

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ASSISTANCE PROGRAM

PROGRAM HIGHLIGHTS

	ACTUAL 2000	ENACTED 2001	ESTIMATE 2002	INCREASE + DECREASE - 2002 vs 2001
(Dollars in Thousands)				
<u>Assistance to State and Local</u>				
<u>Agencies</u>				
Number of Awards	89	94	96	+2
Obligations	\$21,784	\$28,365	\$22,950	-\$5,415
<u>Budget Authority</u>				
Enacted or Proposed	\$20,000	\$22,000	\$22,950	+\$950
Rescission	---	-\$48	---	+\$48
Subtotal	\$20,000	\$21,952	\$22,950	+\$998
Budget Outlays	\$13,606	\$15,000	\$14,000	-\$1,000

SUMMARY OF BUDGET ESTIMATES

The fiscal year 2002 Budget request for the Fair Housing Assistance Program (FHAP) is \$23 million. This is an increase of \$1 million over the fiscal year 2001 appropriation. FHAP provides assistance to State and local agencies that HUD determines effectively enforce laws or ordinances that provide rights and remedies substantially equivalent to the Federal Fair Housing Act (the FHAct). The \$23 million proposed in this Budget will support both the enforcement and the education and outreach activities conducted by these agencies. This request reflects the Department's focus on eliminating housing and lending discrimination, which is vital to making homeownership and economic opportunity a reality for all persons. The fiscal year 2002 Budget allocates \$3.5 million for the Partnership Initiative creating partnerships between FHAP and FHIP agencies. It will be administered exclusively through FHAP - no additional funds are being requested for this Initiative under FHIP.

The Fair Housing Act's prohibition against discrimination has been in effect for more than 30 years. However, audits continue to show high indices of race and national origin discrimination in the rental and sales markets nationwide. National homeownership rates are at an all time high; yet, significant disparities between the homeownership rate of whites and some minorities continue: nearly three quarters of whites are homeowners, compared to a rate of less than half for blacks and Hispanics. Home mortgage disclosure data indicate that lenders still reject black and other minority applicants at a rate almost twice that of whites. Builders continue to construct housing which is inaccessible to those with disabilities, and in certain parts of the United States, discrimination limits the housing choices of families with children. Many large cities continue to have no public or private fair housing organizations. Many people are unaware of their rights under the FHAct, and housing providers need to better understand their responsibilities.

In fiscal year 2000, Congress supported FHEO's Partnership Initiative by allocating requested funds to both FHAP and the Fair Housing Initiatives Program (FHIP)--\$3.5 million to each program. The Initiative allowed participating FHAP agencies to form partnerships with FHIP-funded organizations to address the fair housing enforcement needs of underserved populations, especially minority populations that are not English-speaking. HUD encourages these partnerships because these groups can more effectively combat housing discrimination together than alone. In fiscal year 2001, Congress did not authorize funds to support the FHIP Partnership Initiative; however, sufficient funds were available to support the FHAP Partnership Initiative at \$4.5 million. The fiscal year 2001 Partnership Initiative is being administered exclusively through FHAP and the agencies may partner with a broad range of public or private, for-profit or not-for-profit entities (not just FHIP-funded entities) to address all fair housing needs at the local, State and regional level.

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The request will allow needed improvements to the basic FHAP activities (case processing, training, administrative costs, and technology) and provide continued support for the Partnership Initiative. The request will support the Department's commitment to increasing home ownership rates among minorities by encouraging FHAP agencies to develop a comprehensive approach to eliminate housing and lending discrimination. The \$1 million increase will provide needed funds to the agencies for: (1) improved fair housing training, education and outreach and enforcement activities and (2) continued support of the Partnership Initiative between FHAP agencies and fair housing and other experts in their communities. The requested Budget will enable the FHAP agencies to respond better to the challenges they face.

EXPLANATION OF INCREASES AND DECREASES

The fiscal year 2002 appropriation request for the Fair Housing Assistance Program (FHAP) is \$23 million, an increase of \$1 million over the 2001 appropriation of \$22 million. The requested funds will provide support for approximately 96 FHAP agencies, an increase of two over fiscal year 2001. Agencies participate in FHAP either as Capacity Agencies (agencies receive an annual lump sum amount for up to 3 years when first entering the program) or Contributions Agencies (agencies in the program for more than 3 years receive funds under various categories of activities (administrative, case processing, training, Special Enforcement Efforts (SEE) funds) based upon their workload). All of the agencies, except those in their first year of receiving Capacity Building will be eligible to receive funds for Partnership Initiative activities.

