

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
SALARIES AND EXPENSES, HOUSING AND URBAN DEVELOPMENT  
BUDGET ACTIVITY 14: ENFORCEMENT CENTER

SCOPE OF ACTIVITY

The Departmental Enforcement Center (DEC) was established in fiscal year 1998 as part of HUD's 2020 Management Reform Plan. Its strategic objective is to ensure the public trust in HUD's ability to provide decent, safe and sanitary housing by effectively consolidating and administering timely enforcement actions. The DEC strives to achieve this objective by: (1) consolidating enforcement functions of the Department, and centralizing scattered and inconsistent enforcement policies; (2) creating a cadre of experienced attorneys and analysts to focus on and resolve the Department's most difficult cases, freeing program staff to better service and support the Department's core initiatives; (3) promoting credibility and results for HUD's enforcement efforts; (4) enhancing critical partnerships between HUD program areas and with external agencies and organizations; (5) taking aggressive action against those that are in serious non-compliance with statutory and regulatory requirements of the Department; (6) consolidating suspension and debarment authority within the Department; and (7) eliminating fraud, waste and abuse of HUD programs by recipients and other beneficiaries.

WORKLOAD

The principal workload of the Enforcement Center consists of providing advice and recommendations to Program Offices to revise current policies and procedures which will help reduce enforcement actions; initiate, as necessary, appropriate civil referrals to the Department of Justice (DOJ) and/or criminal referrals to the Office of the Inspector General (OIG); and, assist HUD in ensuring that parties under contract with the Department comply with the terms of their contracts.

1. Office of Chief Counsel

The Office of Chief Counsel (OCC) performs legal work with respect to affirmative Federal Court litigation, administrative hearings, and sanctions initiated by the Department to enforce statutory, regulatory and contractual requirements applicable to participants in HUD programs and to other persons subject to HUD's programs. The Office represents the Department in administrative and civil money penalty proceedings in which the Department seeks sanctions against individuals and entities for violating various statutory provisions and regulations promulgated by the Department. The Office also provides general legal advice and counsel to the Mortgage Review Board, the Office of Multifamily Housing Management, Lender Activities and to the Office of Housing with respect to Civil Money Penalties. In Federal court litigation, the office works with the Department of Justice (DOJ) which by statute has lead counsel responsibility.

a. Administrative Proceedings Division

This Division is responsible for legal review of proposed suspensions and debarments, as well as of Limited Denials of Participation (LDPs) issued by Headquarters officials. In the course of this work, the Division provides services and representation to the Assistant Secretaries for Housing, Public and Indian Housing, and Community Planning and Development, as well as the President of Ginnie Mae and the Inspector General.

With respect to the HUD Mortgage Review Board, the Division provides legal review with regard to each mortgagee or Title I lender matter that is scheduled to come before the Board and then implements the Board's decisions. The Division also provides legal advice and representation to the HUD Multifamily Previous Participation Committee, provides legal guidance to program officials in conjunction with single family mortgagee Credit Watch termination hearings and resulting decisions, and assists the OGC Office of Litigation to the extent termination actions are challenged in Federal district court.

With respect to administrative civil money penalties that can be imposed under the HUD Reform Act of 1989, the Division is responsible for legal assistance and representation regarding such penalties against FHA mortgagees, Title I lenders, and GNMA issuers. The Division is also responsible for handling civil money penalty cases against multifamily mortgagors who fail to file their annual audited financial statements as required by their regulatory agreement.

The Division also provides legal review services for all referrals of false claims and/or false statements by the Inspector General under the Program Fraud Civil Remedies Act (PFCRA). The Division prepares the required requests for Department of Justice approval, issues complaints, and represents HUD at any administrative hearings on PFCRA cases.

b. Program Enforcement Division

This Division handles enforcement actions involving the Multifamily Housing Program, the Public and Indian Housing Program, the Community Development Block Grant program and actions brought under the False Claims Act for fraud involving all HUD programs.

