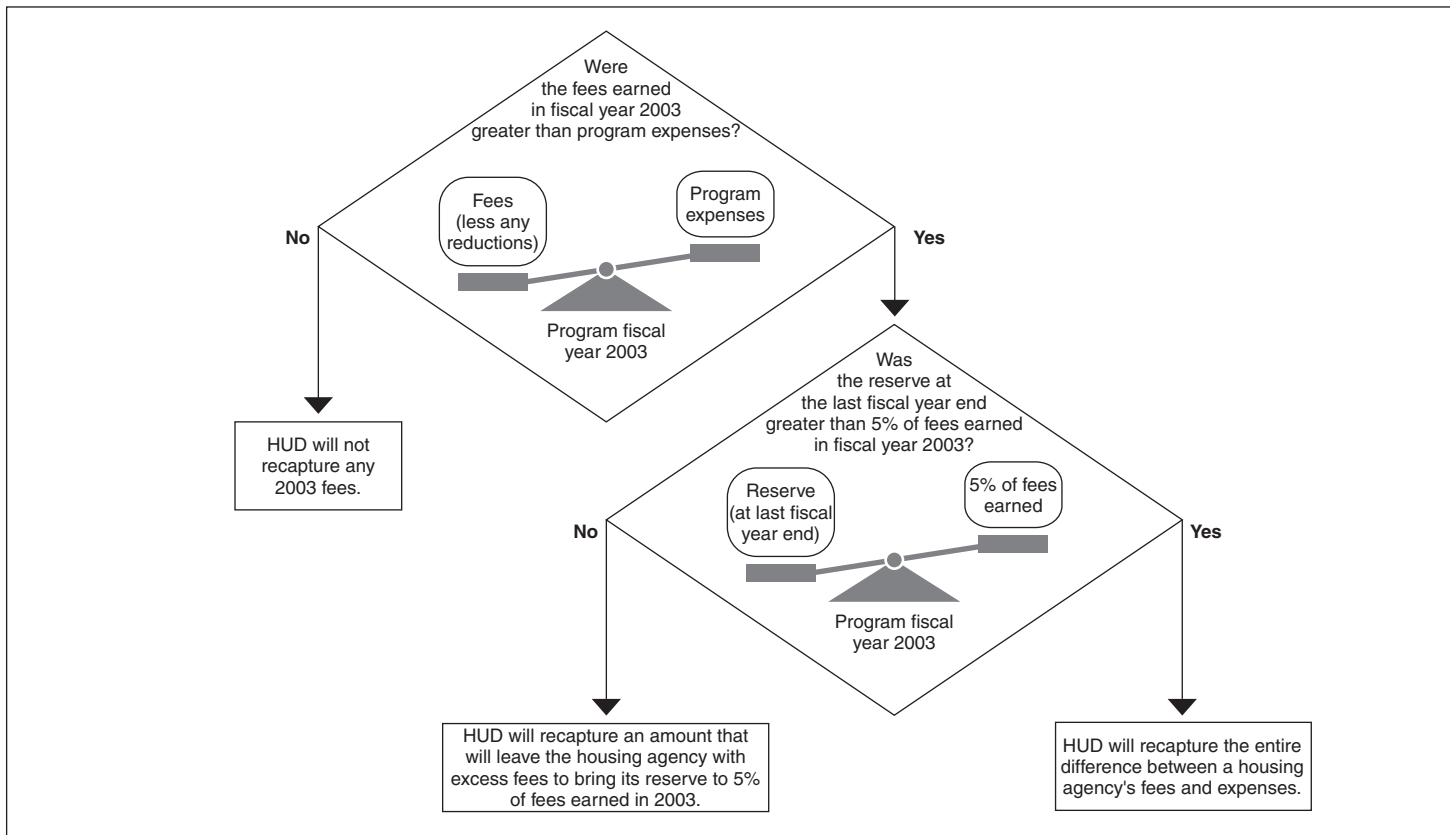
During the fiscal-year-end settlement process, HUD will review housing agencies' actual earned fees (including any reductions resulting from the 2003 Appropriations Resolution) and compare them with expenses

incurred to determine any amounts that should be recaptured.¹⁹ According to the provisions of the 2003 resolution, if a housing agency's fiscal year 2003 fees did not exceed its fiscal year 2003 program expenses, it will not

¹⁹This process, which calculates the difference between actual fees earned and actual expenses incurred, differs from the regular fiscal-year-end settlement process, which calculates the difference between the projection-based monthly disbursements and the actual fees earned based on voucher use.

be subject to any fee recaptures, regardless of the amount of its reserves. However, if a housing agency's fiscal year 2003 fees exceeded its fiscal year 2003 program expenses, HUD will compare the housing agency's last fiscal-year-end reserve with 5 percent of the fees it earned in fiscal year 2003. HUD will then recapture the entire difference or, if the agency has a very low reserve, HUD will recapture an amount that will leave the housing agency with a reserve equaling 5 percent of its fiscal year 2003 fees (fig. 7). Thus, this provision prevented housing agencies from adding to their reserves unless they had reserve amounts of less than 5 percent of their fiscal year 2003 fees.

Figure 7: How HUD Determines Amounts to Be Recaptured



Source: GAO.