The \$23 million funding level for agencies participating in the FHAP for fiscal year 2002 will be allocated as follows:

Case Processing--\$12.85 million. It is estimated that in fiscal year 2002, the FHAP agencies will handle and process approximately 60 percent of all complaints received by the Department. In 2000, the Department received over 11,000 allegations. This category covers the costs incurred by the FHAP agencies to process complaints from receipt through the administrative and/or civil proceedings. For each complaint correctly processed, the agency will be paid from \$1,800 to \$2,300. The amount paid will depend upon the level of work needed to process the case. For example, if an agency must complete an on-site investigation and extensive resources of the agency are used, the complaint will be eligible for a maximum of \$2,300.

Agencies will be given strict guidance with respect to their aged cases. The Office will prepare guidance for the agencies and provide it to them well in advance of their receiving fiscal year 2002 funds so that they will be aware of these new forthcoming performance requirements for aged cases.

The budget amount is calculated on approximately 6,600 receipts estimated at 2,000 cases at \$2,300 each (\$4.6 million) and 4,600 at \$1,800 each (\$8.28 million).

Capacity Building--\$1.265 million. The requested funds will be used in fiscal year 2002 to enable approximately 11 capacity building agencies to develop and enhance comprehensive complaint processing resources, to train staff, and to develop and carry out activities deemed necessary for the efficient and effective implementation of the jurisdiction's fair housing ordinance. Each FHAP agency would receive \$115,000.

The Budget amount is calculated on approximately 11 Capacity Building agencies currently receiving FHAP funds.

Training--\$3.1 million. All contributions agencies, which are agencies that have participated in the FHAP for 3 or more years (approximately 84 agencies), are eligible to receive training funds to support participation in HUD-sponsored or HUD-approved training and education and outreach activities. During fiscal year 2002: 35 State agencies may receive \$30,000 each for training, \$5,000 of which may be used for education and outreach activities (\$1,050,000); approximately 50 local agencies may receive \$25,000, \$3,000 of which may be used for education and outreach (\$1,250,000). In addition, each of FHEO's ten "Hubs" will have access to approximately \$75,000 to supplement the training needs of FHAP agencies (\$750,000).

Administrative Costs--\$1.25 million. The Department will allocate administrative costs to the agencies using a formula based on the number of complaints correctly processed in the previous funding year. If the agency does not meet the standards set out in Part 115 of 24 CFR for allocation by formula, a flat rate of \$15,000 will be provided to each agency for administrative costs. In addition, the Department proposes to add an amount for the purchase of computers or to update the data and information technology of the agencies.

The budget is calculated on approximately 50 agencies receiving the flat rate of \$15,000 for a total of \$750,000 and 35 receiving various amounts estimated to total approximately \$500,000.

Special Enforcement Efforts (SEE)--\$985 thousand. Agencies may receive SEE funds if they meet the criteria set forth in Part 115.305 of 24 CFR. The receipt of these funds is based upon the Agency's prior year of outstanding performance. The funds are designed to help agencies enhance their enforcement processes. The amount each agency will be eligible to receive will be based on a formula of 20 percent of the previous year's cooperative agreement. Approximately 60 percent of the agencies will be eligible to receive funds in this category.

Partnership Initiative--\$3.5 million. FHAP agencies may qualify for funding under this category to carry out (1) enforcement and (2) other enforcement-related/education and outreach activities, based on criteria provided in the policy guidance outlined for this category. The activities will be conducted with fair housing enforcement organizations and other agencies and organizations, including faith-based organizations.

(1) Enforcement activities. Approximately \$1.5 million is set aside for partnership activities with private fair housing enforcement organizations strictly for enforcement activities. The FHAP agencies will be able to provide financial assistance to such qualified agencies and organizations to assist them in carrying out activities to support them in implementing their fair housing laws. Such activities include, testing, investigation assistance, and other activities that lead to the resolution of complaints.

(2) Education and outreach and other enforcement-related activities. Approximately \$2 million is set aside for enforcement-related and education and outreach partnership activities within the State and local jurisdictions. The FHAP agencies will be able to provide financial assistance to organizations where technical expertise is needed (i.e., architects, medical experts in disability cases, arrange with HUD housing counseling agencies programs or activities that serve to increase homeownership opportunities; or work with faith-based organizations to conduct seminars to educate the community on fair housing, etc).