In Multifamily Housing Programs, attorneys are involved in identifying and initiating judicial actions with the assistance of the DOJ directed at multifamily project owners for failing to operate their projects in compliance with HUD's requirements. In the Public and Indian Housing Programs, assistance is provided in taking actions against public housing authorities that are in substantial default of their contractual, regulatory and statutory obligations with HUD. In the Indian Housing Block Grant Program (IHBG), this Division provides the Office of Native American Programs (ONAP) with advice and guidance in the development of cases and the pursuit of remedies. This Division also handles CPD referrals for sanctions under the Community Development Block Grant Program (CDBG).

c. Lead Hazard Legal Division

This Division is responsible for providing advice regarding the investigation of lead hazard violations, coordination of enforcement with other agencies, and for enforcement of appropriate HUD sanctions. The Residential Lead-Based Paint Hazard Reduction Act of 1992 in part amended the Lead-Based Paint Poisoning Prevention Act of 1971 and the Toxic Substances Control Act. These statutes contain lead-based paint notification, evaluation and reduction requirements for all Federally owned and assisted housing constructed before 1978. The Lead Hazard Reduction Act includes provisions pertaining to the lead-based paint abatement grant program and lead-based paint research activities and contains lead-based paint disclosure requirements for all housing constructed before 1978, including private housing. HUD and EPA jointly implement the Lead-Based Paint Hazard Reduction Act.

d. RESPA Legal Division<sup>1</sup>

This Division represents the DEC in enforcement cases under the Real Estate Settlement Procedures Act (RESPA). RESPA attorneys work closely with the DEC RESPA Division on the enforcement of significant RESPA cases. Attorneys review cases, determine what additional information, evidence, or other material is necessary to completely evaluate the case and will work with the staff analyst to prepare an investigation plan. They also provide guidance, as needed, regarding standards of proof of violation, evidentiary requirements, the legal viability of the case, and other legal questions that may arise. The Legal Division drafts subpoenas and, as needed, conducts subpoena hearings and interviews witnesses. It also coordinates the development of cases with attorneys from other Federal or state agencies in joint enforcement actions. After analysts develop an enforcement recommendation based on their review, the Legal Division reviews the recommendation and supporting documentation and concurs in the recommendation before an enforcement action can commence. Attorneys are the contact point with opposing attorneys and carry out any settlement negotiations with them. If the recommendations are for injunctive or criminal actions, the Legal Division acts as the point of contact with DOJ and assists with the trials. Attorneys also handle RESPA civil penalty cases before administrative law judges and coordinate with the Administrative Proceedings Division on RESPA cases recommended for Mortgage Review Board action.

The RESPA Legal Division also works closely with other parts of the Department on the development of regulations, legislation and policy statements on RESPA enforcement issues. The Division also acts as coordinator with the Department of Justice and other Federal Regulatory agencies on RESPA enforcement strategies.

e. Satellite Legal Division

Legal Division Attorneys are located in each of the five DEC Satellite Offices (New York, Atlanta, Chicago, Fort Worth, and Los Angeles) and are overseen by the Senior Attorney in Headquarters. These legal offices provide legal services in connection with all matters handled within a DEC Satellite Office. One Lead Attorney and two to three staff attorneys are assigned to each Satellite Legal Division Office. The Lead Attorney is responsible for the coordination of legal work with the Office of Chief Counsel in Headquarters and the local DEC Satellite Office Director; the assignment of cases to other satellite attorneys; and such other duties as are assigned by the Office of Chief Counsel.

Satellite attorneys in these offices provide legal services in connection with the Multifamily Housing Program identified above, work closely with the Program Enforcement Division and are overseen by the Deputy Chief Counsel on these cases. Attorneys participate as team members in evaluating and developing recommendations for proposed enforcement actions through Action Plans; represent the DEC at administrative hearings; coordinate enforcement actions with the Inspector General's Office, Department of Justice and other agencies; and negotiate settlement agreements.