HUD has not yet recaptured any excess fiscal year 2003 administrative fees. In July 2004, HUD began implementing the recapture process for the first housing agencies for which data were available—those whose fiscal years ended in December 2003. As with the reduction process, HUD will have all the data needed to calculate recaptures following the receipt of September 2004 fiscal-year-end settlements. HUD plans to complete the recaptures for the first group of housing agencies by December 2004. As of September 2004, HUD could not estimate the number of housing agencies that would be affected or the total amount to be recaptured and could not give a date when the process would be completed.

Agency Comments

HUD agreed with our findings and provided technical comments, which we incorporated into this report as appropriate.

We are sending copies of this report to the Secretary of Housing and Urban Development and will make copies available to others upon request. In addition, the report will be available at no charge on the GAO Web site at <http://www.gao.gov>. Please contact me at (202) 512-8678 if you or your staff have any questions concerning this report. Key contributors to this report are listed in appendix II.

David G. Wood

David G. Wood
Director, Financial Markets
and Community Investment

Scope and Methodology

To meet our objectives, we reviewed relevant laws and HUD guidance, analyzed HUD data, and interviewed officials from HUD's Office of Public and Indian Housing and Financial Management Center. We also visited five housing agencies to review financial documents related to their reserves and to interview staff involved in calculating the reserves. In addition, we interviewed officials from several housing industry associations and spoke with private-sector accountants these associations cited as experts in housing agency accounting. We did not perform a financial audit of the housing agencies' administrative fee reserves.

To determine the extent to which housing agencies reported to HUD their available administrative fee reserves as of January 31, 2003, we analyzed data from HUD showing all of the housing agencies that had reported their January 2003 reserves and the amounts they had reported. In addition, to compare the January 2003 reserves with reserves reported in prior fiscal years, we analyzed HUD data showing the fiscal-year-end reserves for the housing agencies participating in the Housing Choice Voucher Program in fiscal years 1999 to 2002. We reviewed the reliability of these data through electronic data testing and interviews with HUD staff familiar with the databases from which this information was extracted and determined that the data were sufficiently reliable for the purposes of our report. We also interviewed HUD officials from the Financial Management Center to confirm the number of housing agencies that had not reported their available reserves as of January 31, 2003. Because the January 2003 reporting date did not coincide with any other reporting requirements HUD places on housing agencies, we could not validate the accuracy of the January 2003 reported reserves.

To determine how housing agencies calculated their reserves as of January 31, 2003, and the possible reasons for declines in the reported amounts, we selected 5 of the 10 housing agencies that had the largest differences between the average of their reserves reported for fiscal years 1999 to 2002 and the amount they reported as of January 2003.¹ To achieve some geographic distribution, we selected sites in both the eastern and western parts of the country. None of the 10 housing agencies with the largest differences were located in the Midwest. The sites we selected were the Housing Authority of the City of Los Angeles (California), the Orange

¹Our sample was a judgmental sample, so our results cannot be used to make inferences about the population. In a judgmental sample, some elements of the population being studied have no chance or an unknown chance of being selected for the sample.

County Housing Authority (California), the Broward County Housing Authority (Florida), the Newark Housing Authority (New Jersey), and the New York City Housing Authority (New York).² Prior to our site visits, we sent each housing agency a data collection instrument on which they documented how their reserves had changed from their last fiscal year end to the January 2003 reporting date. During our site visits, we obtained documentation to support the financial information recorded in the data collection instrument and interviewed housing agency officials involved in preparing financial information submitted to HUD. In addition, to determine why the January 2003 amounts might have been lower than previously reported amounts, we interviewed officials from HUD, the five housing agencies, and several public housing industry associations, as well as private-sector accountants working for housing agencies.

To determine the extent to which HUD reduced fiscal year 2003 administrative fees in light of the reported January 2003 reserves, we obtained data from HUD showing all of the housing agencies subject to reductions and the estimated amount of those reductions. We reviewed the reliability of these data and determined that the data were sufficiently reliable for the purposes of our report. To assess HUD's processes and how they related to the legislation, we reviewed applicable legislation, HUD notices, and policies concerning administrative fees, as well as a contractor's analysis of HUD's process for determining which housing agencies were subject to a reduction in fees. We also interviewed HUD officials regarding the implementation of the process.

To determine the extent to which HUD recaptured excess fiscal year 2003 administrative fees, we reviewed applicable legislation and HUD policies regarding the recapture process. In addition, we interviewed HUD officials regarding the implementation of the process.

We conducted our work from January through September 2004 in Los Angeles and Orange County, California; Broward County, Florida; Needham, Massachusetts; Newark, New Jersey; New York, New York; and Washington, D.C., in accordance with generally accepted government auditing standards.

²The other five housing agencies with the largest differences were the Housing Authority of the County of Santa Clara (California), the Oakland Housing Authority (California), the Housing Authority of the County of Tulare (California), the City and County of Honolulu (Hawaii), and the Boston Housing Authority (Massachusetts).

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Acknowledgments

In addition to those named above, Daniel Blair, Christine Bonham, Emily Chalmers, Eben Darling, David Dornisch, John McGrail, Phillip McIntyre, Marc Molino, Gretchen Maier Pattison, and Mijo Vodopic made key contributions to this report.

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