PROGRAM DESCRIPTION AND ACTIVITY

The Fair Housing Assistance Program (FHAP) has proven successful in encouraging State and local fair housing enforcement agencies to participate in the enforcement of the Fair Housing Act. Under the program, the Department of Housing and Urban Development reimburses eligible agencies for activities related to their investigation of fair housing complaints. These activities include complaint investigations, conciliation, administrative enforcement/judicial proceedings, training and outreach, technical assistance, and other support activities designed to eliminate housing discrimination. Eligible recipients are defined as those State and local fair housing enforcement agencies that are certified as "substantially equivalent," or agencies operating under an interim agreement for referral of complaints. The availability of this Federal financial assistance has encouraged State and local agencies to enact equivalent fair housing laws and ordinances.

Since the inception of the FHAP in fiscal year 1980, the participating agencies have received funds to carry out activities aimed at eliminating housing discrimination in the United States such as: complaint processing; employee training; the purchase of data and information services; and, for newly participating agencies (Capacity Agencies), capacity building to handle complaints filed under the State or local law. While FHAP has successfully funded these *basic activities* since its inception, program funds have not been available to address more systemic discrimination or to pursue more comprehensive solutions to remedy housing discrimination. Without such support, FHAP agencies face challenges in: working with private fair housing organizations or other experts to develop programs that address emerging, as well as, more novel and complex forms of housing discrimination, such as predatory lending, architectural barriers confronting people with disabilities, and substandard housing in communities along the U.S. Mexican border, known as "colonias"; partnering with housing counseling agencies; providing education and outreach to lenders and other real estate professionals to ensure non-discrimination and equal opportunity in their transactions; or working with faith-based organizations to conduct fair housing education and outreach activities in their communities.

1. Legislative Authority. The Fair Housing Act, 42 U.S.C. sec. 3601 et seq., prohibits discrimination in the sale or rental of housing; in residential real estate-related transactions; in the provision of brokerage services; and in other housing-related activities. Section 810(f) of the Fair Housing Act allows for the Secretary to refer complaints filed under that law to the FHAP agency whenever a complainant alleges a discriminatory housing practice within the jurisdiction of the State or local agency that has been certified as providing rights, remedies, procedures, and the availability of judicial review which are substantially equivalent to those in the Fair Housing Act. Section 817 of the Fair Housing Act provides that the Secretary may assist State and local agencies in administering a fair housing law by providing them with financial assistance.

2. Program Background. Since 1980, the Department has provided financial assistance under the FHAP to State and local agencies administering substantially equivalent fair housing laws and ordinances. When the Fair Housing Amendments Act was enacted in September 1988, all State and local agencies were required to amend their respective laws and ordinances if they wished to obtain substantial equivalency certification with the amended Federal law.

The Fair Housing Act provides that the Department cooperate with and render technical assistance to State and local agencies formulating or carrying out programs to prevent or eliminate discriminatory housing practices. Section 810 of the Fair Housing Act specifically encourages cooperation with State and local agencies charged with the administration of State and local fair housing laws. FHAP and the substantial equivalency certification process both serve to further fair housing by providing financial assistance and by encouraging State and local governments to enact and enforce legislation designed to ensure fair housing. Through training, legal and administrative technical assistance, issuance of written guidelines, participation at

meetings and conferences, and review of proposed legislation, the Department provides extensive assistance to help State and local fair housing enforcement agencies obtain certification under the Fair Housing Act. The Department also provides individually tailored technical assistance to any State or local government requesting such assistance.

The implementing regulation for the FHAP, 24 CFR part 115, requires that the fair housing law administered by the agency be substantially equivalent and that a written agreement be executed. Also, agencies that participate in the FHAP must: (a) conform to reporting and record-keeping requirements; (b) agree to on-site technical assistance and guidance and implementation of corrective action; (c) adhere to policies and procedures provided by the Department; (d) not unilaterally reduce the level of financial resources currently committed to complaint processing; (e) spend at least 20 percent of its total annual budget on fair housing activities; and (f) participate in HUD-sponsored or HUD-approved training. FHAP funds are divided into two categories: capacity building and contributions. Agencies receive capacity building funds in their first 3 years of participation in the program. The agencies become contributions agencies after the third year of participation in the FHAP. At that time, they are also eligible to receive case processing, training, special enforcement efforts, and administrative costs funds. The fiscal year 2000 appropriation established the Fair Housing Partnership (FHP). The funds under the FHP are available to all agencies participating in the FHAP. The FHP makes it possible for the FHAP agencies to use the resources available in their jurisdictions for enforcing the provisions of their respective fair housing laws. For example, most FHAP agencies do not have sufficient staff to carry out the tasks that would be needed in the investigation of complex fair housing cases, the FHP will provide funds for assistance in such investigations.