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<sup>1</sup> The DEC currently has no staff to perform the functions associated with this Division.

## 2. Office of Operations

The Office of Operations includes a Headquarters component and five satellite offices. Headquarters is responsible for policy development and oversight of support to the Satellite Offices. The Satellite Offices evaluate properties referred to the Departmental Enforcement Center based on HUD concerns about possible owner non-compliance with HUD requirements. Following its evaluation an action plan is developed that establishes what steps HUD will take to achieve compliance.

### a. HQ Operations Division

The work of the HQ Operations Division addresses distressed multifamily properties referred by the Real Estate Assessment Center (REAC) and other Program offices. This Division is responsible for judicial or administrative receivership for those public housing authorities which Public and Indian Housing (PIH) refer to the Enforcement Center. The DEC is available to PIH for take-over of receivership cases referred by the Office of Native American Programs (ONAP). Additionally, the DEC will work with the Assistant Secretaries for Community Planning and Development (CPD) and Fair Housing and Equal Opportunity FHEO) on matters which require enforcement actions to resolve program non-compliance issues with their grantees. In the case of FHEO, the Enforcement Center will only be involved in non-civil rights issues. This Division uses general contractors who perform due diligence, workouts, inspections and other actions to effect enforcement against property owners or Contract Administrators and/or effect recovery of distressed multifamily properties. Division staff works with the Center attorneys in processing legal documents and will be the principal point of contact for field staff communications regarding any enforcement actions taken against troubled projects. The Center is fully responsible for properties referred by REAC and will conduct due diligence on the properties and develop an enforcement plan covering appropriate sanctions (if any) and corrective actions by HUD and the owners including a timetable for completion of all activities.

### b. Satellite Offices

The primary role of satellite offices is to manage the day-to-day recovery and enforcement strategies for Multifamily properties. Five Satellite Offices are responsible for a total of ten enforcement teams, each with an assigned geographic area. Each Satellite Office receives direct inquiries. REAC and Property Disposition Centers (relocation, foreclosure and mortgagee in-possession) are the primary sources of referral while the Center continues to receive referrals from the Office of Multifamily Housing. The Satellite Offices carry out enforcement actions using general contractors who perform due diligence, workouts, and other actions necessary to effect enforcement activities. Satellite offices are located in Atlanta, Georgia; Los Angeles, California; New York, New York; Ft. Worth, Texas; and Chicago, Illinois.

	<u>FY 2000</u>	<u>FY 2001</u>	<u>FY 2002</u>
Number of Cases.....	1,280	1,300	1,400

## 3. Office of Special Programs

### a. Compliance Division

The role of the Compliance Division within HUD at the Departmental Enforcement Center (DEC) is to remove irresponsible participants who have engaged in fraud, waste and abuse of HUD programs. By using administrative sanctions (Suspension and Debarment) the Division enables HUD to protect the American taxpayer and the integrity of its programs and to minimize continuing fraud, waste and program abuse.

Compliance Division staff evaluates suspension and debarment recommendations and referrals from various sources. The Compliance Specialist then drafts administrative sanction notices when warranted. When a notice is found by the Administrative Proceedings Division to lack sufficient support to sustain an administrative sanction action in the event of a hearing, the Compliance Division is charged with the responsibility of obtaining additional evidence or of informing the source of the referral or recommendation that the case is being closed due to lack of evidence.

The DEC takes compliance actions against participants in any and all HUD program areas including Housing (Title I and Title II and Multifamily and Single Family), Public and Indian Housing, Community Planning and Development and Ginnie Mae. Referrals and recommendations for Suspension and Debarment come to the DEC from various sources: OIG Investigations and Audit, the eighteen multifamily Hubs, the four single family HOCs, the five DEC Satellite Offices, and other HUD program and field offices.

b. MRB Division

The purpose of the Mortgage Review Board (MRB) Division is to support the MRB in its efforts to oversee the performance of lenders participating in the FHA insurance programs. On the basis of its review the MRB determines whether the Department should continue doing business with a lender. Approximately 95 percent of the matters considered by the Board pertain to lenders participating in FHA's Title I and Title II Single Family insurance programs. Only a few cases involve Multifamily participants. The Home Ownership Centers provide approximately 90 percent of the referrals and the Office of Inspector General refers approximately 10 percent of the cases based on its audits or investigations. The Mortgage Review Board is authorized to take any of the following administrative actions: Letter of Reprimand; Probation; Suspension of Approval; Withdrawal of Approval; Civil Money Penalty; or Settlement Agreement.

c. RESPA Enforcement Division<sup>2</sup>

The DEC was recently assigned the responsibility to enforce the Real Estate Settlement Procedures Act (RESPA). The RESPA Enforcement Division (RED) is responsible for investigating serious and complex violations of RESPA and taking appropriate enforcement actions to address those violations. The RED will receive RESPA complaints from the Office of Housing, other HUD offices, the public and from other agencies. The RED will evaluate the complaints and determine which are appropriate for enforcement action. The RED will investigate allegations of referral and unearned fees and will report findings in an Investigative Report. Upon request, legal staff will assist analysts in complex investigations. Where the RED recommends enforcement action, the enforcement strategy will be concurred in by the legal staff and carried out jointly by both Divisions.

d. Lead Hazard Enforcement Division<sup>3</sup>

The DEC was also recently assigned the responsibility to enforce Sections 1012, 1013 and 1018 of the Residential Lead-Based Paint Hazard Act of 1992. These are the sections of the law that require the disclosure, evaluation and treatment of lead-based paint. The Lead Hazard Enforcement Division (LHED) will be primarily responsible for investigating serious and complex violations of the lead-based paint hazard law and taking appropriate enforcement actions to address these violations. The LHED will independently identify, as well as directly receive referrals from entities within and outside the Department, and evaluate those cases to determine which ones are appropriate for enforcement action. The Division will have the capacity to investigate issues and fully develop a case so that an appropriate decision regarding the action to be taken can be made. Enforcement strategies will be concurred in by the legal staff and carried out jointly by both Divisions.

4. Office of Information and Technology

The Office of Information and Technology is responsible for: (1) developing and maintaining internal information systems for the Center; (2) interfacing with the Department's financial information and program systems to ensure data required by the Center is accurate, current, accessible and reliable; (3) preparing reports for internal use and for other Departmental purposes; (4) developing and maintaining a Department wide enforcement tracking system and, (5) coordinating with users from other parts of the Department. This Office will also maintain the established file protocol as materials are retrieved by contractors.

5. Office of Administrative and Management Services

The Office of Administrative and Management Services is responsible for a wide range of functions which support the overall operations of the Center, including: (1) the provision of staff training and orientation courses; (2) budget and financial management; (3) administrative and personnel support services; (4) procurement services; (5) the provision of public information; (6) tracking and reporting on DEC workload and accomplishments; and (6) management planning and reporting requirements.

6. Physical Security Staff

The Physical Security Staff is responsible for conducting security inspections, surveys, and evaluations of Departmental activities and facilities to ensure the protection of the Secretary and other Departmental personnel. This Staff coordinates the results of these evaluations with the Advance Staff, the Enforcement Center, and the security force for HUD buildings and facilities and assists these staffs in the development of solutions and/or the improvement of security measures.

The Staff develops and maintains liaison with the United States Secret Service, Federal Bureau of Investigations, police departments, and other departments on executive protection and other security matters relative to Departmental security and crime prevention. As requested, or as deemed necessary, the Physical Security Staff monitors security related contracts supporting

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Salaries and Expenses, Housing and Urban Development  
Budget Activity 14: Enforcement Center

propose to make videos and prepare national broadcasts to update and orient internal and external audiences throughout the housing industry.

General Support. This funding principally provides for contract temporary services for clerical, administrative and legal support in areas where a critical need is identified.