Financial assistance to State and local fair housing enforcement agencies is contingent upon continued substantial equivalency. Substantial equivalency involves an affirmative conclusion on two separate issues: (1) whether the State or local law provides rights, remedies, procedures, and the availability of judicial review that are substantially equivalent to those found in the Fair Housing Act; and, (2) whether the agency has the administrative capability to carry out the provisions of its fair housing law.

All certified agencies will process complaints based on race, color, religion, sex, national origin, familial status, and handicap. This effort will require such agencies to commence and maintain the processing of each complaint through administrative and/or civil proceedings.

STRATEGIC GOALS AND OBJECTIVES: (RESOURCES REQUESTED (\$ AND FTE) AND RESULTS

The FHAP program supports the Department's integrated program efforts to achieve strategic Goal #2: Ensure Equal Opportunity in Housing for all Americans; Goal #3: Promote housing stability, self-sufficiency and asset development of families and individuals; and Goal #4 Improve community quality of life and economic vitality. In addition, all of the Department's programs are focused on increasing awareness of fair housing laws to assist in achieving these goals.

The predominant role of the Office of Fair Housing and Equal Opportunity is to contribute to and facilitate the achievement of Strategic Objective 2.1: Housing discrimination is reduced. External factors that are not within the control of the Department that impact the success of achieving this objective include the following: (1) many people are not aware of their fair housing rights; and, (2) discrimination can be subtle as well as overt, which makes prevention and enforcement difficult.

Achievement of the below listed indicators for the Fair Housing Assistance Program should result in the reduction of housing discrimination.

SELECTED PERFORMANCE MEASURES

	ACTUAL 2000	ENACTED 2001	ESTIMATE 2002
Strategic Goal 2: Ensure equal opportunity in housing for Americans.			
Discretionary BA (Dollars in Thousands)	20,000	21,952	22,950
FTE	10	10	10
Strategic Objective 2.1: Housing discrimination is reduced.			
Outcome Indicator 2.1.1: Housing discrimination declines 2 percentage points from 1989 national levels by 2001.	Not Available	Not Available ^{a/}	Not Available

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	ACTUAL 2000	ENACTED 2001	ESTIMATE 2002
Output Indicator 2.1.c: The number of enforcement agencies rated as substantially equivalent under the Fair Housing Act increases by two to a total of 98 agencies.	89	94	96
Output Indicator 2.1.d: At least 25 percent of FHAP grantees increase enforcement actions by 20 percent above FY 2001 levels.	36 percent	25 percent	25 percent
Output Indicator 2.1.e.2: The percentage of fair housing complaints aged over 100 days will decrease by 5 percentage points from FY 2001 levels of the inventory of substantially equivalent agencies.	Baseline To Be Determined	Baseline, -10 percentage points	Baseline, -15 percentage points
Strategic Objective 2.3: Disparities in homeownership rates are reduced among groups defined by race, ethnicity and disability status.			
Outcome Indicator 2.3.1: The ratio of homeownership rates of minority and nonminority low- and moderate-income families with children increases by 0.4 percentage points to 76.0 percent by 2003. ^{b/}	Not Available	75.6 percent	Not Available
Strategic Goal 3: Promote housing stability, self-sufficiency and asset development of families and individuals.			
Discretionary BA (Dollars in Thousands)	0	0	0
FTE	10	10	10
Strategic Goal 4: Improve community quality of life and economic vitality.			
Discretionary BA (Dollars in Thousands)	0	0	0
FTE	10	10	10

a/ The 2001 goals for incidence of discrimination in the rental market are: 51 percent for African Americans and 44 percent for Hispanics; for the sales markets 57 percent for African Americans and 54 percent for Hispanics. Final data will be available in 2002.

b/ The 2001 goals is based on the actual 1999 level of 75.2 percent. Data are available in odd years through the American Housing Survey.